

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the matter of:

PENNSYLVANIA POWER & LIGHT COMPANY : Docket Nos. 50-387

and :

ALLEGHENY ELECTRIC COOPERATIVE, INC. : 50-388

(Susquehanna Steam Electric Station, :
Units 1 and 2) :

Federal Building and Courthouse,
197 South Maine Street,
Wilkes-Barre, Pennsylvania.

Wednesday, January 31, 1979.

The hearing in the above-entitled matter was reconvened, pursuant to adjournment, at 9:00 a.m.

BEFORE:

CHARLES BECHHOEFER, Esq., Chairman,
Atomic Safety and Licensing Board.

MR. GLENN O. BRIGHT, Member.

DR. OSCAR H. PARIS, Member.

APPEARANCES:

On behalf of the Applicants:

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JAY E. SILBERG, Esq. and ALAN YUSPEH, Esq.,
Shaw, Pittman, Potts and Trowbridge, 1800 M. Street,
N.W., Washington, D. C.; and

BRYAN A. SNAPP, Legal Department, Pennsylvania
Power and Light Company, Two North Ninth Street,
Allentown, Pennsylvania 18101.

1 On behalf of the NRC Regulatory Staff:

2 JAMES M. CUTCHIN, IV, Esq. and EDWIN J. REIS, Esq.,
3 Office of the Executive Legal Director, U. S.
4 Nuclear Regulatory Commission, Washington, D. C.

4 On behalf of the Commonwealth of Pennsylvania:

5 WILLIAM DORNSIFE, Esq., Bureau of Radiation
6 Protection, Commonwealth of Pennsylvania.

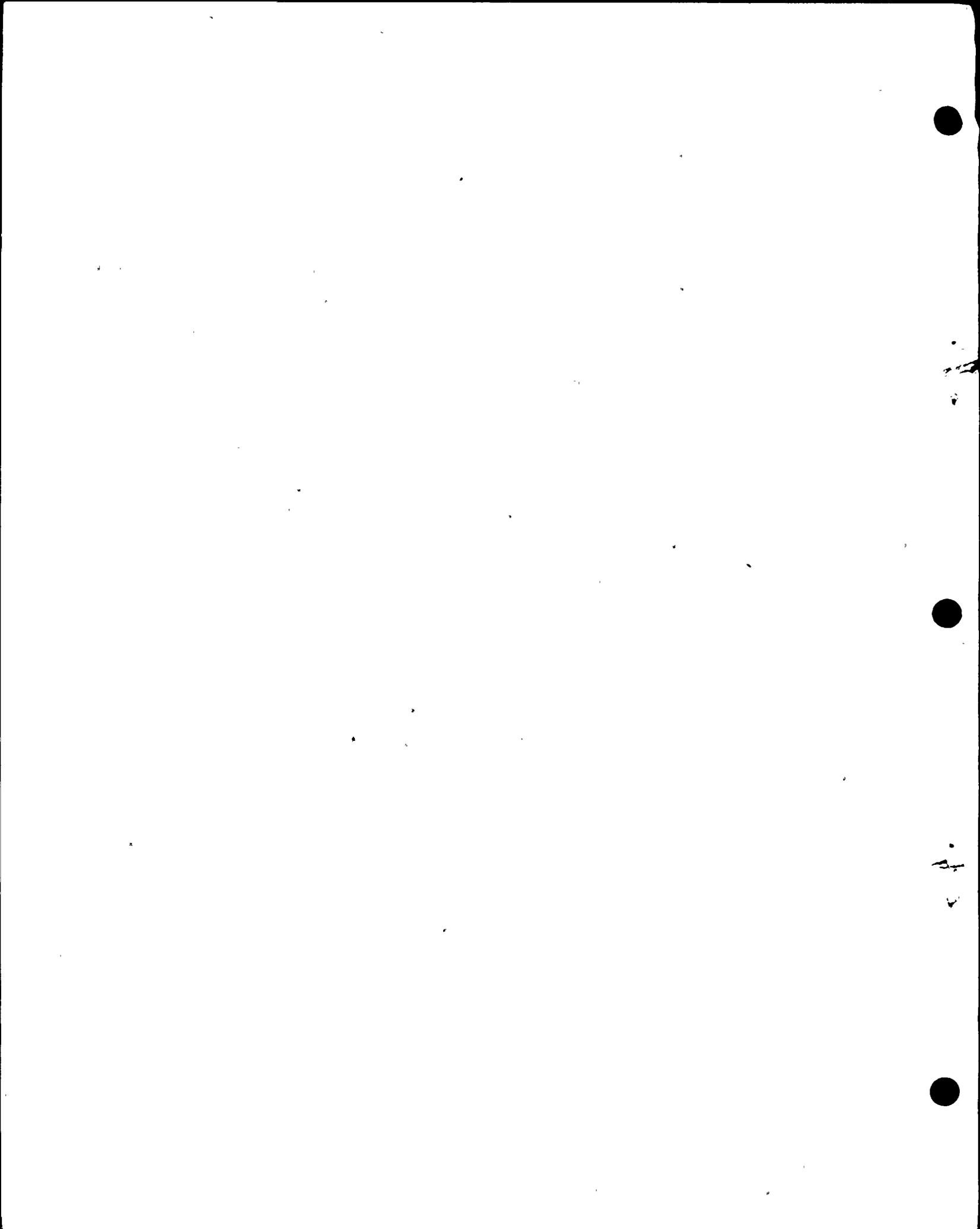
7 On behalf of Petitioners for Leave to Intervene:

8 DR. JUDITH H. JOHNSRUD and DR. CHAUNCEY KEPFORD,
9 on behalf of Environmental Coalition on Nuclear
10 Power.

11 GERALD SCHULTZ and CHRISTOPER MILLER, on behalf
12 of Susquehanna Environmental Advocates.

13 IRENE LEMANOWICZ and THOMAS HALLIGAN, on behalf
14 of The Citizens Against Nuclear Danger.

15 COLLEEN MARSH, pro se.



P R O C E E D I N G S

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2 CHAIRMAN BECHHOEFER: Good morning, ladies and
C11 3 gentlemen.

4 We're going to continue this morning discussing
5 the contentions of the Citizens Against Nuclear Dangers.

6 Before we do that we would like to put the Staff
7 on notice that the Board would be interested in having the
8 appropriate staff division explore and report to us on the
9 matters that Mrs. Creasy raised yesterday, the former
10 Bechtel employee. The Board would like a report on what
11 matters were involved there concerning the quality assurance
12 program of Bechtel.

13 MR. CUTCHIN: The Staff plans to take immediate
14 steps to have that looked into.

15 CHAIRMAN BECHHOEFER: Fine. The Board would
16 like a report.

17 I assume this Board will be the same Board
18 appointed to conduct the operating license hearing.

19 Okay. Let's start with-- I think we should
20 cover these contentions by the dates of the cover letters
21 by which they were submitted. Possibly after we decide
22 which contentions are acceptable we will try to renumber
23 them so as to put them in a little easier order to follow.

24 Let's start with December 28th.

25 The first of these contentions seems to relate to

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1 the matter of national defense. And I wanted to know whether
2 the Citizens were aware that under 10 CFR 50.13 we are not
3 permitted to look into matters affecting national defense
4 or foreign policy.

5 MR. HALLIGAN: Mr. Chairman, just one time I'd
6 like to read the preamble and the preface to all the letters.
7 I will just read it once for the record. It says:

8 The Citizens Against Nuclear Danger, serving
9 as a public interest ad hoc group to enumerate the concerns
10 of many citizens living in relative close proximity to
11 Salem Township, believing that the government has thus far
12 failed to adequately protect these people from the risk of
13 nuclear dangers that might occur as a result of the opera-
14 tion of the applicants' atomic power plant, determined to
15 intervene in the interest of public health and safety.

16 The Citizens Against Nuclear Danger hereby allege,
17 contend and aver the following:-- And then Contention No. 1:

18 Contention No. 1, dated the 28th. In answer to
19 your question, it pertains to a development that was just
20 brought out on or about November 29th of last year, 1978,
21 whereby I think by executive order a new civil defense program
22 is set forth.

23 It's my understanding that when an executive order
24 is promulgated all agencies of the Executive Branch of the
25 government, including the Nuclear Regulatory Commission, are

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1 bound in some way to conform its regulations to the concepts
2 and directives of the White House. I'm almost certain that
3 there are certain rules -- I'm not a constitutional lawyer,
4 I'm not a lawyer at all, but I think that's the relevancy.

5 I must also say there is legislation needed to
6 appropriate the funds to implement this plan, a long range
7 master plan.

8 We say here that the electric company's atomic
9 plant will in fact be a target for a potential enemy missile.
10 That is the contention and the basis for the possibility of
11 conducting a review of the whole matter because the evacua-
12 tion plan will be null and void or inoperative in this case.

13 CHAIRMAN BECHHOEFER: We're aware of that. But
14 the regulation I cited to you, 10 CFR 50.13 says in effect
15 that an applicant does not have to prepare for defense
16 against foreign powers, and, in effect, we cannot look at
17 that.

18 There is a fairly long-standing court decision
19 which upheld that regulation.

20 What it means is that whether there is relevance
21 or not it's something we cannot look at.

22 MR. HALLIGAN: Well, sir, when you say "we," are
23 you referring to --

24 CHAIRMAN BECHHOEFER: This Board.

25 MR. HALLIGAN: Well isn't the Board constituted

1 under the Nuclear Regulatory Commission?

2 CHAIRMAN BECHHOEFER: It is. But our powers are
3 set forth in the regulations.

4 MR. HALLIGAN: But I believe there are super-
5 ceding regulations that when an executive order is issued
6 from the White House all agencies must have conforming
7 proposals.

8 I just want to make one point of order here, or a
9 point of interest. We make this assertion about the designa-
10 tion of the plant itself as a potential target because a
11 few years ago I was at a public hearing here in Wilkes-Barre,
12 and during the interim, or a recess, I talked to Congressman
13 Dan Flood. I think, as most of you know, this is the
14 Eleventh Congressional District, this is his home district.
15 He represents the constituents here. And he told me in,
16 I believe, words to this effect, he said his concern about
17 the plant that was being built in Berwick was that -- and
18 he pointedly indicated that it would be a target for an
19 enemy missile. He indicated this a few years ago as a
20 member of a Congressional Committee, the House Appropriations
21 Committee. That's getting it from the horse's mouth.

22 And that's an indication, in our judgment, that
23 this is relevant, that because of the danger and the fact
24 that it may affect national security, we see a need to
25 evaluate this very carefully under the so-called Nuclear?

1 Crisis Relocation Program because this area back in Salem
2 Township is designated as a rural area for relocating people
3 from populated regions such as Wilkes-Barre and maybe as far
4 away as Allentown and other areas.

5 CHAIRMAN BECHHOEFER: We understand the connection.
6 But again, under that regulation, maybe the Department of
7 Defense is the appropriate body. It's something that we,
8 at least, are not permitted to look into.

9 DR. PARIS: You see, Mr. Halligan, our authorization,
10 our authority is delegated to us by the Commission. Now,
11 for this to be changed, it would take Commission action and
12 would take a rulemaking procedure, and that is a public
13 procedure and that is the proper forum to raise the points
14 that you are raising.

15 But we are bound by the regulations, and so there
16 is no point in our spending more time discussing it, we
17 simply do not have the authority to deal with it.

18 MR. HALLIGAN: The only response I could make,
19 of course, to that is if we are given an opportunity to
20 raise this at a public hearing, we will attempt to show
21 that there are in fact on the books now superceding rules
22 and regulations that guide all the executive agencies to
23 conform with this Civil Defense plan.

24 I believe they are in effect. No one here is
25 probably prepared to make this determination here. But we

1 will, if we are allowed, make this determination at the public
2 hearing and also have with us testimony or documentation of
3 this evacuation plan. We will contact the appropriate
4 agencies of defense, Civil Defense and so on and bring in
5 exhibits and show what effect this would have on the electric
6 company plant and if it would cause any delays or problems.

7
8 We will assist this Board in making an evaluation
9 in the overall picture of dealing with the evacuation plan
10 for Civil Defense, not for an alert of the plant, you see.

11 CHAIRMAN BECHHOEFER: I'm aware of that, yes.

12 Applicants?

13 MR. SILBERG: We have nothing to add.

14 MR. CUTCHIN: We have nothing to add.

15 MR. HALLIGAN: Before we go to Number 2, if I might
16 comment, the Citizens Against Nuclear Danger at this time
17 feel that the regulations and citations of law indicated in
18 the Applicants' reply or response to Contention Number 1,
19 and also the citation to regulations submitted by the
20 attorneys for the NRC, we tend to believe that these objections
21 if sustained may deprive us in some way of our rights under
22 the First Amendment and the Fifth Amendment of the United
23 States Constitution and we so state this for the record.

24 CHAIRMAN BECHHOEFER: Okay, let's go on to
25 Number 2. This contention, at least the Applicant states
that one of the paragraphs is an admissible contention, that

1 raising the effect of cooling tower, water vented from the
2 cooling tower.

3 MR. SILBERG: That's limited to the alleged
4 radioactive water.

5 CHAIRMAN BECHHOEFER: YES, that's correct.

6 I wanted to ask the Staff whether, considering
7 the Applicants' response, if the Staff had any second thoughts
8 on its own response.

9 MR. CUTCHIN: Mr. Chairman, the Staff has no real
10 second thoughts. However, if the Board wishes to admit a
11 narrow contention as to whether the radioactive evaporated
12 water that supposedly will be vented daily in the amount of
13 70 million gallons could pose some sort of a threat to the
14 dairy industry that would prevent the issuance of an operating
15 license, the Staff will not argue.

16 MR. HALLIGAN: Would the attorney for the electric
17 company and the government acknowledge that the eastern
18 central Pennsylvania dairy farming is a major industry?

19 We will bring in expert witnesses. In other words,
20 we would have to prove this but it is, we believe, a major
21 industry, that's why we think this is kind of important.

22 As a correction, the milk shed itself is in a 50
23 mile radius but one of the two or three plants being built
24 may actually -- they changed the site, it's actually up
25 on the New York State line or something, this has happened

1 in the last few weeks. But the source --

2 CHAIRMAN BECHHOEFER: I think this is getting into
3 the merits of the contention.

4 MR. HALLIGAN: Okay. I'm not sure if it is 70
5 million, by the way, it could be a lesser sum.

6 CHAIRMAN BECHHOEFER: Well again, as these con-
7 tentions develop, you'll be able to present them assuming
8 we accept it, you'll be able to present evidence on it. To
9 the extent you find some of your statements have to be
10 corrected, well and good.

11 MR. HALLIGAN: Well we state here also in our
12 contention that it would involve the State Agency of Agri-
13 culture and Health.

14 CHAIRMAN BECHHOEFER: The third one, let me ask
15 you --

16 MR. HALLIGAN: Wait. I didn't finish on the
17 second, sir.

18 DR. PARIS: Mr. Halligan, you got the Applicants'
19 okay and the Staff saying it's okay, we're not apt to say
20 it's not okay if they so say. You're ahead now.

21 MR. HALLIGAN: I thought for the benefit of the
22 press -- I'm not going to read it all -- but I would just
23 point out that we're stating that the emissions from the
24 stacks have radioactivity in them, and if this can cause
25 harm to the food chain through the feed that animals will

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1 eat, and --

2 CHAIRMAN BECHHOEFER: Right.

3 MR. HALLIGAN: If we are allowed to testify at a
4 public hearing, we will bring in expert witnesses who are
5 dairy farmers and specialists in that field to substantiate
6 this.

7 I believe, sir, that the electric companies did not
8 adequately do any monitoring on this ground. They hired one
9 man on a --

10 CHAIRMAN BECHHOEFER: As I say, you're ahead on
11 this one, why don't we go on to the next one?

12 MR. HALLIGAN: I will say, once again, if the
13 objections in Contention 2 submitted by the Applicant, the
14 electric company, and for the government, the NRA, if these
15 are sustained by this Board and an Appeal Board, then the
16 Citizens Against Nuclear Danger would respectfully say for
17 the record that we believe that this will or may violate our
18 constitutional rights under the First Amendment and under
19 the Fifth Amendment of the Constitution.

20 CHAIRMAN BECHHOEFER: The Applicant and the Staff
21 have now both agreed that at least a portion of the contention
22 is admissible as a contention. So as I say, you're ahead,
23 let's get on to the next one.

24 MR. SILBERG: Perhaps for Mr. Halligan's benefit,
25 it might be useful to point out that he need not preserve

1 any rights of objection on the record at this time. Whatever
2 objections Mr. Halligan has are there, whether or not he
3 states them at this time.

4 MR. HALLIGAN: I prefer to clarify it explicitly
5 though.

6 CHAIRMAN BECHHOEFER: Going on to the third one,
7 this one I wanted to ask, is there any way that you're
8 alleging that the Applicants have not complied with the
9 applicable Emergency Core Cooling System regulations?

10 MR. HALLIGAN: Let me see here. This is the --

11 CHAIRMAN BECHHOEFER: This is the one where you
12 say considering the LOFT tests. Your contention is that
13 there should be no --

14 MR. HALLIGAN: I don't have that one here.

15 CHAIRMAN BECHHOEFER: It says:

16 "Until such time as all parties have
17 evaluated the results of LOFT..." et cetera, NRC
18 should not issue the Applicant an operating license. That's
19 the thrust of the contention.

20 Our regulations provide on the ECCS systems which
21 the LOFT tests are designed to test, if they meet the stated
22 criteria, that is sufficient for licensing.

23 My question to you is: are you saying that in any
24 way the Applicants, in their FSAR, have not met the appli-
25 cable regulatory requirements?

