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March 16, 1984  
OFFICE OF THE SECRETARY  
DOCKETING & SERVICE  
BRANCH

(202) 833-3500

CABLE ADDRESS: ATOMLAW

Judge Lawrence Brenner  
Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Judge Richard F. Cole  
Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Judge Peter A. Morris  
Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

In the Matter of  
Philadelphia Electric Company  
(Limerick Generating Station, Units 1 and 2)  
Docket Nos. 50-352 and 50-353

Gentlemen:

Enclosed are "Protective Order on Special Nuclear Material Security Plan Information" and "Affidavit of Non-Disclosure" related to the storage of unirradiated fuel at the Limerick Generating Station whose form has been agreed to by Philadelphia Electric Company and Limerick Ecology Action. Also enclosed is a stipulation for which an agreement has been reached in principle. LEA and Applicant intend to request the Board on Monday, March 19, 1984, to issue the protective order so that counsel for LEA and any acceptable expert may examine the physical security plan for storage of unirradiated fuel in accordance with the proposed stipulation.

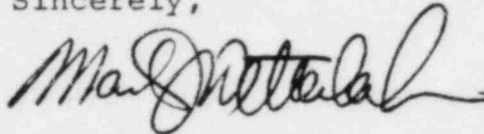
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Judge Lawrence J. Brenner  
Dr. Richard F. Cole  
Dr. Peter A. Morris  
March 16, 1984  
Page 2

These documents are being transmitted in advance to give the Board an opportunity to examine them so that counsel can address any questions the Board may have.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark J. Wetterhahn", with a stylized, flowing script.

Mark J. Wetterhahn  
Counsel for Applicant

MJW:sdd

cc: See Service List

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES:

Lawrence Brenner, Chairman  
Dr. Richard F. Cole  
Dr. Peter A. Morris

In the Matter of	)	
	)	
Philadelphia Electric Company	)	Docket Nos. 50-352
	)	50-353
(Limerick Generating Station,	)	
Units 1 and 2)	)	

PROTECTIVE ORDER ON SPECIAL NUCLEAR  
MATERIAL SECURITY PLAN INFORMATION

Counsel, expert consultants, and witnesses for Intervenor Limerick Ecology Action ("Intervenor") who have executed an Affidavit of Non-Disclosure in the form attached, shall be permitted access to "protected information"\*/ upon the following conditions:

1. Only Intervenor's counsel and an expert who has demonstrated his technical qualifications to the Board in accordance with the requirements of the decision in Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant,

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\*/ As used in this order, "protected information" has the same meaning as used in the Affidavit of Non-Disclosure, annexed hereto.

Units 1 and 2), ALAB-410, 5 NRC 1398 (1977) may have access to protected information on a "need to know" basis.

2. Counsel and the expert who receive any protected information (including transcripts of in camera hearings, filed testimony or any other document that reveals protected information) shall maintain its confidentiality as required by the annexed Affidavit of Non-Disclosure, the terms of which are hereby incorporated into this protective order.

3. Counsel and the expert who receive any protected information shall use it solely for the purpose of participation in matters directly pertaining to this security proceeding directly involving security matters, and for no other purposes.

4. Counsel and the expert shall keep a record of all documents containing protected information in their possession and shall account for and deliver that information to the Commission official designated by this Board in accordance with the Affidavit of Non-Disclosure that they have executed.

5. In addition to the requirements specified in the Affidavit of Non-Disclosure, all papers filed in this proceeding (including testimony) that contain any protected information shall be segregated and:

- (a) served on lead counsel designated by the Board and the members of this Board only:
- (b) served in a heavy, opaque inner envelope bearing the name of the addressee and the

statement "PRIVATE. TO BE OPENED BY ADDRESSEE ONLY." Addressees shall take all necessary precautions to ensure that they alone will open envelopes so marked.

6. Until otherwise ordered by the Board, all protected information shall remain in the custody of Applicant and shall be treated in accordance with Applicant's procedures for handling Safeguards Information. Applicant shall make provisions for assuring that counsel and the expert's notes and papers are segregated, sealed, and made available only to counsel and the expert.

