

April 28, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
MAY 3 1983

'83 MAY -3 AIO:16

Before the Atomic Safety and Licensing Board

In the Matter of )

CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY, et al. )

(Perry Nuclear Power Plant, )  
Units 1 and 2) )

Docket Nos. 50-440  
50-441  
(OL)

OCRE REPLY TO APPLICANTS' MOTION FOR RECONSIDERATION  
OF THE LICENSING BOARD'S MARCH 30, 1983 MEMORANDUM  
AND ORDER ON SUMMARY DISPOSITION OF ISSUE #9

On April 14, 1983 Applicants filed a Motion for Reconsideration and Clarification of the Licensing Board's March 30, 1983 Memorandum and Order, which granted the NRC Staff's Motion for Summary Disposition of Issue #9 (Polymer Degradation) with the exception of an issue of fact dealing with Applicants' inspection and maintenance program. Applicants request that the Board reconsider its decision and grant the Staff's motion in its entirety. Applicants also request clarification of the portion of the Board's Order requiring Applicants and Staff to file a stipulation that Applicants' environmental qualification program for electrical equipment be completed by November 1985. Intervenor Ohio Citizens for Responsible Energy ("OCRE") hereby opposes Applicants' motion for reconsideration. OCRE is not opposing their motion for clarification.

The Licensing Board in its Memorandum and Order identified Applicants' program for inspection and maintenance of polymers as a genuine issue of fact since assurances that such a program will be adequate are insufficient to demonstrate that the plan (as yet unfiled)

7503

8305040544 830428  
PDR ADDCK 05000440  
PDR

will in fact be adequate. Applicants object to this ruling since affidavits filed by NRC Staff and Applicants indicated that, according to the affiants, a plan based on the guidance of Regulatory Guide 1.33 is adequate for detecting polymer degradation. Applicants also state that OCRE did not offer support for its claim that such a program would not be adequate.

This is untrue; in its February 23 filing, OCRE stated that the general provisions described in the affidavits of Applicants' yet-to-be-filed inspection and maintenance program are insufficient and gave an example (the difficulty of inspecting electrical cable in conduit) illustrating the need for specific information before any judgement can be made on the plan's adequacy. OCRE would repeat and affirm this argument. Regulatory Guide 1.33 merely provides generic guidance for operational quality assurance programs. Regulatory Guide 1.33 does not address polymer degradation or the special procedures necessary to detect it, given the difficulties and uncertainties noted by the Licensing Board (see Memorandum and Order at 17-18).

Applicants claim that the Board's decision is inconsistent with Commission practice. It is interesting to note that the Commission may be rethinking its practices concerning quality assurance programs, at least for plants under construction. The Commission, in a request (48 Fed. Reg. 9106, March 3, 1983) for public comments on methods for improving quality assurance at reactors under construction, lists as one of five alternatives:

conditioning the issuance of construction permits for these facilities on a demonstration that the licensee is capable of managing an effective quality assurance and control program for the facility.

This provision is no doubt necessitated by experience showing that

although any plan can look good on paper, its implementation in practice is the true test of adequacy.<sup>1/</sup> Applicants, however, expect the Board to accept as adequate a plan which does not even exist on paper.

This is precisely the difference between the polymer degradation issue and the Asiatic clams issue, which Applicants attempt to compare. In the latter case, Applicants produced programs for aquatic monitoring and inspection, maintenance, and control of biofouling which might be caused by Corbicula. These plans contained sufficient detail to determine their adequacy. There is obviously no parallel between Issues 9 and 7.

Applicants' primary fear prompting their motion appears to be that fuel loading may be delayed if they must comply with the Board's Order. OCRE suggests that these fears are unfounded. As all parties are aware, Applicants have delayed fuel loading until December 1984. The NRC's Caseload Forecast Panel, in a report dated March 17, 1983, found that "the earliest possible date for Unit 1 fuel load is December 1984, and likely may be at a later date." The Panel found Applicants' schedules to be optimistic and not realistic. Given the pattern of slippage in Applicants' construction completion schedules, OCRE suspects that licensing activities, including the Licensing Board's March 30

---

<sup>1/</sup> Although this example pertains to the quality assurance of construction, operational programs similarly have need for improvement, as evidenced by the continual violations of these requirements as documented in the Licensee Event Report files.

Memorandum and Order, will not impact on fuel loading.

For all of the above reasons, OCRE finds Applicants' motion to be without merit. It must therefore be denied.

Respectfully submitted,

*Susan L. Hiatt*

Susan L. Hiatt  
OCRE Representative  
8275 Munson Rd.  
Mentor, OH 44060  
(216) 255-3158

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing OCRE REPLY TO APPLICANTS' MOTION FOR RECONSIDERATION were served by deposit in the U.S. Mail, first class, postage prepaid, this 20<sup>th</sup> day of April 1983 to those on the service list below.

*Susan L. Hiatt*

SERVICE LIST

DOCKETED  
USNRC

Peter B. Bloch, Chairman  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Comm'n  
Washington, D.C. 20555

'83 MAY -3

Daniel D. Wilt, Esq.  
P.O. Box 08159  
Cleveland, OH 44108

Dr. Jerry R. Kline  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Comm'n  
Washington, D.C. 20555

Mr. Glenn O. Bright  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Comm'n  
Washington, D.C. 20555

Docketing & Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Comm'n  
Washington, D.C. 20555

James M. Cutchin, IV, Esq.  
Office of the Executive  
Legal Director  
U.S. Nuclear Regulatory Comm'n

Jay Silberg, Esq.  
1800 M Street, N.W.  
Washington, D.C. 20036

Atomic Safety and Licensing Appeal Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555