1 MR. HALLIGAN: A qualified yes, sir. Because this
2 test which was delayed like four years was only administered
3 on December 10 of 1978 by the Department of the Interior on
4 your behalf. Apparently they're doing it to test the --

5 CHAIRMAN BECHHOEFER: I'm aware of the test.

6 What I'm trying to say is that irrespective of any
7 tests, the Commission has criteria for Emergency Core Cooling
8 Systems. And unless you are alleging in some way that those
9 criteria are not satisfied -- and I don't see any such
10 allegation here in the paper --

11 MR. HALLIGAN: It's inferred because the regulations
12 are periodically revised when new evidence, unusual cir-
13 cumstances are brought to your attention.

14 And if the report from Idaho on this LOFT test,
15 which is called the loss of fluid test, loss of fluid in
16 case there is a guillotine break in the pipe and the water
17 evaporates into steam and there's a meltdown and a chain
18 reaction of radiation and radiation gets into the atmosphere,
19 if it is determined that radical changes must be incorporated
20 into the safety design of the reactor and its components
21 and systems as a result of this test then I think you have
22 to call for a moratorium on the construction and call in
23 the engineers to redesign, yes. I think you have a pro-
24 vision in your regulation that covers this.

25 DR. PARIS:: I'm sure that would be done if that

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1 developed.

2 MR. HALLIGAN: Well that's our contention. But
3 the thing of it is --

4 CHAIRMAN BECHHOEFER: Are you saying that has
5 developed?

6 MR. HALLIGAN: No. The test was only on December 10
7 of '78, so by the time the hearing arrives, a month or two
8 hence or three months or whatever, by that time we may have
9 to present to you to assist you in making your determination
10 about the issuance of a license evidence and reports and our
11 opinions and views on this. You will have your own expert
12 analysis also, but we want to bring in independent expert
13 opinion if possible to concur with or assist you in making
14 the determination. This can only be done if an independent
15 -- if an opportunity is made to do this in the public interest
16 interest.

17 CHAIRMAN BECHHOEFER: I would like to make it
18 clear, by the way, that if new evidence should arise, you
19 could always bring that to the attention of the Board, and
20 if there is sufficient reason for considering it the Board
21 can consider --

22 MR. HALLIGAN: Only if we have standing.

23 CHAIRMAN BECHHOEFER: Assuming you're admitted on
24 at least one contention. New information can always be
25 brought to the attention of the Board and the Board can

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1 consider whether that information is sufficient to constitute
2 a basis for admitting a new contention.

3 I would like to hear the Applicant and the Staff
4 on this particular contention as explained by Mr. Halligan.

5 MR. SILBERG: I think we basically set forth our
6 position in our written submission. The on-going LOFT tests
7 do not constitute any grounds to challenge the existing
8 regulations. Even if they did, that mechanism for doing that
9 would not be through this hearing but would rather be
10 through the rulemaking process.

11 CHAIRMAN BECHHOEFER: Well, presumably if a suffi-
12 cient showing were made we could utilize the 2.758 mechanism
13 to certify the question to the Commission, assuming that such
14 a showing were made.

15 MR. SILBERG: Yes. But even in that case that
16 proceeding only goes to circumstances involving a particular
17 plant and the LOFT test of course is a generic test to confirm
18 some of the assumptions that are used in the ECCS codes and
19 models.

20 CHAIRMAN BECHHOEFER: Mr. Cutchin?

21 MR. CUTCHIN: Mr. Chairman, the Staff is of a
22 similar opinion, that is, this Petitioner having raised
23 nothing that is specific about that test to this particular
24 reactor. And surely if there is evidence which the Commission
25 who, by the way, is funding a large part if not all of that

1 test. and will be getting a lot more information than I'm sure
2 is available at the moment to the Petitioners-- If there
3 is any reason to reconsider the rules, I'm certain that will
4 be handled on a generic basis.

5 I can see no possibility that the information
6 is likely to arise that would cause this Board to hear that
7 evidence in this proceeding.

8 MR. HALLIGAN: Well, sir, the point is we think
9 that this contention is relevant because it deals with what
10 may be a very, very unusual circumstance. In other words
11 if, for example, the government does not release the informa-
12 tion about the LOFT test, some negative aspects of it, and
13 the electric company proceeds as scheduled with their con-
14 struction and later has to revise their design at a greater
15 cost and loss of time and so forth, they could be harmed
16 financially and otherwise by this action of the government.

17 We're simply trying to assist this Board to get
18 at the facts and bring the LOFT test results out in the
19 hearings. And this is our main purpose.

20 The thing of it is even if the LOFT tests were
21 a hundred percent successful and confirm all past tests, this
22 should be made known. This should be verified and publicized
23 to substantiate the position. We think they will find some
24 unusual things and circumstances that would be very relevant.

25 We have a question, too, for the panel. Would

1 raising a contention at a later date require a prima facie
2 showing by the Petitioners to show cause? We're not sure if
3 perhaps this is a legal matter. I don't know if you can rule
4 on that.

5 In other words in this case if we made this con-
6 tention on such-and-such a date and if later the LOFT tests
7 proved or substantiates what we imply or anticipate, would
8 that give us standing once again or would we have to --

9 CHAIRMAN BECHHOEFER: I think you're confusing
10 the word "standing." We have already rules that your organi-
11 zation has standing. The Board of course can always take
12 new information into account in determining whether a new
13 contention or a modification of an earlier contention should
14 be admitted and heard in the hearing.

15 MR. HALLIGAN: It would not be an amendment but
16 it would be a modification or something?

17 MR. SILBERG: Perhaps I could suggest that the
18 Staff -- or we, of course, would be happy to do it -- could
19 explain, without giving legal advice, but could at least ex-
20 plain what the Commission's regulations provide with respect
21 to late filings and the kinds of showings which are required.
22 I don't think we need take up hearing time to do that.

23 CHAIRMAN BECHHOEFER: I think that would be use-
24 ful.

25 Why don't you discuss that when the conference is

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1 concluded.

2 MR. HALLIGAN: In conclusion on Number 3, once
3 again for the record, the Citizens at this time, if these
4 objections, the citations of law and the citations of regula-
5 tions, if they are sustained by this Board and/or an Appeal
6 Board, the Citizens tend to feel that it may violate their
7 rights under the First Amendment and the Fifth Amendment of
8 the United States Constitution.

9 CHAIRMAN BECHHOEFER: The next one seems to be
10 related to radioactive storage on the premises. Again, it
11 seems to be a national defense type of contention which,
12 under the existing Commission regulations, would not be per-
13 mitted.

14 I would like your comments on that.

15 MR. SILBERG: Excuse me, Mr. Chairman. Could you
16 speak up a little bit, please, sir? We're having a little
17 trouble hearing you.

18 CHAIRMAN BECHHOEFER: I say this appears to the
19 Board to be a national defense type of contention which
20 appears to be barred by 10 CFR 50.13, which is part of the
21 Rules of Practice. And I would like your comments on that.

22 Again, as I explained on the first one, it's a
23 national defense type of contention which I don't believe we
24 are authorized to hear.

25 MR. HALLIGAN: No, it's not national defense.

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1 Many of our questions are multifaceted of course, but this
2 does not deal with national defense because that is a threat
3 from without the borders of the country.

4 No, this has to do with the fact that the reactor
5 facility is secure and virtually bomb-proof but because we
6 have learned they're going to store for an indefinite period
7 waste material on the site, high-level radioactive waste,
8 and we have here a photograph of one of these pools and it
9 shows lowering the cask, the metal cask, into the water,
10 and in the background you can see the cinderblock wall, and
11 in the other photograph it looks like it's sheetmetal with
12 ribbing and not very secure from the outside, it could be
13 penetrated with a weapon.

14 Now we know the Nuclear Regulatory Commission
15 and the commercial operators have programs set up for
16 security and to resist terroristic assault, attack, and so
17 forth. We're aware of that. In fact, there was a program
18 by the National Broadcasting System last week, Mandrake, the
19 Magician, giving a blowup of an atomic reactor. And he
20 hypnotized the perpetrator and defused the bomb because the
21 security guards couldn't cope with him.

22 MR. SILBERG: We will stipulate we will not use
23 Mandrake, the Magician, --

24 (Laughter.)

25 -- nor is it required under the Commission's regulations.

1 (Laughter.)

2 MR. HALLIGAN: The point is they're prepared to
3 deal with contingencies. But we contend that the Applicants
4 have no duty to protect anything beyond their perimeter or
5 the air space. That is somebody else's job.

6 But it is not national defense. We only suggest
7 that they contact the agency in Defense that advises and
8 consults with industry to help them protect their property
9 if they have government contracts or if they have radioactive
10 material.

11 This is a proviso, but it's the NRC regulations
12 we're talking about here in this area.

13 One final thing --

14 CHAIRMAN BECHHOEFER: How does a general aviation
15 bombardment or paramilitary rocket fire, what's the source
16 of that?

17 MR. HALLIGAN: Well, about one mile away from the
18 plant-- The circle is the plant -- is the Berwick Air Field,
19 and this is omitted from the Environmental Impact Statement.
20 This map is taken from a government map. It's a U. S. Geo-
21 logical Survey map of the area. It is used extensively by
22 the Applicant in their filings.

23 One mile away is a general aviation airport which
24 could be used as a launching spot for some terroristic attacks.
25 This is not even mentioned in the Impact Statement. They

1 omitted this information. They said the nearest airport was
2 in Hazleton and up in Avoca.

3 CHAIRMAN BECHHOEFER: So you're worried about
4 terroristic attacks but not necessarily foreign power attacks?

5 MR. HALLIGAN: No, this would be someone with a
6 private plane, general aviation or private plane, anybody who
7 has a single engine.

8 Finally, in last week's newspaper here in the
9 area in Scranton it showed a weekend warrior, a National
10 Guardsman, handling this weapon which was once very classi-
11 fied. It was used in Vietnam. It's called the tube-launched,
12 optically-tracked, wire-guided antitank missile weapon TOW.
13 These are now in the hands of the National Guard in north-
14 eastern Pennsylvania in armories that are,-- let's say may
15 not be as secure as Fort Knox.

16 There may not be the provocation but there is the
17 weapons and the opportunity in the hands of possible perpe-
18 trators.

19 I think what we're saying only is we want to
20 assist this honorable Board in determining that the tank,
21 the pool of water that the waste fuel is set in is a bomb-
22 proof building against high explosives, not somebody with an
23 automatic pistol or bow and arrow or something, a bomb-proof
24 building.

25 We think this is reasonable and necessary and in

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1 the public interest.

2 Maybe the engineers could even tell if this build-
3 ing is more secure than cinderblock; I don't know.

4 CHAIRMAN BECHHOEFER: I think we'd like to hear
5 the Applicant and the Staff on this one as explained just now.

6 MR. SILBERG: First of all, the Berwick Airport
7 is specifically mentioned both in the Environmental Report,
8 Section 2.1, and in the FSAR. It's four miles from the
9 plant, not one mile from the plant.

10 Second, I think Mr. Halligan stated that the
11 national defense argument only applies to events which take
12 place outside the perimeter of the plant. I don't believe
13 that that's the case. I don't see that there is any basis for
14 that.

15 So far as your statement that we're talking about
16 -- we're not necessarily talking about acts by a foreign
17 government, the regulations specifically say that we're deal-
18 ing with acts by enemies of the U. S. -- quote -- "whether
19 a foreign government or other person" -- quote. It was
20 clearly not limited to foreign governments.

21 CHAIRMAN BECHHOEFER: How about terrorist groups?

22 MR. SILBERG: Well, with regard to his reference
23 to the TOW weapon and his discussion of that as in the hands
24 of the National Guardsman, I think that clearly gets us back
25 to defense activities.

1 With regard to terroristic groups, we look at the
2 Commission's regulations on the threat level to which nuclear
3 power plants have to be designed. Those are very explicitly
4 set forth in Section 73.55(a) which was set forth in our
5 response on page 7.

6 In that case they specifically say that the design
7 must be such as to provide protection against suitable
8 weapons up to and including hand-held automatic weapons having
9 effective long-range accuracy. We're not dealing with general
10 aviation bombardment, paramilitary mortar rocket fire, or the
11 like. The Commission has defined the threat level.

12 This contention is a challenge to that threat
13 level, saying well, the Commission ought to have us design
14 the plants against some greater level of threat than what the
15 Commission has deemed appropriate. So we would see this as
16 a challenge both to Section 50.13 and to the specific security
17 plan regulations in 73.55.

18 MR. HALLIGAN: Mr. Silberg, we may stand corrected
19 on the milage because the documents are rather complex and
20 we don't have access to them.

21 However, most of that regulation you quote, the
22 gist of it deals with an assault on the facility whereas our
23 contention is simply trying to bomb-proof a building, not
24 necessarily, you know, to make it-- Even if it was an assault
25 it couldn't be destroyed. It couldn't do anything, set off

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1 a chain reaction and release radioactivity which would trigger
2 an evacuation of the whole thing.

3 Now you mentioned the word "challenge." I never
4 heard that word used in a proceeding before. Will you explain
5 what that means?

6 CHAIRMAN BECHHOEFER: The Commission's regulations
7 set forth certain standards and a party is not permitted to
8 challenge or take issue with the standards prescribed by
9 the regulations. If an Applicant meets those standards,
10 essentially his facility conforms to the regulations and can
11 be licensed.

12 Any change in those regulations has normally got
13 to be submitted to the Commission through rulemaking, to
14 change the regulations if appropriate. The Commission
15 presumably has considered these various factors in determining,
16 for instance, what the threat level is that a plant has to
17 be designed against.

18 All this Board can do is to look and see whether
19 the Applicants have conformed, or their proposal conforms to
20 the regulatory standards which are set forth in the regula-
21 tions.

22 There is a limited exception if there is a special
23 circumstance that is applicable to a particular plant. Again,
24 Boards such as this cannot do anything about that. It can
25 certify that type of a question to the Commission but there

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1 has to be a substantial showing that there are special circum-
2 stances regarding the particular plant which would make the
3 general regulations inapplicable as a practical matter to the
4 particular plant. That's in Section 2.758. The full standards
5 are spelled out.

6 I think if you meet with the Applicants' and the
7 Staff's attorneys they can explain these provisions to you
8 in somewhat greater detail.

9 MR. HALLIGAN: Who writes these regulations,
10 the Congress?

11 CHAIRMAN BECHHOEFER: The Commission does. They're
12 approved by the Commissioners.

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1 MR. HALLIGAN: And they have the effect of law?

2 CHAIRMAN BECHHOEFER: In a proceeding under NRC,
3 yes.

4 MR. HALLIGAN: Congress did not write these regu-
5 lations?

6 CHAIRMAN BECHHOEFER: Congress delegated to the
7 Commission the authority to write such regulations.

8 MR. HALLIGAN: You said normally challenges are not
9 allowed but you say there are exceptions.

10 CHAIRMAN BECHHOEFER: This is the one in that
11 Section 2.758 which I referred to which you may want to look at
12 and discuss with the other attorneys. They can explain to you
13 how it works, and what types of showings are necessary in order
14 to invoke that type of exception.

15 MR. HALLIGAN: Well, the main thing at this point
16 is the question for the attorney for the electric company:

17 Is the building where the spent fuel rods will be
18 stored for an indefinite period of time, is that a bomb-proof
19 building?

20 MR. SILBERG: We'll be happy to go over the sub-
21 stance of these questions off the record with you.

22 MR. HALLIGAN: Can you answer Yes or No?

23 MR. SILBERG: The appropriate discussion we're
24 having now is whether this is an admissible contention. If we
25 start to discuss the merits of each of these issues I think

1 we'll be here forever.

2 CHAIRMAN BECHHOEFER: I think that's correct.

3 MR. HALLIGAN: He didn't answer my question, did
4 he?

5 MR. SILBERG: I'll be happy to discuss this, but
6 the purpose of the meeting is to discuss not the merits of
7 the contentions but whether they ought to be accepted. We'll
8 be happy to sit down with you after this process and we can
9 answer a lot of your questions.

10 We had of course hoped to meet with all the Inter-
11 venors prior to these prehearings, and that didn't come about.

12 CHAIRMAN BECHHOEFER: I think the Board suggested
13 that that type of activity is useful, and I think it might well
14 be useful to do that.

15 MR. CUTCHIN: Mr. Chairman, I was going to say I,
16 however, would not wish to have false hope held out to the
17 Petitioner on this particular contention where the one that
18 has been raised clearly is beyond the threat level required
19 by the regulations in Part 73. And this particular type of
20 showing will avail the Petitioner nothing toward getting this
21 contention admitted in this proceeding. So I would not like
22 to see that sort of false hope held out.

23 MR. SILBERG: This is something I feel we can better
24 discuss off the record.

25 CHAIRMAN BECHHOEFER: Yes.

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1 MR. HALLIGAN: This is Contention Number 4, I
2 believe.

3 CHAIRMAN BECHHOEFER: Number 4 of the 28th.

4 MR. HALLIGAN: Contention Number 4. The Citizens
5 once again at this point in time tend to believe that our
6 constitutional rights may be not being cared for in that the
7 citations or the interpretations of the regulations and rulings
8 by the attorney for the electric company and the attorney
9 for the government, the NRC, may in fact violate our constitu-
10 tional rights under the First Amendment and the Fifth Amend-
11 ment to the U. S. Constitution.

12 MR. SILBERG: Mr. Chairman, we'll be happy to
13 stipulate that that exception, or however it may be phrased,
14 applies to all of these contentions to the extent the Board
15 might, at a future date, rule them inadmissible.

16 CHAIRMAN BECHHOEFER: Right. I think to save time
17 we will recognize that you have that objection to any that
18 we should --

19 MR. HALLIGAN: There are variations, sir. There
20 are other amendments we're going to cite as we go along, so
21 I would like to be explicit, I respectfully submit.

