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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

January 25, 1979

50-471

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Denton:

In your letter to Edward Strohbehn, Jr. of January 3, 1979, you request the Council's views on procedures for supplementing the final environmental impact statement on the Pilgrim Nuclear Generating Station, Unit II. The EIS is being supplemented as required by the Atomic Safety and Licensing Appeal Board which concluded that the analysis of alternative sites for the generating station was inadequate under NEPA. 7 NRC 774 (1978) Your letter states that the Commission's staff is now considering the procedures it will follow in supplementing the Final EIS with the expanded analysis of alternatives that has been prepared.

Since we received your letter we have spoken with you and others on your staff regarding the best means to comply with the Appeal Board's ruling. Based on these conversations, we believe the Commission's staff should proceed as follows in supplementing the final EIS for Pilgrim II: (1) The supplemental analysis of alternative sites should be published as a draft supplement to the Final EIS and circulated in the same manner as a draft EIS; (2) a minimum period of 30 days should be established for public review and comment upon the draft supplement; and (3) a response to comments on the draft supplement should be prepared and circulated in the same manner as a final EIS, except that the response to comments may be published as a separate document and need not be integrated into the supplement. Hearings before the Atomic Safety and Licensing Board could resume immediately following circulation of the response to comments.

In its ruling on the adequacy of the final EIS for Pilgrim II, the Atomic Safety and Licensing Appeal Board stated that

"an inadequate environmental analysis by the staff may not always be remediable simply by taking more evidence into account at a subsequent licensing board hearing While, to be sure, interstices in an FES may in some cases be filled by evidence introduced before them, it is not a licensing board's function to backstop the staff's responsibility for conducting NEPA analyses. Rather, the board serves as an independent check on whether those responsibilities have been satisfied." (7 NRC at 793).

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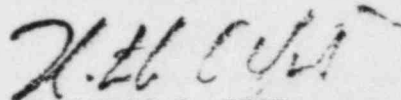
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We believe that circulation of a draft supplement is more consistent with this aspect of the Appeal Board's opinion than would be other alternative procedures under consideration by the Commission's staff.

We recognize that this matter has been before the Commission for a considerable period of time and share your concern that the environmental review process be concluded without unnecessary delay. While the procedures we recommend differ from those proposed in your letter of January 3, 1979, we understand from your staff that they could be completed within the same approximate time frame.

We appreciate your consultation with the Council on this matter. Please do not hesitate to contact us if we can be of further assistance.

Yours truly,

A handwritten signature in dark ink, appearing to read "N. C. Yost", is written over the typed name.

NICHOLAS C. YOST
General Counsel

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DOCKET #
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SUBJECT: Responds to 790103 request for CEO's views on procedures for supplementing Final EIS. Supplemental analysis of alternative sites should be published as draft suppl to Final EIS & circulated w/30 day comment period.

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