

5-15
April 10, 1973

Note to Mr. Scinto

I have reviewed the proposed letter to Dr. Reizen, and have great difficulty with it, because of the close relationship to the issues raised in the litigation. I agree with you that a much briefer letter indicating that there will be an opportunity for a hearing, and enclosing a copy of the notice to that effect which was published in the Federal Register today, would be a more appropriate response.

7-10
Reizen
2 to time
More specifically, I question the accuracy of the first paragraph of the letter, if it is meant to imply that fuel rods containing recycled plutonium were not used prior to Amendment No. 4. They have been in use since Amendment No. 3 in 1969, as I understand it.

9-10
The second paragraph is acceptable, as far as it goes. I would add to it language such as the following, "As you are no doubt aware, these particular issues are now the subject matter of litigation in the case of West Michigan Environmental Action Council v. AEC, et al., Docket No. G 58-72, in the U. S. District Court for the Western District of Michigan. In view of this litigation, it would be inappropriate for us to discuss these allegations in detail at this time. For your information, however, we are enclosing a copy of the December 6, 1972, memorandum of James J. Shea which documents the finding of no significant hazard consideration different from those previously evaluated."

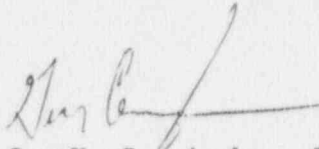
9-12
The remainder of page 1, and the first paragraph of page 2, then become redundant. The next paragraph on page 2 goes to an issue (ECCS) not even raised in the incoming letter and should be omitted, in my opinion. Similarly, I would omit the remainder of page 2 and all of page 3, except for the last paragraph, because it appears to provide a great deal more than is requested in the incoming letter. In view of the litigation and the impending hearing I think this is most unwise, particularly as we have not yet formulated our answer to the complaint in the lawsuit.

9-13
I would leave in the last paragraph on page 3, and rewrite the remainder of the letter to indicate the following thoughts. The statutory framework provides for amendment of licenses, rather than issuance of new licenses, when changes in operation are proposed. That course was followed with the issuance of Amendment No. 4, to Facility Operating License DPR-6. Because

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in the 7-1
on April 10, 1973
of the public interest which has been shown concerning this amendment, the Commission has offered an opportunity for hearing on the amendment, and has designated an Atomic Safety and Licensing Board to receive and rule on requests for such a hearing and/or petitions for intervention in such a hearing. A copy of that notice, published ~~in~~ (38 F.R. 9104), is enclosed for your information and guidance, should you desire to participate in the further proceedings.

In short, the letter should be more in the manner of those letters sent to persons who inquire about contested regulatory proceedings, explaining the nature of the proceeding and the procedural alternatives open to them should they desire to participate.



Guy H. Cunningham, III



MICHIGAN DEPARTMENT
OF PUBLIC HEALTH
Lansing 48914

RETURN RECEIPT REQUESTED

REGISTERED

No. 18150

Mr. Angelo Giambusso
Deputy Director for Reactor Projects
U. S. Atomic Energy Commission
Washington, D.C. 20545