22 CHAIRMAN BECHHOEFER: The next one which is the
23 first one on the 29th, this appears to be a need-for-power
24 contention. We have several need-for-power contentions before
25 us, and it is my impression that we will -- or it's my

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1 inclination to say that we will probably rule similarly on all
2 of them.

3 We have not decided whether need for power as such
4 is an appropriate issue here or not.

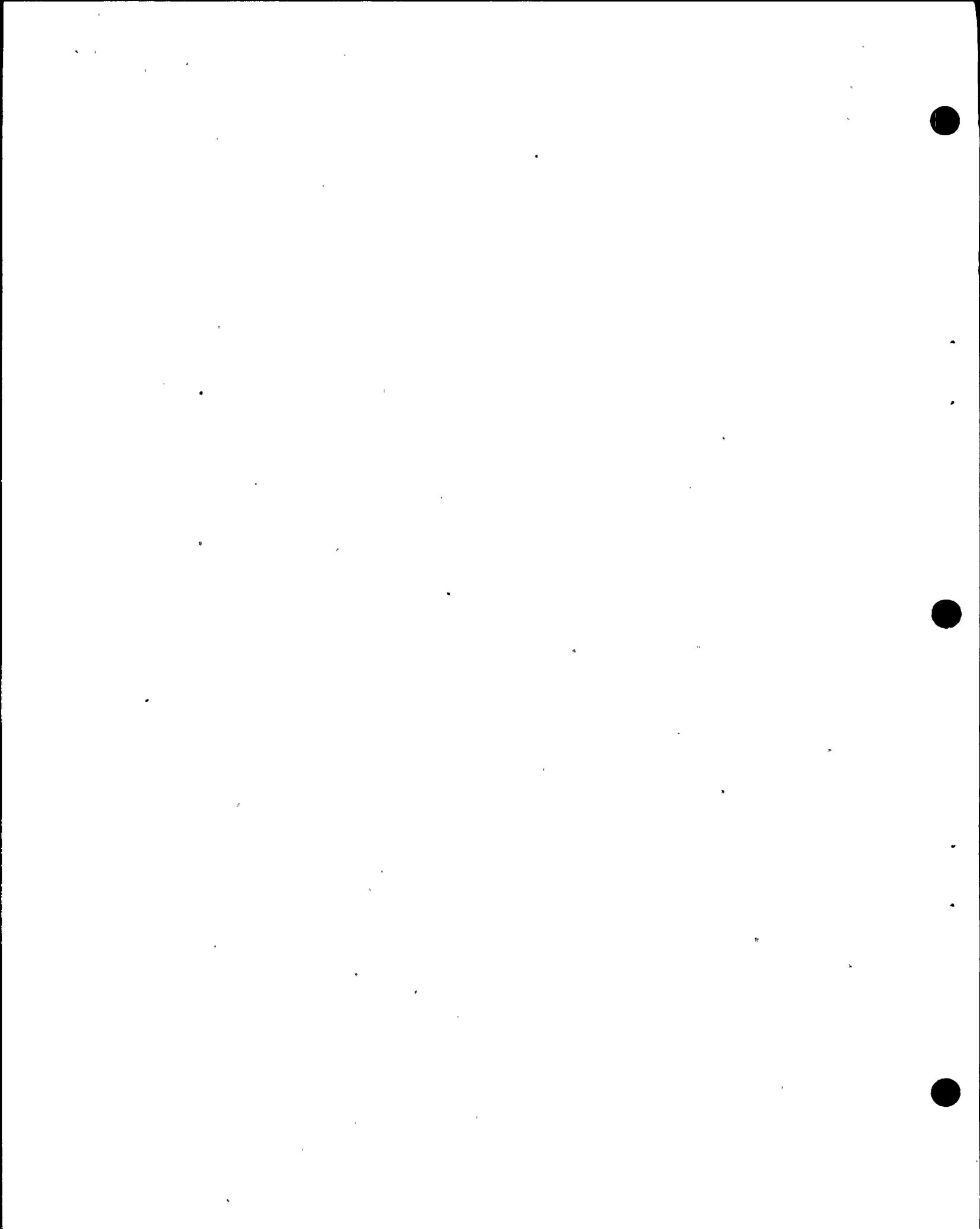
5 MR. HALLIGAN: What we're saying here at the very
6 bottom-- Let me interpret what I meant by the last paragraph.

7 "Therefore, in the national interest,
8 the Nuclear Regulatory Commission, complying with
9 the objectives of the National Energy Program, should
10 order a moratorium on further development of the
11 excess capacity at the Applicants' Salem Township
12 atomic power plant."

13 I think what we mean by "excess capacity" is that
14 if and when an operating license is deemed necessary for Unit
15 Number 1 that they not proceed any further with Unit Number 2
16 because it will not be used and useful in the sense of the
17 Public Utility Commission. And perhaps they could justify the
18 completion and operation of one of these units but not two of
19 them, on economic grounds, because they now--

20 You see what happened just the other day. They
21 issued their earnings. They tell how they spent their money
22 or how they earned it. And they found a substantial drop in
23 the sale of electricity to other suppliers. Their wholesale
24 business dropped \$60-some million in one quarter, I believe.

25 That's the PP&L earnings report issued January



eb5

1 27th of this year.

2 So their annual growth rate is 2-1/2 percent,
3 approximately, and I might point out, sir, that the PP&L is
4 very close to what the President said in his National Energy
5 Program message on April 20th, 1977. This is what this conten-
6 tion is all about. He said the goal for the nation should be
7 reducing the annual growth of energy to 2 percent or less.
8 The PP&L is now at approximately 2-1/2 percent. It is probably
9 one of the best compliance rates in the United States.

10 And I would like also to interject here on behalf
11 of the Citizens, and probably for the other Intervenors as
12 well, that we know for a fact that the PP&L is staffed by
13 well-trained and very competent people. They have the best of
14 equipment and they do provide very good and reliable service.
15 They're probably one of the best electric companies in the
16 eastern part of the United States.

17 We have no argument or complaint about their elec-
18 trical service whatsoever. It's of the best quality and re-
19 liability. It is only this one particular source of that
20 electricity we're concerned about, and the possible hazards.

21 But this again goes back to I think the first one
22 where the President issued a message to the Joint Session of
23 Congress, and he said that inflation, the number one problem
24 in the economy, could not be solved unless there is a reduction
25 in the consumption of energy.

1 This can't be done if you keep building big power
2 plants, especially atomic power which are capital-intensive.

3 DR. PARIS: Mr. Halligan, you're getting to the
4 merits of this contention, and when we have our evidentiary
5 hearing there will be ample opportunity to present argument
6 of the kind that you're presenting right now.

7 In order for us to deal with the rest of your con-
8 tentions efficiently it would be helpful if you would limit
9 your comments to the appropriateness of the contention for
10 admission and save your comments that are evidentiary in
11 nature and argumentative until the hearing comes up, and then
12 you will have ample opportunity to deal with them.

13 MR. HALLIGAN: Yes, sir. All right.

14 CHAIRMAN BECHHOEFER: I have one further question.

15 To summarize this contention, you're really stating
16 that because the Applicants have more than sufficient capacity,
17 at least Unit 2 should not be licensed.

18 MR. HALLIGAN: That would clarify that bottom para-
19 graph. That's what we're talking about, the excess capacity,
20 more or less. And we feel that the Nuclear Regulatory Commis-
21 sion and its regulations are bound by White House orders,
22 Executive Orders. That would be one of our contentions, and
23 we will show this at the public hearings.

24 So that's Contention Number 5 I believe.

25 CHAIRMAN BECHHOEFER: Yes. I would like the

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1 Applicant and the Staff to have a chance to comment on it as
2 clarified.

3 MR. SILBERG: Well, we have addressed I think all
4 of the points that Mr. Halligan has raised regarding the
5 National Energy Program as a goal to be reached by 1985, not
6 an immediate goal.

7 But regardless of that, we have shown in our En-
8 vironmental Report what our current projections are, and they
9 are under a variety of scenarios for load forecast and re-
10 serves, and notwithstanding what may seem to be a higher-than-
11 typical reserve, it is still cost beneficial to operate the
12 plant. And I would stand by our written response in that
13 respect.

14 CHAIRMAN BECHHOEFER: Mr. Cutchin.

15 MR. CUTCHIN: Mr. Chairman, the Staff would have
16 nothing to add to the comments it made with respect to the
17 previous need-for-power contentions. And it is believed the
18 necessary showing for injecting the need-for-power question
19 into this proceeding has not been made.

20 MR. HALLIGAN: Because the NRC attorney claims
21 that we should not be admitted on this contention because we
22 do not show special circumstances, in his opinion, and the
23 attorney for the electric company claims that hearings are
24 not required, and they make citations and interpretations of
25 law, once again the Citizens feel that this may jeopardize

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1 their rights under the First Amendment and the Fifth Amendment
2 of the United States Constitution, and we object to the in-
3 terpretation if it is upheld on those grounds.

4 CHAIRMAN BECHHOEFER: Let's go on to the one on --
5 Let's see, the second on the 29th, which deal with liquid
6 effluent discharges..

7 I believe the Applicants have agreed that a portion
8 of this contention is admissible. Do you have any further
9 comments on this?

10 I would like to hear the Staff, but do you want to
11 explain this at all any further?

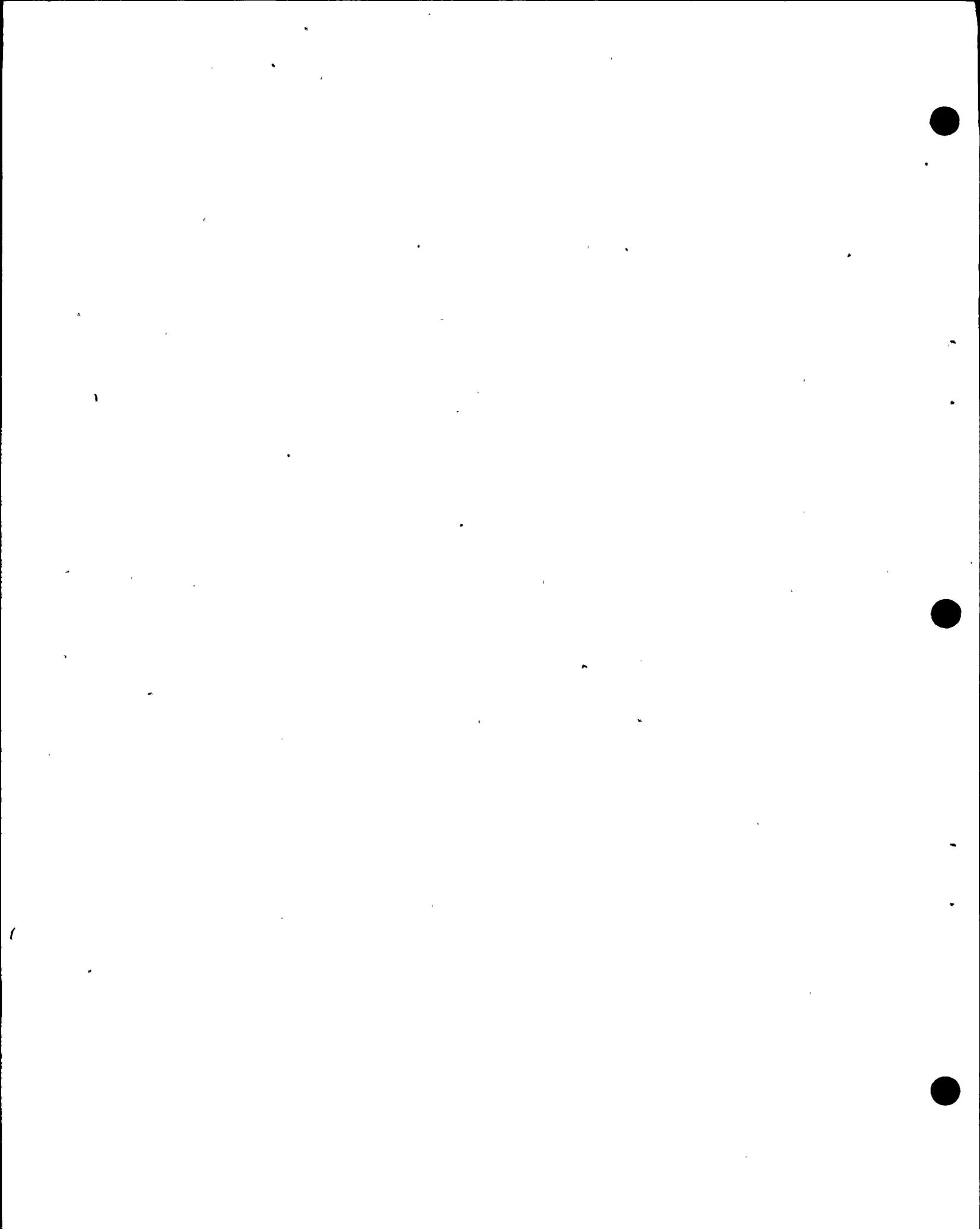
12 MR. HALLIGAN: Yes. This deals with the use of
13 river water during low flow. They must make up-- They must
14 put back in or have stored sufficient water to make up what
15 they used to cool.

16 CHAIRMAN BECHHOEFER: I think we're talking about
17 a different contention. The one we're talking about deals
18 with discharge of chlorine, cesium, and --

19 CHAIRMAN BECHHOEFER: This is Number 2 on the 29th,
20 Number 6 over-all.

21 MR. HALLIGAN: Yes. We're alleging chemical con-
22 tamination of drinking water due to chlorine. The source of
23 the cooling water, the principal source, will be the
24 Susquehanna River, as everyone has agreed. Right at the plant
25 there's an intake being built there.

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1 The Impact Statement and study indicate that cobalt-
2 60 and other radioactive materials will go back into the river
3 after it's processed. It also indicates that approximately
4 2,000 pounds of chlorine per 24-hour period per day will be
5 used to clarify the river water. As I understand it, it's
6 mostly to take mine acid out of the water so it can be used
7 in the processing.

8 Now the engineers have based their whole concept
9 on the fact that coal mining has been a dead industry in north-
10 eastern Pennsylvania for the past several years and the mines
11 are flooding. But quite recently, from the President on down,
12 including the Congressmen Flood and McDade and others are
13 pushing vigorously to reestablish mining in northeastern
14 Pennsylvania to deal with this problem.

15 What they are doing, and they are succeeding, is
16 getting an exemption from the EPA about water quality. They
17 are getting waivers to not meet the filtration to purify the
18 water. In other words when you mine, you've got to pump the
19 water out of the mines. It's loaded with mine acids.

20 They are going to get, or they already have,
21 exemptions from the appropriate agency to dump more mine acid
22 into the river. So it is quite possible by the time this plant
23 starts operating it won't be one ton of chlorine a day, it
24 could be four, five, or ten tons a day that they will need to
25 clarify the water.

1 And chlorine, when mixed with other chemicals from
2 other industrial sources, creates carcinogenic ingredients
3 and this will contaminate the drinking water of the Borough
4 of Danville which is located 10 to 15 miles downstream.

5 And we submit in our contention that the electric
6 company must -- or somebody, the government -- must provide an
7 alternative source of drinking water for the people of Danville
8 to protect their health in the years ahead before this plant
9 is put into operation. No one has done anything on this.

10 CHAIRMAN BECHHOEFER: Do the Applicants have
11 any further comments? You've accepted the discharge of these
12 three chemicals?

13 MR. SILBERG: We've agreed to litigate the effects,
14 the health effects to the citizens of Danville which, as I
15 understand, is 30 to 40 miles downstream rather than 15, the
16 health effects from those three specific releases that have
17 been identified.

18 MR. CUTCHIN: Mr. Chairman, as thus interpreted,
19 the Staff would have no objection to that contention. However,
20 that was not the original interpretation.

21 CHAIRMAN BECHHOEFER: I realize that.

22 MR. HALLIGAN: Can I clarify the point any more?
23 We're talking about clarification of water for industrial use.
24 This is a new element. You cannot fault the electric company.
25 When they did their Impact Statement in 1973 or whenever it

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1 was, nobody in the world thought they were going to be mining
2 coal again upstream.

3 But it is almost certain now that there will be an
4 increase or reactivation, creating a serious environmental
5 health problem.

6 CHAIRMAN BECHHOEFER: Let's go on.

7 MR. HALLIGAN: So once again we will --

8 CHAIRMAN BECHHOEFER: You've got the Staff and the
9 Applicant both agreeing to the contention here. I don't think
10 you need to go any further.

11 MR. HALLIGAN: They're not objecting? Well, they
12 didn't say that-- They said a hearing is not required.

13 CHAIRMAN BECHHOEFER: No, on this one I think the
14 Applicant very clearly came out and the Staff just agreed that
15 so interpreted, it could offer no objection. I think you're
16 ahead. I think we had better move on.

17 MR. HALLIGAN: But he does say in writing here
18 that the Citizens have not raised an admissible contention.
19 Now are you amending that?

20 DR. PARIS: Well, what he said in here will go on
21 the record. It will be on the record in the transcript before
22 us. And when you're ahead, you know, ease up. You might say
23 something they'll object to.

24 CHAIRMAN BECHHOEFER: Let's go to January 3rd,
25 Number 1.

1 Now this one the Applicants at least regard as
2 outside the scope of this proceeding.

3 MR. SILBERG: This is the one dealing with the
4 Susquehanna River low flow?

5 CHAIRMAN BECHHOEFER: Yes.

6 And the Staff, too, opposes this one.

7 Could we have a little explanation of this parti-
8 cular contention? I don't think that we can order the Applicant
9 to build a reservoir. We can say that unless the water supply
10 is of a certain degree or level the plant won't operate, but
11 I think there is a difference here.