7. Counsel, expert or any other individual who has reason to suspect that documents containing protected information may have been lost or misplaced (for example, because an expected paper has not been received) or that protected information has otherwise become available to unauthorized persons shall notify this Board promptly of those suspicions and the reasons for them.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

Lawrence Brenner, Chairman  
ADMINISTRATIVE JUDGE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
Philadelphia Electric Company	)	Docket Nos. 50-
	)	50-353
(Limerick Generating Station,	)	
Units 1 and 2)	)	

AFFIDAVIT OF NON-DISCLOSURE

I, Charles W. Elliott, being duly sworn, state:

1. As used in this Affidavit of Non-Disclosure,

(a) "Protected information" is (1) any form of the physical security plan for Special Nuclear Material for the Applicant's Limerick, Generating Station, Units 1 and 2: or (2) any information obtained by virtue of these proceedings which is not otherwise a matter of public record and which deals with or describes details of the security plan.

(b) "An authorized person" is (1) an employee of the Nuclear Regulatory Commission entitled to access to protected information; (2) a person who at the invitation of the Atomic Safety and Licensing Board ("Licensing Board"), has executed a copy of this affidavit; or (3) a person employed by Philadelphia Electric Company or its counsel and authorized by it in accordance with Commission regulations to have access to protected information.

2. I shall only examine the physical security plan for Special Nuclear Material at a location designated by and under the control of Applicant.

3. I shall not disclose protected information to anyone except an authorized person, unless that information has previously been disclosed in the public record of this proceeding, I will safeguard protected information in written form (including any portions of transcripts of in camera hearings, filed testimony or any other documents that contain such information), so that it remains at all times under the control of an authorized person and is not disclosed to anyone else.

4. I will not reproduce any protected information by any means without the Licensing Board's express approval or direction. So long as I possess protected information, I shall continue to take these precautions until further order of the Licensing Board.

5. I shall similarly safeguard and hold in confidence any data, notes or copies of protected information and all other papers which contain any protected information by means adequate to guarantee their security.

6. If I prepare papers containing protected information in order to participate in further proceedings in this case, I will assure that any secretary or other individual who must receive protected information in order to help me prepare those papers has executed an affidavit like this one and has agreed to abide by its terms. Copies of any such

affidavit will be filed with the Licensing Board before I reveal any protected information to any such person.

7. I shall use protected information only for the purpose of preparation for this proceeding or any further proceedings in this case dealing with security plan issues, and for no other purpose.

8. I shall keep a record of all protected information in my possession, including any copies of that information made by or for me. At the conclusion of this proceeding, I shall account to the Licensing Board or to a Commission employee designated by that Board for all the papers or other materials containing protected information in my possession and deliver them as provided herein. When I have finished using the protected information they contain, but in no event later than the conclusion of this proceeding, I shall deliver those papers and materials to the Licensing Board (or to a Commission employee designated by the Board), together with all notes and data which contain protected information for disposal or safekeeping during the lifetime of the plant as directed by the Board.

9. I make this agreement with the following understandings: (a) I do not waive any objections that any other person may have to execute an affidavit such as this one: (b) I will not corroborate to any individual who is not an authorized person the accuracy or inaccuracy of information obtained outside this proceeding by using protected information gained through the hearing process.

10. I make the foregoing statements under oath subject to the penalties and provisions of 18 U.S.C. §1001.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_ day of March, 1984.

\_\_\_\_\_  
Notary Public

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
Philadelphia Electric Company	)	Docket Nos. 50-352
	)	50-353
(Limerick Generating Station,	)	
Units 1 and 2)	)	

STIPULATION BETWEEN PHILADELPHIA ELECTRIC COMPANY  
AND LIMERICK ECOLOGY ACTION RELATING TO  
STORAGE OF UNIRRADIATED FUEL

Philadelphia Electric Company is an applicant before the Nuclear Regulatory Commission ("NRC") for an operating license for Limerick Generating Station, Units 1 and 2 ("Station") and for an amendment to Special Nuclear Material License SNM-1926 to permit the storage of unirradiated nuclear fuel at the Station. Limerick Ecology Action ("LEA"), is an intervenor in the operating license proceeding. Philadelphia Electric Company ("Applicant") and LEA hereby stipulate and agree to the following:

