

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

ARIZONA PUBLIC SERVICE COMPANY,)
et al.)

(Palo Verde Nuclear Generating)
Station, Units 2 and 3))
_____)

Docket Nos. STN 50-529
STN 50-530

WEST VALLEY AGRICULTURAL PROTECTION
COUNCIL, INC.'S MEMORANDUM IN
SUPPORT OF MOTION FOR PROTECTIVE ORDER

The question raised by West Valley's participation in this licensing proceeding for the Palo Verde Nuclear Generating Station (PVNGS) can be simply framed: What are the potential effects of PVNGS salt emissions on area agriculture? West Valley contends, and the Board has acknowledged, that this question is serious yet inadequately addressed. West Valley further contends, and awaits decision by the Board, that this defect in the environmental analysis for PVNGS must be remedied by the agency through further study in accordance with the National Environmental Policy Act, 42 U.S.C. 4331 et seq. Regrettably, much of the current approach to discovery adopted by Joint Applicants and the NRC Staff is at odds with answering the salt impact question and with NEPA requirements.

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Joint Applicants and the NRC Staff, treating this licensing proceeding in adversary fashion, seek through their interrogatories detailed information concerning the land holdings, crops yields, and profits of West Valley members. Yet the question West Valley has brought to the NRC's attention concerns potential salt damage to area crops, not to the crops of West Valley members. Even were West Valley to provide the extensive information requested, information concerning the rest of the area surrounding PVNGS would be necessary to a full evaluation of potential salt drift costs.

In West Valley's Supplemental Answers to Interrogatories and Exhibit A to those answers, West Valley has identified publicly available sources of information relevant to the salt drift impact question. Those sources include the Soil Survey of Maricopa County, Arizona, Central Part (U.S. Department of Agriculture Soil Conservation Services), photographic files of the Arizona Department of Water Resources, and records of the Federal Bureau of Reclamation, Arizona Project Office. These sources generally describe total area acreage devoted to agriculture, area acreage devoted to particular corps, and individual farm holdings. Such information is considerably more relevant to determining the potential impacts of PVNGS salt drift on area crops than information limited to the farms of West Valley members.

In addition to failing to address the full agricultural impacts of PVNGS, the adversary approach of Joint Applicants and the NRC Staff unfairly burdens West Valley. Preparation of the data requested would be time consuming, expensive, and would intrude upon proprietary business records. Although a burden of time and expense might not justify a protective order in ordinary litigation, the salt drift issue concerns the public interest in a full analysis of environmental effects under NEPA, not merely the parochial interests of West Valley. It is the responsibility of the NRC, not West Valley, to develop the information necessary to protect that public interest and to comply with NEPA. NEPA squarely places the burden of environmental inquiry and analysis upon federal agencies, not upon interested members of the public.

The anomaly of the course followed by Joint Applicants and the Staff becomes plain if one considers usual procedures for preparing environmental impact statements. Under NEPA, the federal agency, with the assistance of the project proponent, conducts whatever research is feasible in order to identify and evaluate the environmental consequences of a project. While area residents certainly may provide information useful to evaluation of a proposed federal action, they shoulder no burden of preparation and proof. Yet Joint Applicants and the Staff would have West Valley undertake the inquiry and prove the potential harm from salt drift to area agriculture.

It is Petitioner's position that the Nuclear Regulatory Commission (NRC) has the responsibility for compiling the data contained in the sources described above. Petitioner will notify the Joint Applicant and the NRC of the experts it will use to review the NRC's data as soon as it hires such experts. Petitioner has a copy of the Maricopa County Soil Survey in its possession.

Respectfully submitted,

Dated: June 29, 1983

By Kenneth Berlin
Kenneth Berlin

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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Petitioner West Valley Agricultural Protection Council, Inc.'s SUPPLEMENTAL ANSWERS TO INTERROGATORIES, MOTION FOR PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER have been served upon the following listed persons by deposit in the United States mail, properly addressed and with postage prepaid:

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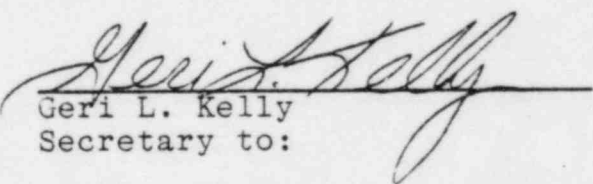
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