12 MR. HALLIGAN: It's problematic; there's no question
13 about it.

14 The Citizens testified in the proceedings of the
15 Susquehanna River Basin Commission on the flow criteria and
16 makeup for consumptive withdrawals. And the final report was
17 issued in '76. And all along during the process the PP&L
18 have objected to-- They want exemption and/or exceptions
19 from these regulations. They wanted to not have to meet these
20 standards.

21 The problem is that low flow-- And you must
22 realize that in 1978, although we had a lot of precipitation
23 this month, last year there was the least precipitation since
24 the drought of 1964. And some meteorologists feel we're going
25 into a dry cycle which usually runs for several years.

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1 CHAIRMAN BECHHOEFER: Do you understand that
2 this plant will be required to have available to it a certain
3 water supply for it to operate? If the water supply is in-
4 adequate in any way, the plant must just shut down.

5 MR. HALLIGAN: That isn't the point-- I mean it
6 is a point but here's what we're getting at.

7 Let's assume the plant is operating, at least one
8 of the reactors is generating power, maybe 60 percent or some-
9 thing, and it's in the summer and the river flow is low, very
10 low. At the critical level the alert goes out, you must cut
11 back on your water consumption. So the electric company would
12 have to cut back 40, 30, 20 percent perhaps, something like
13 that, because other users need the water also. It's scarce.

14 Then let's say an accident occurs and you have to
15 bring in huge sums of water to relieve that emergency.

16 CHAIRMAN BECHHOEFER: I think the plant would not
17 be allowed to operate unless it had available to it sufficient
18 water, and if it didn't it would have to shut itself down.

19 MR. SILBERG: Mr. Chairman, perhaps I can respond
20 to this. This is just a factual misunderstanding.

21 The water supply required to deal with the accident
22 does not come from the river, period.

23 MR. HALLIGAN: Where is it coming from?

24 MR. SILBERG: It's coming from the onsite spray
25 pond.

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1 MR. HALLIGAN: That's absurd. There is not enough
2 water there in case of an emergency. That's the worst type.

3 MR. SILBERG: That's fully analyzed in the Final
4 Safety Analysis Report in Section 3.4.6, and it meets Commission
5 regulations.

6 MR. HALLIGAN: At the public hearing we will bring
7 in expert testimony to challenge that on cross-examination
8 because if those two things occurred simultaneously, a drought
9 condition and a break, before you had to shut the plant down
10 you would have to cool it with enormous water. You would have
11 to requisition this water from drinking water reservoirs and
12 maybe drain those reservoirs in Dallas, Wilkes-Barre,
13 Nanticoke, and so forth, depriving people of water.

14 CHAIRMAN BECHHOEFER: Mr. Silberg just explained
15 that the water will come from a different source and that there
16 is sufficient water in that source to shut the plant down.

17 MR. HALLIGAN: Not according to the Susquehanna
18 River Basin Commission. This is a federal-- The Depart-
19 ment of Interior is a member of this. The Secretary of the
20 Interior is a Commissioner.

21 CHAIRMAN BECHHOEFER: If they have a cooling lake
22 or a lake from which they would --

23 MR. HALLIGAN: We have evidence to show they're
24 not in compliance at this time with this master plan.

25 CHAIRMAN BECHHOEFER: I don't think the master

1 plan has anything to do with the plant.

2 MR. HALLIGAN: Yes, it does. Yes, sir. Every
3 user of river water must get a permit or permission from the
4 Susquehanna River Basin Commission. There are no exceptions.

5 CHAIRMAN BECHHOEFER: They've explained they're
6 not using river water to shut the plant down in case of an
7 accident.

8 MR. HALLIGAN: It's a very complicated thing but
9 we know something about this and we're prepared to assist
10 you to make a determination at a public hearing.

11 MR. SILBERG: I think what we're saying is it's
12 an argument which is totally -- well, it appears to be
13 totally different than what the contention is saying.

14 MR. HALLIGAN: No.

15 MR. SILBERG: As I understand what he is now say-
16 ing, it is that our onsite water supply is somehow inadequate
17 for emergency purposes, but he has given no basis for that,
18 and he has given no indication that he has analyzed our analy-
19 sis which is fully presented in the FSAR and is basically the
20 same analysis that was presented in the PSAR.

21 Regardless of which way the contention is inter-
22 preted, whether it's normal river water usage or whether we're
23 talking about emergency usage, in which case we don't rely
24 on river water, I don't think the contention is admissible.

25 MR. HALLIGAN: Well, Mr. Chairman, it says in the

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1 third sentence:

2 "Whereas when droughts have occurred in
3 the Basin, there have been severe water supply prob-
4 lems."

5 This is a direct quote from the Master Plan of the
6 Susquehanna River Basin Commission.

7 MR. SILBERG: And we're subject to the regulations
8 of the Susquehanna River Basin Commission and we'll comply
9 with those regulations. And any contention which alleges that
10 we won't comply with those regulations has no proper place
11 in this proceeding.

12 CHAIRMAN BECHHOEFER: I believe the enforcement
13 of the regulations of that Commission is within the area of
14 that Commission's jurisdiction, and we must assume -- in fact
15 I think our licenses require that the Applicants abide by
16 local regulations of that sort.

17 MR. HALLIGAN: Does the NRC lawyer understand
18 what I'm talking about?

19 MR. CUTCHIN: Mr. Chairman, I'm not certain that
20 is the case in this situation of the Susquehanna River Basin
21 Commission. However, I don't think we need to debate that here.

22 The Staff has nothing to add to its statement on
23 the admission of this contention.

24 MR. HALLIGAN: This is Number 7? Is that the one
25 we're on?

1 Well, Mr. Chairman, in concluding this one --

2 CHAIRMAN BECHHOEFER: I think we ought to get on.

3 MR. HALLIGAN: Yes. I want to state then as to
4 Number 7, the Citizens do not concur with the NRC lawyers'
5 opinion that this is an inadmissible contention. He doesn't
6 give any citation of law here.

7 And the attorney for the electric company, I don't
8 see in his response what his position is. Will you read your
9 view on Number 7? What are you saying, sir?

10 Are you admitting-- I don't know what they said.

11 CHAIRMAN BECHHOEFER: I think we have enough infor-
12 mation to rule on it.

13 MR. HALLIGAN: I'm wondering what he's saying here.

14 MR. SILBERG: Our position is quite clear. If you
15 are arguing that we are not complying or will not comply with
16 the regulations of the Susquehanna River Basin Commission --

17 MR. HALLIGAN: No, we're not saying that.

18 MR. SILBERG: Well, let us now hear what you are
19 saying. We are bound by the regulations of the Susquehanna
20 River Basin Commission, and to the extent that you are arguing
21 that we will use water from the river during an accident, you
22 have provided nothing in support of the contention.

23 As we explained in great detail in the Final
24 Safety Analysis Report, we do not use river water in the event
25 of an accident.

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1 MR. HALLIGAN: Then we object under the First
2 Amendment and the Fifth Amendment. If these opinions are up-
3 held or concurred with by the Board, we feel that they may
4 violate our constitutional rights under the First and the Fifth
5 Amendments.

6 CHAIRMAN BECHHOEFER: Let's go on to decommission-
7 ing, which is the second one on January 3rd.

8 In this one, the Applicants I think have mentioned
9 what current Commission rules require, and the fact that the
10 Commission is studying at this point whether to change those
11 rules. The Applicants seem to say that you are asking for
12 rules as if they were changed..

13 Now have you read that section of their brief?

14 MR. HALLIGAN: At one point.

15 CHAIRMAN BECHHOEFER: We of course are bound by
16 the Commission rules until they are changed in terms of allow-
17 ing contentions.

18 MR. HALLIGAN: Well, first of all, decommissioning,
19 is that in your jurisdiction?

20 CHAIRMAN BECHHOEFER: Well, the cost of it is.

21 MR. HALLIGAN: The cost is?

22 CHAIRMAN BECHHOEFER: Yes.

23 MR. HALLIGAN: The Nuclear Regulatory Commission?

24 CHAIRMAN BECHHOEFER: The Applicants are required
25 to set forth the costs of decommissioning and we're required

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1 both to consider whether the Applicants have complied with
2 those specific regulations and also when the cost of decom-
3 missioning is added in, how it affects the NEPA cost-benefit
4 balance.

5 That's about the extent of our authority to look
6 at decommissioning at this time.

7 MR. HALLIGAN: Has that documentation been available
8 in the public records?

9 MR. SILBERG: Our analysis of decommissioning is
10 presented in the Environmental Report and is presented in our
11 application itself.

12 MR. HALLIGAN: Am I correct here in this contention
13 that there are generally three major types: dismantling,
14 entombment, or mothballing techniques? Are they generally --

15 MR. SILBERG: Those are the three which are dis-
16 cussed.

17 MR. HALLIGAN: There may be others. Those are the
18 general ones.

19 Well, we're saying, sir, the contractor for the
20 Applicants' plant, the Bechtel Company, built an atomic power
21 plant, a boiling light water reactor near Cedar Rapids, Iowa.
22 This was approved for operation by the Licensing Board a few
23 years ago, and the plant is closed down now. It was in opera-
24 tion only a few years. And we have seen men going in that
25 plant wearing space suits, more or less, leaded suits.

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1 And areas that were highly radioactive weren't
2 supposed to be radioactive. Unless they can correct the prob-
3 lem you may be faced with a permanent shutdown there, which
4 would require decommissioning and making one of these three
5 options mandatory, not 30 years hence but maybe this year, you
6 see. That's called the Duane Arnold Energy Center near Cedar
7 Rapids, Iowa.

8 That's the example we give because it's not iden-
9 tical but of a similar nature to this type of plant here. So
10 we're contending that the electric company should put in escrow
11 funds now into the construction cost and prepare for this
12 plant the inevitable, if it goes haywire if and when it is
13 allowed to operate.

14 Otherwise, there's no specific inference that there
15 could be a problem there of being not in compliance and so on.
16 We will show at a public hearing, to help assist in the deter-
17 mination, using examples like this.

18 And of course here's one final case in point --

19 DR. PARIS: Mr. Halligan, what you will have to
20 show is, or what you would have to show would be that the
21 Applicant is not complying with the Commission's regulations
22 relating to decommissioning. As long as they do that, there
23 is nothing that this Board can do about it.

24 MR. HALLIGAN: Well, we take a somewhat ethical
25 view of this in that if this plant, should it go haywire --

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1 We're not hoping anything goes wrong with it but should it go
2 haywire and have to be shut down, it would affect the real
3 estate values of the Petitioners.

4 People would say "That building is hot. It's radio-
5 active. It's going to be that way for a hundred years." The
6 property values of homes and businesses might become deflated
7 and harm thousands of people, their life savings, their mort-
8 gages, and would affect a number of things for miles around.

9 We want to bring this matter into focus.

10 Here's a case in point. The Philadelphia Electric
11 Company has decommissioned one of their small Peach Bottom
12 stations. How are they going to deal with that? We would
13 bring that in as an example you see.

14 CHAIRMAN BECHHOEFER: I think these are all matters
15 that-- As I explained, there are only certain aspects of
16 decommissioning that the Commission can consider.

17 MR. HALLIGAN: Well, the Intervenors must consider
18 their self-interest, their economic self-interest, their
19 property rights, and that was our original contention.

20 CHAIRMAN BECHHOEFER: Well, there are other avenues
21 of reaching some of these things. There's an on-going rule-
22 making proceeding right now, or maybe it's a preliminary rule-
23 making proceeding. But the Commissioners are considering where
24 to go on decommissioning, what the rules should be.

25 And any organization such as yours can certainly

eb22

1 participate in that type of proceeding also.

2 I think we had better go on although I would like
3 to hear the Applicants' and the Staff's comments.

4 DR. JOHNSRUD: Mr. Chairman, --

5 MR. SILBERG: I don't have anything to add.

6 MR. CUTCHIN: The Staff has nothing to add,
7 Mr. Chairman.

8 DR. JOHNSRUD: May I ask a question, sir?

9 CHAIRMAN BECHHOEFER: Make it quick.

10 DR. JOHNSRUD: It's going to the point that you just
11 made, and since decommissioning is part of our contention as
12 well, is there in the rules-- Could you cite to me from the
13 rules a prohibition against a Licensing Board requesting from
14 the Commission the opportunity to explore issues which cus-
15 tomarily would be prohibited by the regulations from an ASLB
16 proceeding?

17 CHAIRMAN BECHHOEFER: I'm only aware of 2.758.

18 DR. JOHNSRUD: That would be the only point in
19 the regulations that addresses extraordinary circumstances?

20 CHAIRMAN BECHHOEFER: Insofar as I'm aware.

21 Would the Applicant and the Staff like to add any-
22 thing?

23 MR. CUTCHIN: I'm not aware. It sounds to me,
24 Mr. Chairman, as if something is trying to be turned around
25 now and saying though a Petitioner may be prohibited from

eb23

1 challenging a regulation, absent a showing, is there anything
2 that prohibits the Board from ignoring that requirement and
3 requesting on its own. I got that impression.

4 I'm aware of nothing --

5 DR. JOHNSRUD: No, sir, Mr. Chairman. I was not
6 saying the Board would ignore the regulation. I'm asking if
7 there is anything in the regulations which prohibits the Board
8 sui generis -- I'm sorry, this is pro se, not sui generis --
9 the Board on its own going to the Commission to request the
10 opportunity to examine an issue which would otherwise ordi-
11 narily be closed.

12 CHAIRMAN BECHHOEFER: Well, I think that subject
13 is covered by that 2.758 where there are standards prescribed
14 for doing so.

15 DR. JOHNSRUD: And proscribing the Board from
16 requesting a variance --

17 CHAIRMAN BECHHOEFER: That sets forth the condi-
18 tions where we may go to the Commission. The Commission would
19 likely reject out of hand anything other than what went to it
20 under that section. So that as a practical matter, I would
21 say I think your interpretation is probably correct, that there
22 is a bar other than as stated in 2.758.

23 DR. KEPFORD: Could I leap into this subject also?

24 CHAIRMAN BECHHOEFER: I think we ought to move
25 along.

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1 MR. HALLIGAN: I would like to sum up then on--
2 This is Number 9 we're still on?

3 I think that if the Board or the Commission-- As
4 you said, they are studying this. If they direct the licensee,
5 the electric company that they must set up an escrow account,
6 that they must in fact do these things we contend or we recom-
7 mend that they do --

8 CHAIRMAN BECHHOEFER: Well, we are bound by the
9 regulations as they exist at any given time. If the Commission
10 should finish up its rulemaking and during the course of this
11 proceeding come out with new rules, unless those rules said
12 something specific, as a normal course, we would be bound by
13 those rules.

14 MR. HALLIGAN: Here's the problem. It's not philo-
15 sophical. It's a real problem.

16 Mr. Silberg here and his colleagues and all these
17 distinguished attorneys from Washington are experts on these
18 laws, and they research them very carefully, and they advise
19 their clients and they proceed exactly according to federal
20 and state laws. And invariably the government comes back at
21 them with new regulations and new laws, confounding the problem.

22 They have to go back to their client and say we've
23 got to do this now, we've got to do that. It's big business
24 and small business being tied up in knots, with all due res-
25 pect, by the government. And it's not just the Intervenors

eb25

1 that are perplexed. Industry and the people who must make the
2 decisions, the management, are up in arms so to speak about
3 some of these outrages the government is imposing on the free
4 enterprise system.

5 DR. PARIS: Mr. Halligan, I expect the Applicant
6 would be delighted if they didn't have to go through the
7 regulatory procedure.

8 (Laughter.)

9 MR. HALLIGAN: Okay. Well, --

10 CHAIRMAN BECHHOEFER: Let's move on to the evacua-
11 tion --

12 MR. HALLIGAN: I don't know if again the government
13 lawyer does not consider this admissible, but we would feel
14 otherwise, that we have the right, the constitutional right
15 to intervene in this matter.

16 We're at Number 10 I believe?

17 CHAIRMAN BECHHOEFER: I want to go on to the
18 evacuation plan now.

19 MR. SILBERG: Perhaps before we hear from
20 Mr. Halligan, in looking over our response I think I would --
21 I'm not sure how this came about but this response is not
22 consistent with the other responses we gave to similar evacua-
23 tion plan contentions, and I would like to amend our response
24 to this particular contention so it is consistent with our
25 position on the others.

1 In reviewing our analysis of the contention and the
2 contention itself, I do not believe that the special circum-
3 stances contemplated in the Commission's interim guidance
4 amendment of Appendix E to 10 CFR Part 50 have been met in
5 this particular case.

6 So I would like to modify our position and object
7 to the admission of this contention.

8 CHAIRMAN BECHHOEFER: The way I read this conten-
9 tion is that there is perhaps an abnormal number of hospitalized,
10 institutionalized persons. I realize they said within 50
11 miles. But let's assume we don't look at the 50-mile radius
12 at this stage.

13 Would the Applicants agree that there might be a
14 contention stated with respect to institutionalized persons
15 or the elderly, nursing homes, mental treatment facilities?
16 Assuming that there were any such in the low population zone
17 or immediately adjacent to the plant, would the Applicants have
18 any objection to litigating whether adequate evacuation plans
19 for those persons had been taken care of?

20 MR. SILBERG: Well, I guess I would want to have a
21 little more specificity. The Applicants are not aware of
22 unusual concentrations of hospitals and similar institutions
23 with ten's of thousand's of people. Certainly we did not go
24 out to the --

25 CHAIRMAN BECHHOEFER: That's an evidentiary matter,

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1 though, is it not?

2 MR. SILBERG: I believe it goes to the specificity
3 of what we are being asked to respond to. I don't know what
4 kinds of institutions we're talking about here. We're not
5 aware of that kind of concentration.