1. Applicant shall make available to counsel for LEA and its expert the Physical Security Plan for Protection of Special Nuclear Material of Low Strategic Significance under the terms and conditions of a "Protective Order on Special Nuclear Material Security Plan Information and Associated Affidavit of Non-Disclosure" ("Protective Order") to be issued by the presiding Atomic Safety and Licensing Board ("Board") and whose form is acceptable to Applicant and LEA.
2. LEA, upon completion of its review and after discussions with Applicant and NRC Staff, if necessary, may seek litigation of matters relating ~~only~~ to the physical security of the unirradiated fuel by filing contentions with the Board with copies to the Applicant, and NRC Staff pursuant to the terms of the Protective Order <sup>and</sup> ~~of~~ seek a stay of issuance of the license or its

effectiveness before the Board. Applicant reserves the right to oppose admission of these contentions, to seek to have them dismissed or denied prior to an adjudicatory hearing and to oppose any stay requested by intervenor.

3. The filing of contentions with the Board or the Board's consideration of any admitted contention related to this matter shall not, without the express written agreement of Applicant and LEA, operate to delay issuance of the requested amendment to SNM-1926 or shipment or receipt of the unirradiated fuel covered thereunder unless the Board, after consideration of the positions of LEA, Applicant and NRC Staff, determines that the issuance of a stay is required under the NRC's rules and governing precedents.

4. LEA shall not seek to appeal the Board's ruling related to the storage of unirradiated fuel or to seek other relief from the Atomic Safety and Licensing Appeal Board, the Nuclear Regulatory Commission or any court until after the Board's decision either on the merits or otherwise disposing of all matters related to the storage of unirradiated fuel.

5. In any event, no appeal shall be taken by LEA or Applicant as to the Board's jurisdiction to consider matters related to the storage of unirradiated fuel at Limerick.

Philadelphia Electric Company  
By its Attorney  
Mark J. Wetterhahn



Limerick Ecology Action  
By its Attorney  
Charles W. Elliott

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
Philadelphia Electric Company ) Docket Nos. 50-352  
 ) 50-353  
(Limerick Generating Station, )  
Units 1 and 2) )

CERTIFICATE OF SERVICE

I hereby certify that copies of a letter to the Atomic Safety and Licensing Board from Mark J. Wetterhahn dated March 16, 1984 enclosing "Protective Order on Special Nuclear Material Security Plan Information," "Affidavit of Non-Disclosure" and "Stipulation Between Philadelphia Electric Company and Limerick Ecology Action Relating to Storage of Unirradiated Fuel" in the captioned matter have been served upon the following by deposit in the United States mail this 16th day of March, 1984:

- |                              |                               |
|------------------------------|-------------------------------|
| * Lawrence Brenner, Esq. (2) | Atomic Safety and Licensing   |
| Atomic Safety and Licensing  | Appeal Panel                  |
| Board                        | U.S. Nuclear Regulatory       |
| U.S. Nuclear Regulatory      | Commission                    |
| Commission                   | Washington, D.C. 20555        |
| Washington, D.C. 20555       |                               |
|                              | Docketing and Service Section |
| * Dr. Richard F. Cole        | Office of the Secretary       |
| Atomic Safety and            | U.S. Nuclear Regulatory       |
| Licensing Board              | Commission                    |
| U.S. Nuclear Regulatory      | Washington, D.C. 20555        |
| Commission                   |                               |
| Washington, D.C. 20555       |                               |
|                              | * Ann P. Hodgdon, Esq.        |
| * Dr. Peter A. Morris        | Counsel for NRC Staff Office  |
| Atomic Safety and            | of the Executive              |
| Licensing Board              | Legal Director                |
| U.S. Nuclear Regulatory      | U.S. Nuclear Regulatory       |
| Commission                   | Commission                    |
| Washington, D.C. 20555       | Washington, D.C. 20555        |

\* Hand Delivery

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

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