

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

DOCKETED  
USNRC

August 29, 2005 (4:12pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**In the Matter of the Nuclear  
Management Company, LLC  
Application for Re-licensing the  
Monticello Nuclear Generating Plant**

**Docket No. 50-263**

**ASLBP No. 05-841-02-LR**

**REPLY OF NORTH AMERICAN WATER OFFICE  
TO THE NRC STAFF MOTION TO STRIKE COMMENT  
OF THE NORTH AMERICAN WATER OFFICE**

In its Motion to Strike, the NRC Staff purports that the North American Water Office (NAWO) Reply Comment should be stricken because it raises new arguments and because it was late. Staff is wrong on both counts. There were no new arguments, and the filing wasn't late. And for the record, NAWO is not "choosing to hide behind trite and insulting invective" (Staff Motion, p.7). NAWO could hardly be more open and up front. If invective it is, it is only "trite" in the eyes of parasitic bureaucrat lawyers who are willing to spew radiological contamination across thousands of square miles of the nation's homeland while they suck, like lamprey sucking carp, from an obsolete, demented, indigent industry incapable of paying its own insufferable freight. Those who judge the language insulting would do better to examine consequences of their own behavior.

In its July 9, 2005 filing, NAWO included a contention that aging management practices are not sufficient to detect degradation until too late (Contention 4). Staff

sought to dismiss this contention by claiming it lacked specificity and was out of scope. The NAWO Reply Comment of August 9, 2005 responded to those charges, establishing specificity and demonstrating that it is within the scope. It is not a new argument or a late filing. Staff's attempt to dismiss the Reply Comment on such grounds is preposterous. The substance of the Comment must be addressed if public health, safety and environmental interests matter in this proceeding.

Likewise with NAWO Contention 5, that drinking water supplies for the Twin Cities are not adequately safeguarded. The NAWO Reply Comment establishes specific potential failure modes within the scope that are not addressed by the re-license application but that do create the potential for unacceptable radiological contamination of the drinking water source for people in the Twin Cities. The NAWO Reply Comment contends that the suggested "stop drinking" option for managing such an event is not acceptable. This is not a new argument or a late filing. It is an appropriate response to an irresponsible attempt to avoid substantive review of a critical issue in a flawed re-license application. It is appalling that Staff is attempting to reduce this proceeding to such an abysmal level, rather than taking this and the other issues seriously.

A legitimate proceeding would recognize the failure of Staff regarding the present motion. 10 CFR § 2.323(b) requires the moving party to make "a sincere effort to . . . resolve the issue (s) raised in the motion." There was no such "sincere effort" here.

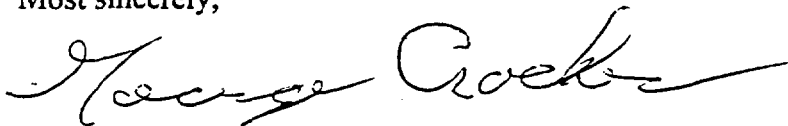
NAWO receive a phone call from Staff on August 17, 2005 during which Staff repeatedly stated that they were calling only because of a procedural requirement. But the only "resolution" acceptable to Staff was for NAWO to withdraw its Comment. Staff agreed, repeatedly, that NAWO withdrawal would eliminate any possibility that the substance of the Comment would be preserved. If eliminating an issue is the only option that will be considered, and attempting to do so legally constitutes a "sincere effort" toward its resolution, jurisprudence in the good old USA has much in common with a bunch of Central Asian and African republics. The double standard of Staff, the ASLB, and the NRC is laid bare.

On one hand, NAWO, which lives and works in the region affected by nuclear operations at Monticello, which has repeatedly addressed a variety of nuclear issues in numerous forums for more than 20 years, and which has members who are adversely effected by those operations, has no standing, according to Staff, to raise issues created by re-licensing nuclear operations at Monticello. On that same hand, when NAWO attempts to raise issues, it must prove its point beyond a reasonable doubt, to the satisfaction of a jaundiced board, before it is even allowed to present testimony at an evidentiary hearing. On the other hand, however, Staff can satisfy legal requirements for "a sincere effort" to resolve an issue simply by calling up a party, and telling that party to go to hell. What a country.

NAWO has standing to raise the issues presented in its July 9, 2005 Request for Hearing and Petition for Leave to Intervene. Each issue presented by NAWO in its July 9, 2005 filing, and its August 9, 2005 Reply Comment is within the scope of issues that

must be addressed by a re-licensing application. The August 9, 2005 Reply Comment does not present new arguments, nor is it late. Rather, it responds specifically and directly to issues raised by Staff and Applicant. If this proceeding is legitimate, Staff motion will be denied.

Most sincerely,

A handwritten signature in cursive script, reading "George Crocker". The signature is fluid and extends to the right with a long, sweeping tail.

George Crocker, Executive Director  
North American Water Office

I hereby certify that the enclosed Reply Comment of the North American Water Office has been sent this day, first class, via the US Postal Service to the following:

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George Crocker, Executive Director  
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