6 MR. HALLIGAN: May I inform him what type we
7 are referring to?

8 CHAIRMAN BECHHOEFER: Yes. I would like to find
9 out what you had in mind here.

10 MR. HALLIGAN: The other evening, Tuesday of last
11 week, I testified in a public hearing, and it is a process
12 that will go right to Washington, and is related to this
13 matter.

14 When we talk about tens of thousands we're talking
15 about -- in a 50-mile radius, we will show at the public
16 hearing, we will bring in exact facts and figures from the
17 Health System Plan which is mandated by law. And it will show
18 that not only are there people in mental institutions who
19 need special care: they have to have an assistant or an aide
20 to -- they are under medication or confinement in some way:
21 nursing home people: these are the elderly who need, even under
22 routine conditions-- They get confused when there's an alert
23 of any type.

24 In northeastern Pennsylvania there's a greater
25 number of elderly. And even elderly who live alone and who

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1 would have to be evacuated would need special vehicles, they
2 would need special transportation to get out of the area.

3 CHAIRMAN BECHHOEFER: Well let me ask you: are
4 there many of these people or institutions within a much
5 closer range of the plant. Evacuation normally goes out--

6 MR. HALLIGAN: Danville has the Geisinger Center.
7 There are several hundred people there who are bed-ridden.
8 They are in there usually on life support equipment.

9 CHAIRMAN BECHHOEFER: Where is that in terms of
10 the plant, in terms of mileage?

11 MR. HALLIGAN: Well at Nanticoke there is a nursing
12 home for the elderly.

13 CHAIRMAN BECHHOEFER: As I say, where are these
14 in terms of mileage, where are these?

15 MR. HALLIGAN: Just several miles upstream is
16 Nanticoke, say ten miles.

17 At Dallas, Pa., there is the maximum security
18 prison with approximately a thousand hardened criminals
19 who are incarcerated. You simply couldn't open the doors
20 and say "Okay, fellows, we'll see you."

21 CHAIRMAN BECHHOEFER: How far is that?

22 MR. HALLIGAN: It's across the river here, maybe
23 fifteen or twenty miles away from the plant.

24 CHAIRMAN BECHHOEFER: Because normally these
25 evacuation plans don't go out that far.

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1 MR. HALLIGAN: Well, anticipating that, I testified
2 at this public hearing. This would pick up where your four
3 or five-mile radius leaves off. We informed the people --
4 and our testimony is on the record: it was called the First
5 Draft of the Health Systems Plan for Northeastern Pennsyl-
6 vania, which will be consolidated with the entire state.
7 And this goes to Washington. It means that this master
8 plan which goes on to 1983, which coincides with the startup
9 time of this plant, it means that any private or public
10 hospital or institution that is seeking any type of funding
11 to build, or to install equipment, or buy ambulances or
12 any other medical assistance or training programs, and
13 so forth, it must be in this master plan.

14 And there is nothing in here, nothing in here
15 dealing with this, under environmental health there is
16 virtually nothing in here dealing with this radioactive
17 situation, or evacuation that may be necessary at Berwick.
18 And unless it's in this plan it doesn't exist, because it
19 cannot be funded with federal or state money. You can't get
20 ambulances or other specialized vehicles to move people
21 unless it's in this plan.

22 CHAIRMAN BECHHOEFER: No, that's not accurate.
23 The Commission has its own evacuation plan and can require,
24 irrespective of any other plan it can require the applicants
25 to provide certain facilities. But in order for the

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1 Commission to make such requirements the evacuation must be
2 within an area which the Commission has defined as being
3 affected by an accident. And I don't think the existence
4 of another plan, one way or the other, is within our
5 jurisdiction.

6 We have certain requirements which--

7 MR. HALLIGAN: Well, let me clarify that for you,
8 then.

9 The Nuclear Regulatory Commission I'm reasonably
10 sure is part of the Federal Preparedness Agency, a 700-member
11 group in the General Services Administration. You have
12 people working-- In other words, the 700 members of this
13 Federal Preparedness Agency must work together: it's a plan
14 that would cope with nuclear loss, and so forth, and evacu-
15 ation, and so on.

16 MR. SILBERG: Excuse me; I think you just said
17 the Federal Preparedness Agency is a part of the General
18 Services Administration; which, of course, is a separate
19 government agency from the NRC.

20 MR. HALLIGAN: Yes. But what they do is, they have
21 people representing all branches of the Executive Government
22 who would have to deal with evacuation, and nuclear products,
23 and so forth.

24 Also to assist you, yesterday there was a lot of
25 discussion on this, saying that the county civil defense

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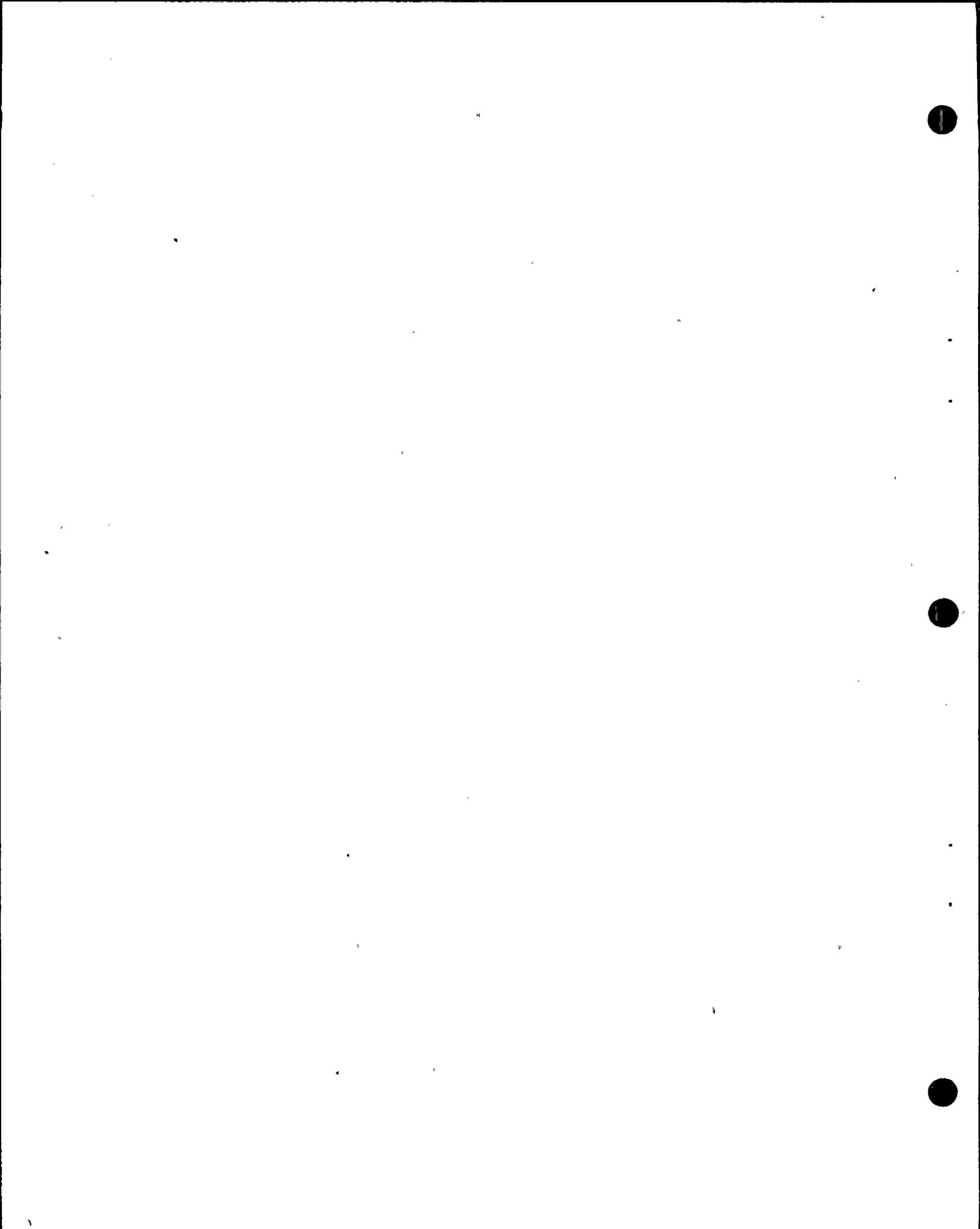
1 person in charge would initiate an alert, and so forth. I
2 think it's a little different here in Pennsylvania. I
3 believe that the only one who has the authority to call for
4 an alert to evacuate an area is the Governor. And I think
5 the Governor must get that information directly from the
6 company.

7 CHAIRMAN BECHHOEFER: Well there will be a plan
8 submitted -- there has been a plan submitted, and--

9 MR. HALLIGAN: We have here a letter dated
10 November 4th, 1974 from Dr. Bockman of the Office-- Let's
11 see: he's from the Governor's Health Services. He was the
12 Secretary of Health. He says that,

13 "The Office of Radiation Safety and the
14 Office of Civil Defense are already in the process
15 of developing a plan for possible disaster at a
16 nuclear power plant, which includes evacuation
17 plans," etc. "and mobilization of forces to cope
18 with the problem."

19 It's under the Governor's jurisdiction. And
20 there's a new Governor: he has only been in office a few
21 days. His Secretary of Health has not been confirmed yet,
22 I believe. A new administration will set new policy. And I
23 think at the public hearing we will invite these people to
24 come and testify so we're not guessing at who has jurisdic-
25 tion where, and what.



ab32 1 CHAIRMAN BECHHOEFER: The only thing I was trying
2 to say is that the area in which we can require that there
3 be an evacuation plan is considerably smaller than you have
4 specified here. And I wanted to find out whether there were
5 any of the elderly, the aged, the infirm of concern to you
6 in the area, particularly the low population zone area, or
7 perhaps the area just outside there which might justify
8 our looking at that.

9 MR. HALLIGAN: Well they would have to travel
10 past the plant, probably, to get away from it in many case.
11 Because you don't know the prevailing winds: you don't know
12 where the radiation is going to get hot and where it
13 won't. They might have to use the roads in or around the
14 plant.

15 CHAIRMAN BECHHOEFER: Well there are requirements
16 for these evacuation plans.

17 MR. HALLIGAN: Yes. But at Nanticoke Hospital
18 there's a narrow bridge, one bridge that goes across the
19 river. And if they are isolated because of radiation there
20 is no way out for those people, no way out.

21 It's called the Retreat Hospital. And it's for
22 the bedridden elderly. Or, rather, it's a mental hospital.

23 MR. CUTCHIN: Mr. Chairman, I think all of this
24 is very highly speculative at this moment. And we have
25 argued what is required for admissibility of a contention

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1 going to the emergency plan yesterday. The Staff does not
2 see how any of this adds to the showing that is necessary
3 to inject a contention of that type into this proceeding.

4 CHAIRMAN BECHHOEFER: Well the Board was concerned
5 that there was an allegation of what might be called an
6 abnormal number of aged, infirm, elderly people who would
7 have to be evacuated and that adequate evacuation had not
8 been provided for those people as a contention now.

9 MR. CUTCHIN: The Staff respectfully suggests,
10 sir, that the words that appear in the contention say that
11 this Board should order special transportation for those
12 persons, even if they did exist. And, of course, that falls,
13 if indeed outside the exclusion radius, within the purview
14 of the local, federal or state agencies charged with that
15 responsibility.

16 The plan should show that arrangements have been
17 made for those persons, and so forth. And there has been
18 no allegation that there have not been arrangements to in-
19 form them of the occurrence of an accident.

20 CHAIRMAN BECHHOEFER: Well I think there has been
21 an allegation that people have not been adequately taken
22 care of. Now whether those are words of art or not, I'm
23 not sure.

24 MR. SILBERG: Mr. Chairman, if I could just add
25 a couple of things.

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1 CHAIRMAN BECHHOEFER: What we were trying to
2 find out was whether any of these areas that have been named
3 are anywhere close to the LPZ, either in or close to--

4 MR. SILBERG: The Retreat Hospital is in Nanicoke
5 which is beyond 20 miles from the plant. Beyond 10 miles
6 from the plant. I believe it is about 12 air miles.

7 The Dallas facility that was discussed is beyond
8 20 miles from the plant site.

9 We've heard the general reference to northeastern
10 Pennsylvania. We've heard nothing at all that goes with
11 any specificity to anything that's close to the plant.

12 MR. HALLIGAN: I would like to make a specifica-
13 tion, or to specify, then, finally, here.

14 The vehicles that would be used, such as school
15 buses, such as ambulances, and the vehicles of the National
16 Guard, which would be activated, the militia vehicles,
17 especially the school buses and private vehicles, none of
18 them, under the exclusion-- In accordance with Pennsylvania's
19 no-fault motor insurance there is no insurance for any
20 person who is injured by nuclear radioactivity. And,
21 therefore, it would mean that people would not want to venture
22 into the area to evacuate these people who are invalids,
23 and so forth. And there is nothing in this master plan that
24 says there's a training program for paramedical people to
25 be equipped and trained to go in there, risking their lives,

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1 to evacuate the people.

2 Finally, there are many handicapped people who
3 live at home. There are the sightless, people who have lost
4 their hearing, there are people who are recuperating and
5 are on crutches and canes and need assistance, or who are
6 in wheelchairs and live in their homes. At any given time
7 there are thousands of these people in the general vicinity
8 of any -- all over the United States, and, in particular,
9 here.

10 We could do a survey and give you figures at a
11 hearing. But, in other words, it's not just hospitals per se,
12 it's people who are handicapped. And in every family,
13 probably, there are individual members who would need
14 assistance. And there is no provision for this.

15 So, therefore, we object to the claim that these
16 contentions are not admissible by both the attorney for
17 the government and the attorney for the electric company,
18 and we respectfully, Mr. Chairman, would disagree with their
19 interpretation of the rules and regulations as possibly
20 violating our rights under the First Amendment and the Fifth
21 Amendment and the Ninth Amendment of the United States
22 Constitution.

23 CHAIRMAN BECHHOEFER: Do the applicant or the
24 staff have anything to add?

25 MR. CUTCHIN: I have nothing to add, Mr. Chairman.

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1 MR. SILBERG: Nothing further.

2 CHAIRMAN BECHHOEFER: We'll take a short recess
3 at this time, about maybe five minutes. Make it quick.

4 (Recess)

5 CHAIRMAN BECHHOEFER: We'll be in session.

6 Let's see: we're down to January 5, No. 2. I lost
7 count of them from the beginning.

8 MR. SILBERG: It's No. 10 if we're going
9 chronologically.

10 CHAIRMAN BECHHOEFER: I think this one should be
11 combined with January 10th, No. 1, since both of them seem
12 to be aimed at the effects of low level radiation.

13 On this first one I would like to ask the
14 applicants and the staff whether they think we have authority
15 to order the applicant to perform the type of monitoring
16 specified in, I think, the third to the last paragraph.

17 MR. SILBERG: Our answer to that is no. We also
18 think-- I really see this and the first contention of
19 January 10th, which is No. 15 in our numbering scheme of
20 things, as fairly different.

21 This one we see as really asking the Licensing
22 Board to order the applicants to undertake confirmatory
23 scientific research to check the validity of the Commission's
24 regulations, the scientific bases on which those regulations
25 were adopted. Aside from the fact we don't think the Board

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37 1 has authority to require this kind of study, we think that this
2 is a challenge to the underlying regulations.

3 CHAIRMAN BECHHOEFER: How about the Staff?

4 MR. CUTCHIN: The Staff is of a similar view,
5 Mr. Chairman.

6 CHAIRMAN BECHHOEFER: I would like to ask you,
7 Mr. Halligan, are you asking the Board to order the Applicants
8 to undertake general research type studies, or is this some-
9 thing, while it emanates from a particular plant, is this
10 something that would be useful or necessary in the operation
11 of this particular plant?

12 MR. HALLIGAN: Is this the contention where we're
13 talking about the meteorological monitoring and aquatic
14 surveys?

15 MR. SILBERG: Yes.

16 MR. HALLIGAN: It's admitted that the electric
17 company is monitoring the air and the water, and has been for
18 a number of years. And we contend that it may have some
19 practical purpose and it may meet the regulations technically
20 there, but also it's for public relations.

21 We say there is a precedent, that the Atomic
22 Energy Commission, I believe in conjunction with the EPA
23 at their Western Environmental Research Laboratory at Las
24 Vegas a number of years ago, since the 1950s, as a matter
25 of fact, was measuring the radionuclides of the human body

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1 and they have increased slightly because of fallout and test-
2 ing in the atmosphere.

3 This was under, you know, under the various
4 federal agencies. It's called a whole-body counter. It's a
5 routine test. And we're saying that somebody, in other
6 words I'm not sure whose jurisdiction it is, we believe that
7 the people who live around Salem, in and around Salem Town-
8 ship and within a 50-mile radius should routinely, on an
9 annual basis, be tested like they do for, you know, a hearing
10 examination at school, an eye exam, just run them through
11 and --

12 CHAIRMAN BECHHOEFER: What we're trying to find
13 out, though, is this just a general type of research project?

14 MR. HALLIGAN: No, I think it is mandatory, or
15 it should be.

16 CHAIRMAN BECHHOEFER: Well, is it general re-
17 search or does it have something to do -- I mean is the
18 purpose the addition of general knowledge or is the purpose
19 to determine-- The Applicant is required to do certain
20 monitoring studies to assure that the releases from the plant
21 meet applicable requirements, but beyond that, I think you're
22 getting into long-term studies of effects on humans which I'm
23 not sure this Applicant can be required to carry out.

24 MR. HALLIGAN: Okay, but --

25 CHAIRMAN BECHHOEFER: They take the position that

1 they cannot be, as you just heard.

