

August 4, 1997

MEMORANDUM FOR: L. Joseph Callan
Executive Director for Operations

John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 2:00 P.M., MONDAY, AUGUST 4, 1997,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

**I. SECY-97-141 - Atlas Corporation; Docket No. 40-3453-MLA; LBP-97-9, Memorandum and Order
(Denying Hearing Request)**

The Commission approved an order denying the appeal of a Licensing Board order, LBP-97-9, that concluded the appellate lacked standing and therefore denied his petition to intervene. The Commission's order concludes that the Presiding Officer gave the Appellate four reasonable opportunities to meet his burden of proof on the issue of standing but that he nevertheless failed to provide the necessary factual details that would support his claim of standing.

(Subsequently, on August 4, 1997 the Secretary signed the Order.)

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Shirley Ann Jackson, Chairman
Greta J. Dicus
Nils J. Diaz
Edward McGaffigan, Jr.

In the matter of)
ATLAS CORP.)
(Moab, Utah Facility))
Docket No. 40-3453-MLA

_____))
CLI-97-__

MEMORANDUM AND ORDER

The Commission denies the appeal filed by Mr. John F. Darke June 2, 1997, and affirms the Presiding Officer's order, LBP-97-9, 45 NRC 414 (May 16, 1997). We do so on the grounds set forth in LBP-97-9. In that order, the Presiding Officer rejected Mr. Darke's request for a formal hearing, concluded that Mr. Darke had not met his burden to establish standing to intervene, and dismissed the proceeding.

We ordinarily defer to Licensing Board standing determinations. **See Yankee Atomic Elec. Co.** (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 248 (1996). Here, we see no legal error or abuse of discretion in the Presiding Officer's refusal to grant standing to Mr. Darke, given his failure to offer more than general responses to the Presiding Officer's reasonable and clearly articulated requests for more specific information about Mr. Darke's proximity-based standing claims. The four opportunities which Mr. Darke had to specify his claims were entirely adequate.

IT IS SO ORDERED.

For the Commission

John C. Hoyle
Secretary of the Commission

Dated at Rockville, Maryland, this ____ day of August, 1997.