2 MR. HALLIGAN: Well, we feel, and any evaluation
3 will show, that the only way you can medically and scientifi-
4 cally determine rates of radiation, low-level radiation
5 effects on health is to monitor it from the source or nearby
6 from the beginning over a period of years.

7 Now we would call in the Center for Disease
8 Control in Atlanta, Georgia, the federal agency. They have
9 noticed clusters of cancer cases. In other words, there is
10 high incidence of cancer occurring in certain areas, and the
11 experts there at the Federal Center for Disease Control are
12 looking into this, and they cannot get definitive conclusions,
13 you know, based on results unless they have medical records
14 that go back a number of years.

15 CHAIRMAN BECHHOEFER: Well, what we were trying
16 to differentiate was between a general study such as you
17 seem to be describing, a general study that might be performed
18 by the government to add to public knowledge, but the
19 utility cannot be asked to fund for the public the types of
20 studies that you were describing.

21 MR. HALLIGAN: Well, wait. They are required to
22 protect wildlife, or to evaluate the effects on aquatic --
23 you know, fish and marine life and so forth. How much more
24 important it is to protect human beings and their health and
25 safety, and future generations.

1 We know for a fact out at Cedar City, Utah, --
2 we're prepared to bring this into the matter -- the government
3 is now in litigation over this matter. There are many inci-
4 dents where people involuntarily have been submitted to low-
5 level radiation, and we will submit the Sternglass findings
6 and others. We will bring in expert testimony --

7 CHAIRMAN BECHHOEFER: That's another contention.

8 MR. HALLIGAN: It has to do with this also,
9 because the thing is we want to determine if and when the
10 monitoring should be set up. It actually will detect or
11 determine any liability, who's responsible.

12 These people are not volunteering, who live around
13 here, to be subjected to low-level radiation, even at so-
14 called acceptable levels. We contend there is no acceptable
15 level, safe level.

16 CHAIRMAN BECHHOEFER: Well, low-level radiation
17 is the subject of one of your other contentions. We just
18 wanted to clarify what you had in mind here.

19 Do the Applicants and the Staff have further
20 comments?

21 MR. SILBERG: I think it would be useful just to
22 clarify that we do -- quote -- "monitor from the source,"
23 which is I think the language that Mr. Halligan used. We
24 monitor all possible routes by which radiation can get into
25 the environment, and all possible food chains or significant

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1 food chains in the environment.

2 It's not a question that there's no monitoring
3 going on, and he's not questioning our compliance with the
4 Commission's regulations. What he's saying is for public-
5 relations purposes or for the purpose of determining possible
6 future liability; these are clearly outside the scope of the
7 regulations.

8 I also think his last comment is worth bearing in
9 mind, the "no acceptable level of radiation." Clearly what
10 we're talking about here is a challenge to the regulations.

11 MR. HALLIGAN: Well, if it is -- and we're not
12 saying that it is, but if it is so construed, it's because of
13 the mitigating circumstances. We believe that there is an
14 unusual situation here because the Control Center for Disease
15 has discovered an alarming cluster of cancer cases occurring
16 in certain parts of the country, and you don't have to be a
17 detective, you just have to look at the map, if you under-
18 stand geography, and many of these, by coincidence, are near
19 atomic facilities, so there must be a co-relationship.

20 And the thing is before this plant gets started,
21 if it is approved there should be in place a monitoring
22 system to monitor people. We should not be guinea pigs, and
23 we also want and insist and respectfully submit that the
24 workers and visitors and other people who go near that area
25 should also be given top priority. There are people who will

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1 be going there --

2 CHAIRMAN BECHHOEFER: I think we understand your
3 contention here. Let's move on to the --

4 MR. HALLIGAN: One second, please.

5 Because the attorney for the NRC -- This is
6 Number 11, is it?

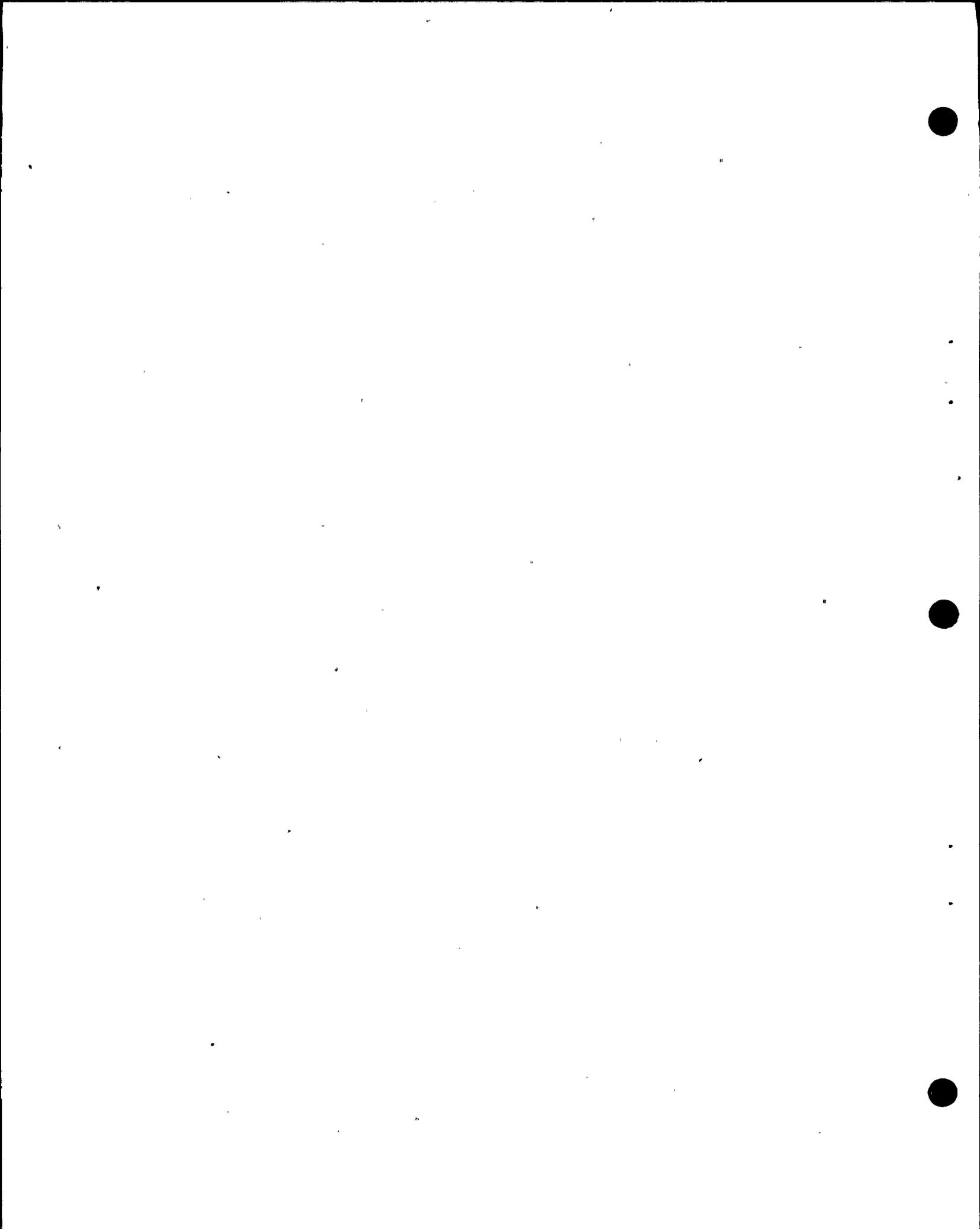
7 CHAIRMAN BECHHOEFER: Number 10.

8 MR. HALLIGAN: -- does not regard this contention
9 as admissible, as does the attorney for the electric company,
10 we do not concur with their interpretation of the regulations
11 and we tend to feel at this time that if their position is
12 upheld that it may violate our constitutional rights under
13 the First, under the Fifth, and under the Ninth Amendments
14 to the United States Constitution.

15 CHAIRMAN BECHHOEFER: Okay.

16 Let's move on to the one about the GAO report, the
17 GAO investigation. I wanted to find out whether there was
18 anything in this report or investigation that had anything
19 to do with quality problems at the Susquehanna reactor, or
20 is this just a general GAO study, in general.

21 MR. HALLIGAN: It's not that general. As I under-
22 stand from reading the document called "The Nuclear Regulatory
23 Commission needs to aggressively monitor and independently
24 evaluate nuclear power plant construction," and it was
25 issued -- published September 7th, 1978, ironically on the



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1 day we filed our petition to intervene -- I believe it was on
2 that date. I didn't obtain this at that time.

3 I believe they inspected onsite about ten or maybe
4 about eight different plants under construction.

5 MR. SILBERG: Seven.

6 MR. HALLIGAN: And I think they selected ones
7 that were typical of the different types of reactors. And
8 I would assume or presume at least one of these sites had to
9 do with construction of a plant designed similar to the
10 Berwick plant. Were they at the plant then? I don't know.

11 I will say this: It appeared to be a highly
12 critical report to the NRC, to say the least. We're not here
13 to evaluate the merits of this. However, --

14 DR. PARIS: Does that have an identifying number
15 on it?

16 MR. HALLIGAN: Yes, sir. At the bottom the date
17 is September 7th of '78. It says EMD-78-80. And this is of
18 course from the General Accounting Office. It's rather
19 brief and to the point.

20 MR. SILBERG: Mr. Chairman, I believe if
21 Mr. Halligan will look on page 3 of that report he will see
22 the power plants identified which the Commission visited.
23 None of them are Susquehanna.

24 MR. HALLIGAN: No, I didn't indicate that it was.

25 Well, what we have here on that is this: On or

eb44

1 about the 28th of September of 1978, the NRC sent to Berwick
2 a resident inspector who began onsite inspection. Prior to
3 that time, NRC made visitations or took reports from engineers
4 and so forth. So we assume the report had some impact or
5 whatever.

6 The main point we want to make here in this con-
7 tention is that there may have been omissions of discrepancies
8 discovered by this investigation. We have people, if there
9 is a public hearing, who may assist this Board, who will come
10 forward and explain in scientific terms and engineering terms
11 some of their findings that may assist in determining if the
12 regulations are being conformed to, and so on.

13 CHAIRMAN BECHHOEFER: Do you have any specific
14 instances at this time?

15 MR. HALLIGAN: Yes. We would say here, for
16 example, that there is now before the Commission another study.
17 They cite various reactors. A Dr. Kendall is listed here from
18 M.I.T., who is known to this Board I am sure. He is asking
19 for some plants to be shut down because of cable problems in
20 the control room, and I think they go back to the Browns Ferry
21 scenario and whatever happened there.

22 Now on November 9th, 1978, the PP&L notified the
23 NRC that during an inspection of equipment being installed
24 at the facility's control room, damaged insulation was dis-
25 covered in some of the cables and so forth that control

b45

1 equipment.

2 In other words, through discovery we would try to
3 determine if these matters are, you know, connected and so
4 forth. Because back on April 2nd, 1975, a group from Penn
5 State petitioned the NRC --

6 DR. PARIS: Mr. Halligan, I would like to save
7 you a little time and all of us a little time. At the open-
8 ing this morning, the Chairman pointed out or the Chairman
9 put Staff on notice that the Board intended to explore the
10 matter of quality control at the plant as a result of the
11 statement made yesterday by Ms. Creasy, and that will mean
12 that the Staff will be putting witnesses on the stand to
13 testify before us, and you will have an opportunity to cross-
14 examine those witnesses at that time, so this matter will be
15 explored whether or not your contention is admitted, because
16 we want it explored.

17 MR. HALLIGAN: We're prepared. And I would like
18 to make just one other comment.

19 CHAIRMAN BECHHOEFER: We would like to move on.

20 MR. HALLIGAN: How about this? The Rasmussen
21 Report which we want --

22 DR. PARIS: At the hearing, Mr. Halligan, at the
23 hearing.

24 CHAIRMAN BECHHOEFER: Yes, I think that's more
25 appropriate.

eb46

1 MR. HALLIGAN: Okay. That's what? Number 11?

2 CHAIRMAN BECHHOEFER: Do the Applicants and the
3 Staff have any comments on the QA?

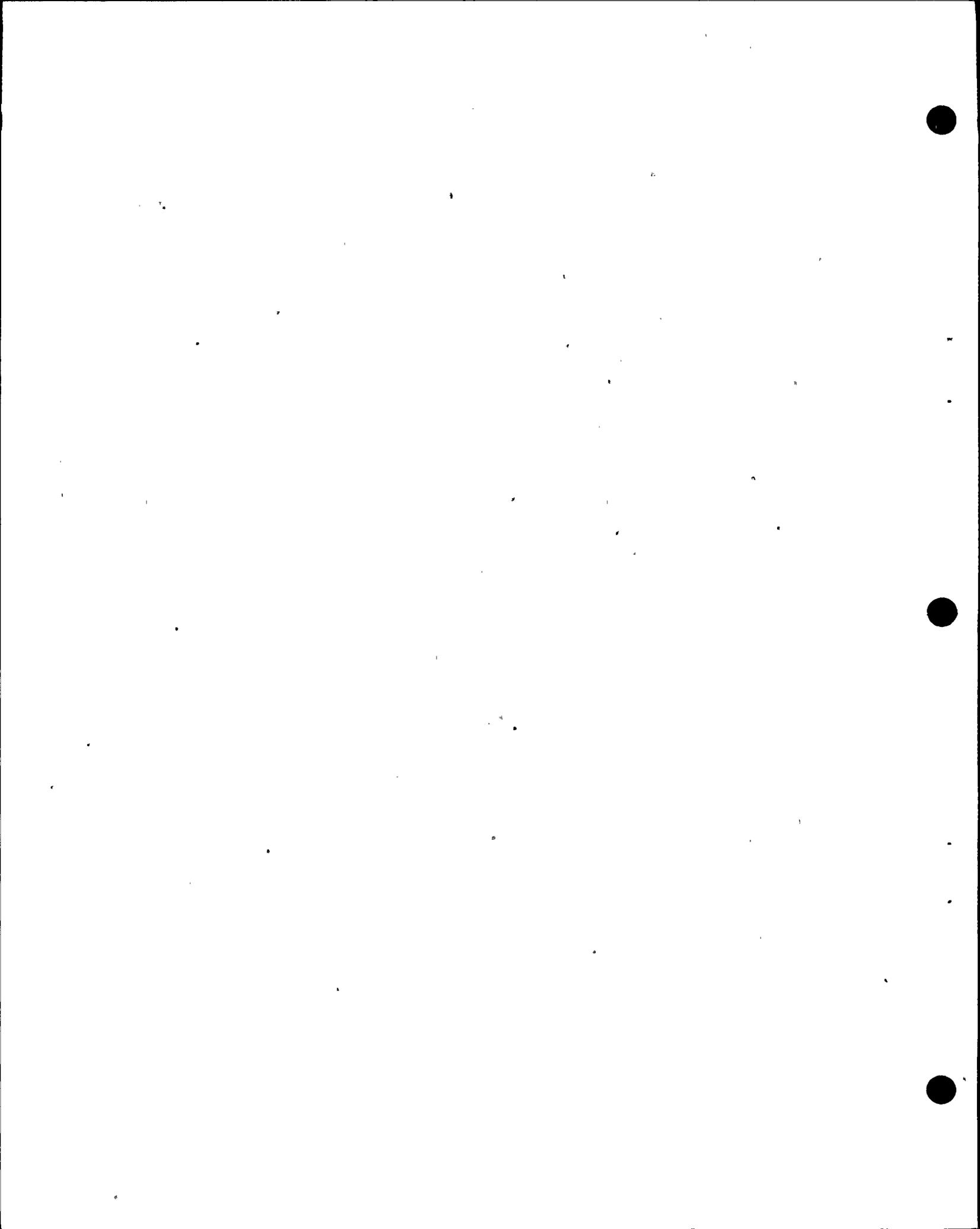
4 MR. SILBERG: Yes. I think the interesting point
5 is in one of Mr. Halligan's last statements, that he would
6 try by discovery to find out what was going on. Clearly
7 that's not the purpose of the hearing, to admit a contention
8 and then run through a discovery search to find out whether
9 there is anything to support.

10 All we've heard here is a reference to the GAO
11 study which does not deal with Susquehanna, reference to the
12 fact that the NRC has placed a resident inspector at the site.
13 That program of course has been in the works long before this
14 GAO study came out.

15 A reference to -- I think he said a study by NRC,
16 and then he said it was a request by Professor Kendall of
17 M.I.T., and of course Professor Kendall of M.I.T. is not the
18 NRC but, rather, an outside nuclear opponent.

19 And finally, a reference to a letter by PP&L in-
20 forming the NRC that in fact, as part of its own internal
21 QA program, they found that something being delivered to the
22 site had come in in damaged condition. I think that probably
23 indicates as well as anything else Mr. Halligan could testify
24 to that the QA program is working.

25 I don't see a contention here.



eb47

1 MR. HALLIGAN: I would agree with Mr. Silberg,
2 but I might say in passing that the electric company and their
3 contractor probably are going out of their way to make sure
4 that they're getting everything installed properly and it has
5 double- and triple-checked.

6 We do have reports and incidents and so forth.
7 I'm not an expert on this at all, but we are prepared to
8 bring in people who will raise a few pertinent -- a number of
9 pertinent questions at a hearing, however. And we feel that
10 it is relevant because this whole business --

11 CHAIRMAN BECHHOEFER: I think we have enough
12 information now. The Staff has to have a chance.

13 MR. CUTCHIN: Mr. Chairman, the Staff is a little
14 bit troubled by the comments made a moment ago because the
15 Staff was under the impression, perhaps under the misimpres-
16 sion, that the Board had said to the Staff that it expected
17 to hear the results of its checking on Mrs. Creasy's allega-
18 tions.

19 It now appears that the Board may be saying that
20 it wants a full-blown presentation on the total quality
21 assurance program, and if so, I believe the Staff would res-
22 pectfully suggest that the Board give us a little more defi-
23 nition of what particular areas it wishes us to put detailed
24 evidence in on.

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2 CHAIRMAN BECHOEFER: The Board would just like
3 to comment that we have asked the Staff to look into Mrs.
4 Creasy's allegations. If the Board found there was some
5 merit to what Mrs. Creasy said, then we would expect a some-
6 what fuller exploration of how --

14.260

6 MR. CUTCHIN: That's the Staff's understanding,
7 sir.

8 MR. HALLIGAN: Mr. Chairman, I apparently missed
9 the main point here. In paragraph three we do say because
10 of the GAO investigation based on this report which we cited,
11 principally on that, but on other information, we would
12 request in this contention that a reevaluation be made of
13 virtually all of the documentation of inspection and so forth
14 at the plant.

15 We think it is incumbent now to clear the air
16 and go back and make sure that these allegations made by the
17 General Accounting Office are not left unattended to.

18 DR. PARIS: So you're contending there should be
19 a complete reevaluation of all the quality control at the
20 plant, is that right?

21 MR. HALLIGAN: Basically. I qualified that
22 statement because I would have to talk to experts to see
23 what is practical and what is not in a realistic sense.
24 Everything we're proposing to the Board -- we're dealing
25 with facts, not fiction. We're trying to be realistic

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mpb2 1 about what must be done and what can be done.

2 You can't go back and inspect a pour of cement
3 that was poured two or three years ago. Maybe there is a way
4 of doing it. If so, I'll take that statement back.

5 Then, in conclusion -- this is contention number
6 11.-- neither the government lawyer for the NRC nor the
7 attorney for the electric company, the Applicant, in their
8 written replies agree with our contention. So we would at
9 this point tend to feel that our Constitutional rights under
10 the First and under the Fifth Amendments of the U.S.
11 Constitution may be violated because of their interpretation
12 of the regulations.

13 I should add to that, sir, that we -- or I and
14 others did not have "time to legally look over these evalua-
15 tions. We only had 48 hours to look these over." It was
16 impossible to deal with these point by point.

17 CHAIRMAN BECHOEFER: We understand.

18 MR. HALLIGAN: So we must in that case to
19 protect our right to intervene, we feel, make these state-
20 ments.

21 CHAIRMAN BECHOEFER: Now for the next one, the
22 Board thinks it has heard enough argument about transporta-
23 tion by rail previously. We don't think that we need to
24 spend any further time.

25 MR. HALLIGAN: I get to differ, sir.

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mpb3 1

CHAIRMAN BECHOEFER: We don't think that
2 transportation by rail is within our jurisdiction.

3

MR. HALLIGAN: We're talking about railroads on
4 the site. This is very important. We believe this is very
5 important. We won't take long with this.

6

7

We noted that the inspector who was on the site
September 28. We also noted in our recommendation of
8 December 4 that a derailment took place on the new rail line
9 which was built by PP&L on their site, and it was an engine
10 and a flat car.

11

12

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14

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17

Now on the flat car was a transformer valued at
approximately \$900,000. The train ran away, down the track
for approximately one mile. The engineer, according to a
news account in the Burwick Enterprise leaped from the run-
away train. The train crashed at the end of the line, turned
over. We have photographs here of the derailment. The
transformer was damaged substantially.

18

19

20

21

22

23

And we went to the NRC records at the Document
Room in Washington last week, and there was no accident
report on file with the NRC, even though they had a resident
inspector there. For 30 days prior to that there was no
accident report filed with the NRC. And this is a major
component or a part of the equipment that would be used.

24

25

CHAIRMAN BECHOEFER: Well, I would like to ask
the Applicant whether the Applicant would have any objection

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mpb4 1 to litigating the adequacy of rail transportation on the
2 site.

3 MR. SILBERG: We're talking about rail transporta-
4 tion of what?

5 CHAIRMAN BECHOEFER: Of, I assume, spent fuel,
6 the way I read it.

7 MR. SILBERG: If you read the contention, I think
8 it's talking about transportation to the site, at least, of
9 fuel assemblies. And we're not, as we said in our response,
10 shipping any fresh fuel to the site by rail. So I guess it's
11 not clear to me what the contention is, really asking about.

12 To the extent that it's talking about railroad
13 accidents on the site, Table S-4 deals with accidents and
14 the criteria for designing shipping casks for spent fuel
15 assumed that railroad cars will turn over and assumed that
16 they will -- well, it lists a whole series of very rigorous

17 CHAIRMAN BECHOEFER: Well, cannot we look into
18 the adequacy of the rail line on the site?

19 MR. SILBERG: As a safety issue?

20 CHAIRMAN BECHOEFER: Yes.

21 MR. SILBERG: A safety issue with regard to the
22 shipment of spent fuel?

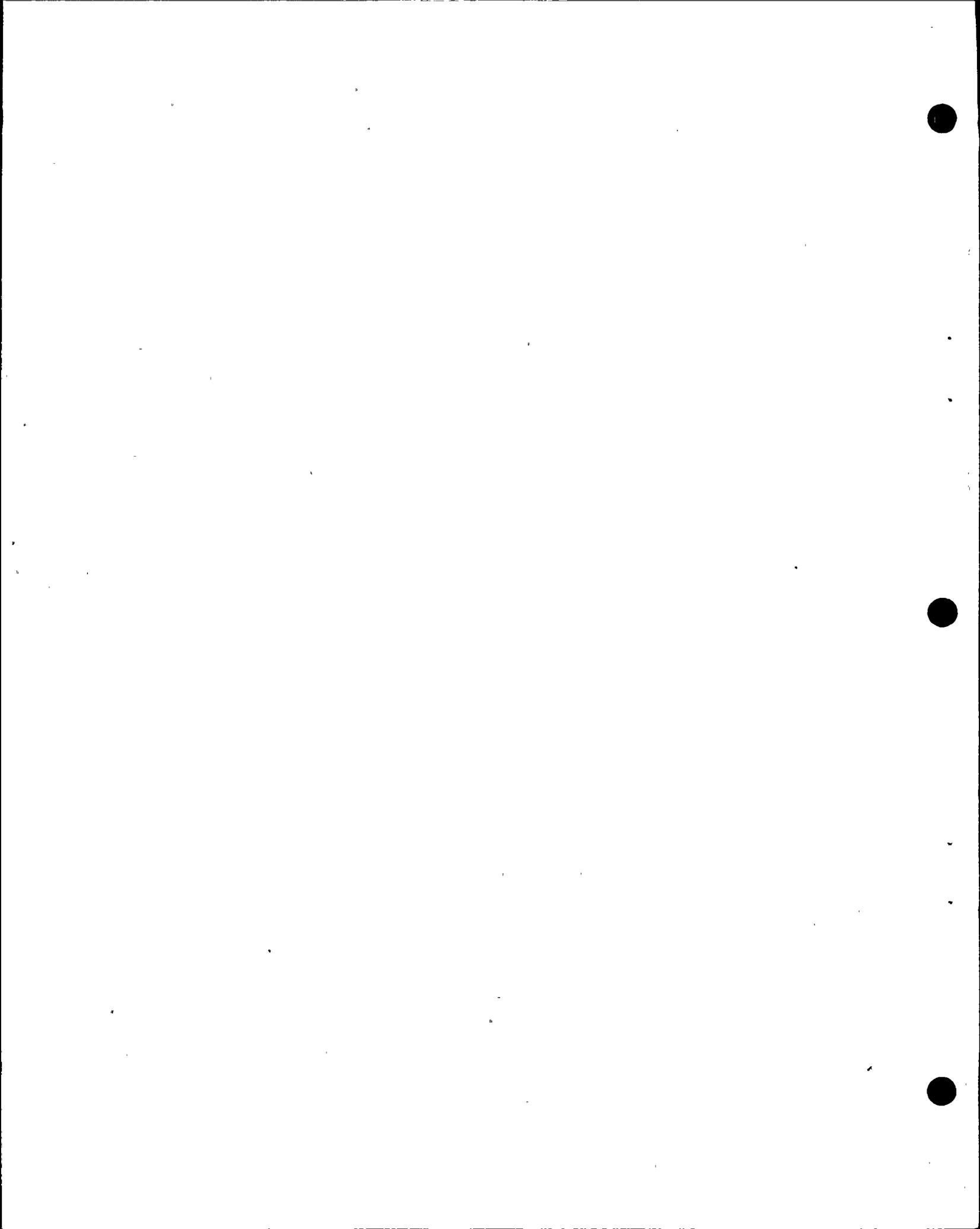
23 CHAIRMAN BECHOEFER: That's correct.

24 MR. SILBERG: I don't believe so.

25 CHAIRMAN BECHOEFER: On the site.

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mpb5 1

2 MR. SILBERG: I don't believe so, because the
3 shipment of spent fuel and the safety of that shipment is
4 governed by the criteria which established the design for
5 shipping casks for spent fuel, which is not something within
6 the scope of this Board's --

7 CHAIRMAN BECHOEFER: Well, what about the ade-
8 quacy of the rail line on the site?

9 MR. SILBERG: With respect to the shipment of
10 spent fuel?

11 CHAIRMAN BECHOEFER: Yes.

12 MR. SILBERG: That is governed by the regula-
13 tions which define the safety of the shipping containers,
14 and those regulations assume that you will have railroad
15 cars that crash and tip over and fall over and --

16 CHAIRMAN BECHOEFER: I realize that.

17 But are there no regulations which may or may
18 not be met concerning the adequacy on the rail beds?

19 MR. SILBERG: No. There are certainly regula-
20 tions which govern the adequacy of the casks, and those are
21 examined --

22 CHAIRMAN BECHOEFER: I'm aware of that.

23 MR. SILBERG: -- when you license a cask, but not
24 when you license a reactor. There are no regulations.
25 There are no regulatory requirements, and properly so, for
the adequacy of the railroad bed.

mpb6 1 I would note -- and I don't know the details
2 of --

3 CHAIRMAN BECHOEFER: I'm troubled by this one.
4 It applies onsite..

5 MR. HALLIGAN: NRC apparently isn't aware of
6 very much of it either.

7 MR. SILBERG: I'm not aware of the details of
8 this accident. It could not involve safety-related equip-
9 ment. That may be why it wasn't in the NRC file. There
10 was no safety significance.

11 MR. HALLIGAN: We believe it is a safety-related
12 component, and it is within the regulations.

13 This is very important. You made me very
14 nervous by saying you wanted to pass over this, and I
15 respectfully say this is perhaps the most important of the
16 last of the few we have here. And if you would allow us,
17 say, five minutes to deal with this --

18 CHAIRMAN BECHOEFER: I would like to hear the
19 Staff's position on this one too.

20 MR. CUTCHIN: Sir, only to the extent that there
21 would be an allegation that an accident on the line inside
22 the site would pose a threat to so-called Category 1 or
23 Class 1 structures, would such a contention be argueably
24 even admissible, in the opinion of the Staff. And the
25 Staff sees no basis for such an allegation.

mpb7

1 Those rails and so forth are designed for the
2 purpose of assuring that any accident that occurs on the
3 line could not pose a threat to the safety of the structure.

4 CHAIRMAN BECHOEFER: Could a Petitioner raise
5 a question whether they were so designed?

6 They have cited an accident.

7 MR. CUTCHIN: Not without basis.

8 CHAIRMAN BECHOEFER: Well, they've cited an
9 accident. They have not cited what safety structures might
10 be affected.

11 MR. CUTCHIN: But unless they have posed a set
12 of conditions under which an accident would threaten the
13 public health and safety through improper design of the
14 buildings or whatever, then they must have some basis for that.

15 The Staff is troubled by the fact that it seems
16 that only a broad general question need be thrown out into
17 the air, and that might form the basis for some contention.

18 MR. HALLIGAN: May I elaborate and specify a
19 little bit?

20 CHAIRMAN BECHOEFER: Yes. But try to make it a
21 little speedy.

22 MR. HALLIGAN: Well, there are two points here.
23 I don't know what he said. I didn't understand what he
24 said, to tell you the truth. But the Citizens Against
25 Nuclear Danger in April, 1975, filed a formal complaint

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mpb8 1 against the PP&L and ConRail before the Pennsylvania Public
2 Utility Commission. It was complaint Docket Number 21015.
3 And the Respondent, the electric company, who is the Applicant
4 here, made this reply, and it was over the notarized signa-
5 ture of Jay T. Coffman, then vice-president and possibly
6 still vice-president System Power and Engineering.

7 MR. SILBERG: Before the Pennsylvania Public
8 Utility Commission?

9 MR. HALLIGAN: Yes, and Mr. Coffman said in
10 part:

11 "Further, pursuant to its statutory
12 authority, the Atomic Energy Commission, the
13 AEC, now the Nuclear Regulatory Commission,
14 NRC, had promulgated standards controlling
15 the handling and transportation of nuclear
16 materials."

17 So they were telling the PUC that the NRC does
18 in fact have jurisdiction about the transportation of radio-
19 active waste, fuels, components, and so on, to and from the
20 Burwick site specifically.

21 MR. SILBERG: That's exactly what we just told
22 you right now. The NRC does have standards and regulations.

23 MR. HALLIGAN: So that's to clarify that point.
24 Now, the spur line, by the way, was built. It's
25 brand new. It's the road bed that will be used by trains

mpb9 1 carrying the fuel into and waste material out of the Burwick
2 site. It's where the derailment took place.

3 CHAIRMAN BECHOEFER: The Applicant claims that
4 they won't use rails to ship fuel in.

5 MR. HALLIGAN: It's in their reports, I think,
6 that this is an option, that they will.

7 MR. SILBERG: No.

8 Shipment of fuel into the plant specifically --
9 and I think we gave a reference in our answer, Section 3.8
10 of the Environmental Report -- will be by truck, not by
11 rail.

12 MR. HALLIGAN: Well, this point -- we'll have
13 to check this out, because we're talking about all kinds of
14 road beds to and from the site.

15 You are assuming -- isn't he assuming that
16 you're going to give him permission to use trucks instead of
17 rail? Isn't this a requirement? I mean, you don't just
18 load these things up unless you get approval.

19 Suppose it's mandated that they use trains?

20 Then you must use these rail lines.

21 One other thing on this point.

22 CHAIRMAN BECHOEFER: I think we ought to move on.

23 MR. HALLIGAN: I also said that the counties and
24 communities can ban shipments over their roads, their high-
25 ways. That's in our contention here. It says --

mpb10 1

CHAIRMAN BECHOEFER: Well, there's some ques-
tion about that.

MR. HALLIGAN: He's trying to say that this is
only dealing with railroads. Then we say here -- or is it in
the other contention -- oh, we're talking about the inspec-
tors here also, an inadequate number of inspectors, and in
the documentation we will bring forward from the Pennsylvania
Department of Transportation.

DR. PARIS: It's clear, Mr. Halligan, you're
talking about rail lines. You say rail lines.

MR. HALLIGAN: Can we amend that to include
highways at this time?

CHAIRMAN BECHOEFER: Well, we don't consider the
highways --

DR. PARIS: Not at this time because they
haven't had a chance to respond to that.

MR. SILBERG: Even if he were to amend it it is
still a challenge to the regulations.

MR. CUTCHIN: It changes nothing, Mr. Chairman.

MR. HALLIGAN: We believe there are extenuating
circumstances and therefore because of their citation and
interpretation, their citation to the rules and regulations
and so forth, we do not concur with them. And if they are
upheld by this Board or an appeal board, at this time we
would like to enter into the record this statement, that we

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mpbll 1 feel that such a ruling might jeopardize our rights under
2 the First Amendment and the Fifth Amendment to the
3 United States Constitution.

4 CHAIRMAN BECHOEFER: Okay.

5 Let's go on. What is the thrust of this conten-
6 tion?

7 MR. HALLIGAN: What is this number? Is it
8 number 13, spent fuel storage?

9 CHAIRMAN BECHOEFER: The spent fuel storage one,
10 yes.

11 MR. HALLIGAN: We know, of course, that there
12 have been modifications made quite probably with approval
13 of the various departments of the NRC, but quite possibly
14 there may have been some that were unauthorized. It would
15 be necessary for us to have access to the documents, the
16 accurate document records to substantiate some of these
17 points here.

18 We use in here "journalistic terminology for
19 the most part, as opposed to legalistic terminology. In
20 other words, some of the adjectives and so forth may not
21 be considered adequate or proper and so forth.

22 We emphasize or accent a point, in this way.
23 Dangerous modification and so forth, well, what do you mean
24 by that; well, we'd have to define our terms.

25 We believe in the public interest fuel should not

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mpb12 1

be stored on the site in this manner, when originally at
2 the public hearings the citizens of Salem Township and the
3 citizens of the area were told specifically that the fuel
4 rods would be cooled down and moved off the site to a
5 disposal site in accordance with the regulations set up then
6 and there would be no dangerous storage of a great number
7 of --

8 CHAIRMAN BECHOEFER: Have you any basis for
9 assuming or asserting that it's dangerous to store these?
10 The spent fuel pools do have to meet certain requirements.

11 MR. HALLIGAN: Well, the NRC informed some
12 officials of Newport Township a few weeks ago in person
13 that they may have to store the fuel, the spent fuel rods
14 there until I think 1972, or for some extended period of
15 time, because there have not been approved or built --

16 CHAIRMAN BECHOEFER: Do you have any informa-
17 tion showing that that would be any sort of a danger?

18 MR. HALLIGAN: Yes, I think it would. We
19 would show this at a hearing. I think this is the way the
20 evidentiary proceeding would -- we would bring that out at
21 that time.

22 We would ask here for a review of the impact
23 statement to see if the people were misled or what have you.
24 I don't mean it was in any way deliberate. I think it was
25 unanticipated. I think back five or six years ago everyone

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mpbl3 1 in the nuclear field believed that West Valley, New York
2 would be operating fine. The Barnwell, South Carolina,
3 Morris, Illinois, and so forth, all of these burial sites
4 would be approved, operational, and there would be no
5 problems of disposing permanently of the waste.

6 But in the interim there has been serious
7 problems, as you know well, and this changes the complexion
8 of this whole thing.

9 The people, some of the people, gave their
10 tentative approval to that construction site based on the
11 impact statements and so forth that were issued at that
12 time. And now that's been changed.

13 In other words, the equation of danger has been
14 increased.

15 CHAIRMAN BECHOEFER: I think we understand your
16 contention now.

17 Do the Applicant and the Staff have any comments
18 on this one?

19 MR. SILBERG: We have no further comments.

20 MR. CUTCHIN: The Staff has no further comments.

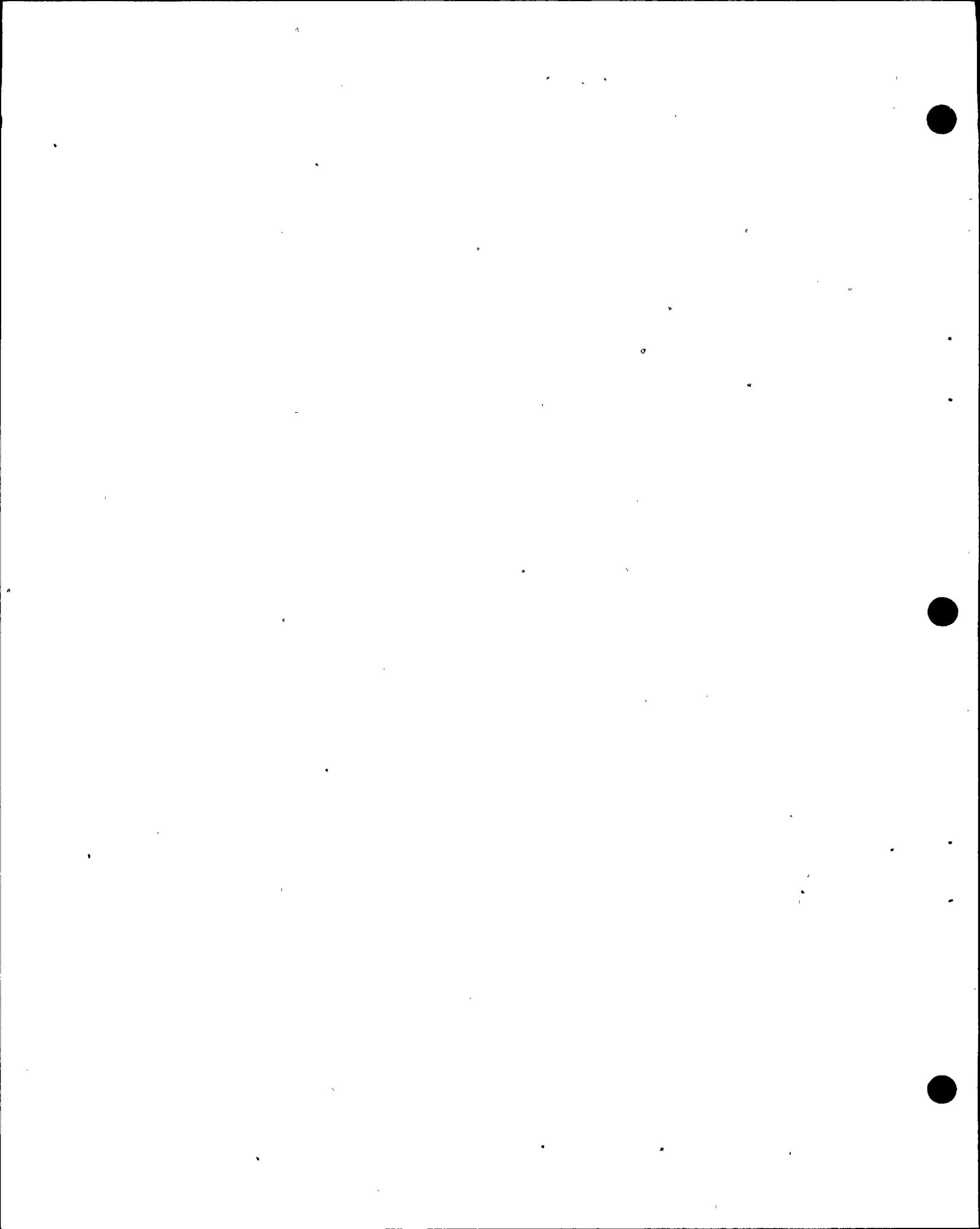
21 CHAIRMAN BECHOEFER: Okay.

22 Well, let's go on to the--

23 MR. HALLIGAN: Was that number 13?

24 All right. In number 13, we --

25 CHAIRMAN BECHOEFER: We understand your position.



mpbl4 1

2 MR. HALLIGAN: Once again, the same as the
previous contention, we state our concerns and objections.

3 CHAIRMAN BECHOEFER: We would like to move to
4 the ultra-high voltage transmission lines.

5 MR. HALLIGAN: What number is this?

6 MR. SILBERG: 14.

7 CHAIRMAN BECHOEFER: 14.

8 Here we would like to ask the Staff why the
9 Staff has any problem litigating this method of transmission.
10 Apparently the routes are a perfectly litigatable issue.
11 Why is the type of line that goes over that route any differ-
12 ent? It will affect the right-of-way. It will affect the
13 size.

14 If there is a claim that a certain type of line
15 is undesirable, why is that any different from the trans-
16 mission line issues that have been litigated for years?

17 MR. CUTCHIN: Is this Petitioner contending
18 that a routing other than has been proposed, or that some
19 means of transportation -- transmission, I'm sorry -- would
20 provide significantly less environmental impacts?

21 It's hard to tell.

22 CHAIRMAN BECHOEFER: I think the Applicants have
23 read this as saying that the type of transmission, the ultra-
24 high voltage transmission is alleged to provide greater
25 environmental impacts than transmission of the 138 to 30,000

mpbl5 1 volt range.

2 MR. SILBERG: We really read this contention
3 as being in two parts, one had a series of allegations
4 about the impacts of our transmission system, and they
5 listed off Ozone, electromagnetic, and so on.

6 The other part of the contention seemed to be
7 asking for this Board to order us to build transmission
8 lines underground. That part of the contention we think is
9 clearly inadmissible because we're dealing here again with
10 a facility whose construction has already been authorized
11 and whose construction is largely complete. And therefore
12 consideration of the alternative of building some kind of
13 new facility, particularly a replacement transmission line
14 system, would stand on the same footing as building another
15 power plant in place of this power plant.

16 And we would say that that part of the contention
17 is properly excluded from this hearing.

18 The part of the contention that deals with
19 certain health and environmental impacts of the transmission
20 lines, we would not object to litigate.

21 MR. HALLIGAN: Mr. Chairman, it is fundamentally
22 dealing with the flashover effects and so on, and environ-
23 mentally there is an impact because I think the utility
24 expects to transmit at 500 volts -- 500,000 volts.

25 CHAIRMAN BECHOEFER: Of course, this will be a

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mpbl6 1 matter of evidence.

2 MR. HALLIGAN: What we're saying here, in addi-
3 tion to the harm -- and other Intervenors I think have raised
4 at least one of these points -- but we're saying it is
5 somewhat insidious in that you can't see the danger until it
6 hits you, and it fluctuates with the weather and so on.

7 In addition, the Pennsylvania Public Utility
8 Commission, I believe I am correct here in saying that once
9 they got permission for a right-of-way, they can go from
10 66 or 44,000 volts and go all the way up not to 500, but to
11 1000, or a million, rather, if they want to on the ultra-
12 high voltage.

13 In other words, they don't have to go back to the
14 PUC or any other regulatory commission.

15 CHAIRMAN BECHOEFER: We understand.

16 MR. HALLIGAN: So this creates a problem because
17 it will affect commercial transmission of radio, television,
18 and so forth, and this will affect interstate commerce.

19 CHAIRMAN BECHOEFER: Is the Staff willing to go
20 along with the Applicant to the extent the Applicant would
21 describe --

22 MR. CUTCHIN: To the extent we are to be litigat-
23 ing the environmental impacts of the proposed transmission
24 lines and whether they can and should be further minimized?
25 The Staff has no objection.

mpbl7 1

CHAIRMAN BECHOEFER: Okay.

2 Well, let's go on --

3 MR. HALLIGAN: The thing is, the other part we
4 have an exception to. Apparently he doesn't agree on that
5 point.6 We're saying that they should go underground.
7 We should weigh the merits --

8 CHAIRMAN BECHOEFER: Again, that --

9 MR. HALLIGAN: We object under the First and
10 Fifth Amendment to some of the contended reference to law
11 here that would not allow us to bring up those contentions
12 because it may be a violation of our Constitutional rights.13 CHAIRMAN BECHOEFER: Going on to the next one,
14 the Applicants are willing to litigate the health effects of
15 low level radiation.16 We read nothing more than that in here in terms
17 of what we can consider, at least.

18 MR. HALLIGAN: What number are we at here?

19 MR. SILBERG: 15.

20 CHAIRMAN BECHOEFER: The second to the last one.

21 My only question is whether the Staff has any
22 objection to litigating what the health effects of low level
23 radiation would be from this.24 MR. CUTCHIN: If that's the extent of the
25 contention, no, Mr. Chairman.

mpbl81

MR. HALLIGAN: Does Mr. Silberg have anything to add?

CHAIRMAN BECHOEFER: He's already agreed to that.

MR. HALLIGAN: Let me see. Where are we at here? Is this number 15?

CHAIRMAN BECHOEFER: Right.

MR. HALLIGAN: He says "an impermissible challenge to the Commission" however. We don't construe it as such.

MR. CUTCHIN: The Staff's response, Mr. Chairman, was based on its interpretation. And to the extent that it was a challenge, it was impermissible.

But as just redefined, the Staff has no objection.

MR. HALLIGAN: And the lawyer for the electric company, Mr. Silberg, says --

MR. SILBERG: We're willing to litigate it.

DR. PARIS: He said the same thing, Mr. Halligan.

CHAIRMAN BECHOEFER: You're ahead. So quit.

MR. HALLIGAN: The Ninth Amendment here may be relevant.

CHAIRMAN BECHOEFER: I don't think you're going to worry about amendments there.

The last one, I might point out, clearly appears

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mpbl9 1 to us to be a foreign policy matter. And again, like the
2 first one, the very first one we talked about, we think it's
3 beyond our jurisdiction to look at.

4 MR. HALLIGAN: May I give a statement on that,
5 then?

6 CHAIRMAN BECHOEFER: Make it very short.

7 MR. HALLIGAN: Well, I'll try to.

8 I'm going to show how Rumania is within a 50
9 mile radius of Salem Township.

10 (Laughter.)

11 This is a little lesson in geography here. It
12 seems that we -- responding to a New York Times article of
13 January 5 or 4 of this year, they talked about the release
14 -- breaking the seals on some fuel that's going to be sent
15 to Communist Rumania. This is a breach of security. And
16 I'm sure the NRC, their people dealing with material safety,
17 transport, are very concerned with this.

18 Now here is the point:

19 The NRC and the Department of Defense and the
20 state and so forth require of vendors and contractors who
21 sign contracts with foreign governments, they have agreements
22 there that the spent fuel, which includes plutonium, bomb-
23 grade, must be sent back to the United States to be processed
24 and stored here.

25 CHAIRMAN BECHOEFER: I think this is totally

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mpb20 1 irrelevant to Susquehanna.

2 MR. HALLIGAN: Northeastern Pennsylvania has been
3 designated as one of the burial sites for this material. It's
4 going to come down the road and --

5 DR. PARIS: If that occurs there will be another
6 forum in which you can raise that. It is irrelevant to what
7 we're considering here.

8 MR. HALLIGAN: Well, what you're considering is
9 the health and safety that --

10 CHAIRMAN BECHOEFER: No, we're considering the
11 effects arising from the Susquehanna Nuclear Plant, and as
12 far as we can see, this is totally apart from that.

13 MR. HALLIGAN: Well, no. Here --

14 CHAIRMAN BECHOEFER: This may be a matter of
15 national interest.

16 MR. HALLIGAN: Here's the relevancy:

17 Pressure builds up. They have selected sites
18 around the country for permanent disposal or long-term
19 interim disposal. And as they find that there is already
20 a large quantity of waste spent fuel rods, in fact, stored
21 someplace, and if in fact they realize that governors in
22 various states will no longer allow shipments through their
23 states of this material and say You've got to keep it nearby
24 in your own state, then Pennsylvania may have to open up a
25 disposal site somewhere in the state. And they might pick

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mpb21

a site, a remote rural site near an existing atomic power plant, because that would facilitate shipping of fuel from Salem to that site.

CHAIRMAN BECHOEFER: That might be. But that is something that --

MR. HALLIGAN: It's theoretical.

CHAIRMAN BECHOEFER: Well, it would be considered when the site were picked. It would have to be a licensed site.

MR. HALLIGAN: We want to make a concluding statement also.

CHAIRMAN BECHOEFER: Really make it fast.

MR. HALLIGAN: Does anybody have any comment they wish to make?

MR. SILBERG: Not on this contention.

MR. HALLIGAN: As we stated, the distinguished attorneys from Washington for the government and for the electric company presented their case according to the way they interpret the regulations. We feel that at this time all of these -- virtually all of these allegations or contentions are valid and relevant, and we submit them in the public interest in the hope that they will be dealt with at the public hearing and we'll have the opportunity to testify. And that we have taken exception in many cases, stating that under the First and Fifth Amendment and under

mpb22.

1 the Ninth Amendment we, the Citizens Against Nuclear Danger,
2 feel that our Constitutional rights under the Bill of Rights
3 maybe have been violated. And we will so state for the
4 record.

5 Finally, we noticed that you must come up with
6 -- make a decision on this plant for the licensing of Burwick
7 1 and 2 some time in the foreseeable future. Some people
8 feel sincerely that you cannot turn back, you cannot say no,
9 and so on. But it seems that in Acoma, North Dakota a few
10 days ago, around January 25, 1979, the government completely
11 closed down an anti-ballistic missile defense site.

12 Now this contained atomic weapons and atomic fuels
13 and so forth. It was closed down by the Congress a few years
14 ago, one day after it went fully operational. It was a
15 \$1,500 million anti-ballistic missile site. It was deemed
16 at that time as obsolete. They were going to build 11 more.
17 They said no more. And even the one that's built will be
18 dismantled, and it was, at government expense, at a loss of
19 \$1.5 billion.

20 Now we submit, Mr. Chairman, that if you study
21 this very carefully, this development here, because the
22 Defense Department and others and the Congress decided that
23 they had a more sophisticated, better system of national
24 security against enemy attack by ballistic missiles, so they
25 stopped it and they scrapped the program.

mpb23

1 Now if the Nuclear Regulatory Commission in its
2 judgment determines that nuclear fission rather than nuclear
3 fusion rather than nuclear fission is the fuel of the future
4 in atomic power, then I think it is -- it may be necessary
5 at some one of these proceedings, at some one of these hear-
6 ings to say this plant will not be completed. The government
7 will take it over, pay off the contractor, and simply, if it
8 is near completed, should maybe complete it and mothball it
9 for possible use in a national emergency.

10 But we're going to go to atomic fusion, or we're
11 going to go to solar power. We're going to go in these other
12 alternate directions. At some point in time it may be necess-
13 ary to do what they did up in Acoma, North Dakota.

14 We want to thank you, sir, for allowing us to
15 bring this testimony to your attention.

16 So we will conclude our statement at this time.

17 CHAIRMAN BECHOEFER: We appreciate the patience
18 of all of the participants here.

19 We will go back and render our decision as soon
20 as we can. Our decision will be merely whether there will
21 be a hearing or not. And we will probably cover which of the
22 contentions of the various party petitioners are acceptable.

23 Mr. Silberg?

24 MR. SILBERG: One other matter which I would like
25 you to cover in your prehearing conference order, and that

mb24 1 deals with the schedule, if there is to be a hearing.

2 CHAIRMAN BECHOEFER: I did want to ask something
3 about a schedule.

4 MR. SILBERG: Let me give you my proposed schedule
5 and we can take it from there.

6 CHAIRMAN BECHOEFER: All right.

7 MR. SILBERG: As I understand the Staff's review
8 process, the environmental report will probably be completed
9 significantly ahead of the safety evaluation.

10 With that in mind, I would like to propose that
11 at least right now we assume there will be a two-part hearing
12 if there are in fact contentions dealing with both safety
13 and environmental areas. Obviously if we had no safety conten-
14 tions, for instance, we would not have a safety hearing.

15 But assuming there are contentions in both areas,
16 I would request that we plan -- that the Board plan that there
17 be a bifurcated hearing.

18 DR. KEPFORD: A what?

19 MR. SILBERG: A bifurcated hearing.

20 I would like to propose the following schedule for
21 the conduct of the prehearing and hearing procedures:

22 Within 60 days after the prehearing conference
23 order is issued, all discovery requests shall be submitted.
24 Responses to those discovery requests shall be within 30 days
25 thereafter. There would be an opportunity for supplemental

mpb25

1 discovery with all such requests to be filed within 30 days
2 after the issuance of the draft environmental statement, and
3 30 days after the issuance of the supplement of the SER, the
4 Safety Evaluation Report.

5 . . . That discovery would be based upon information
6 in those documents.

7 Responses to that discovery would be within 30 days
8 thereafter.

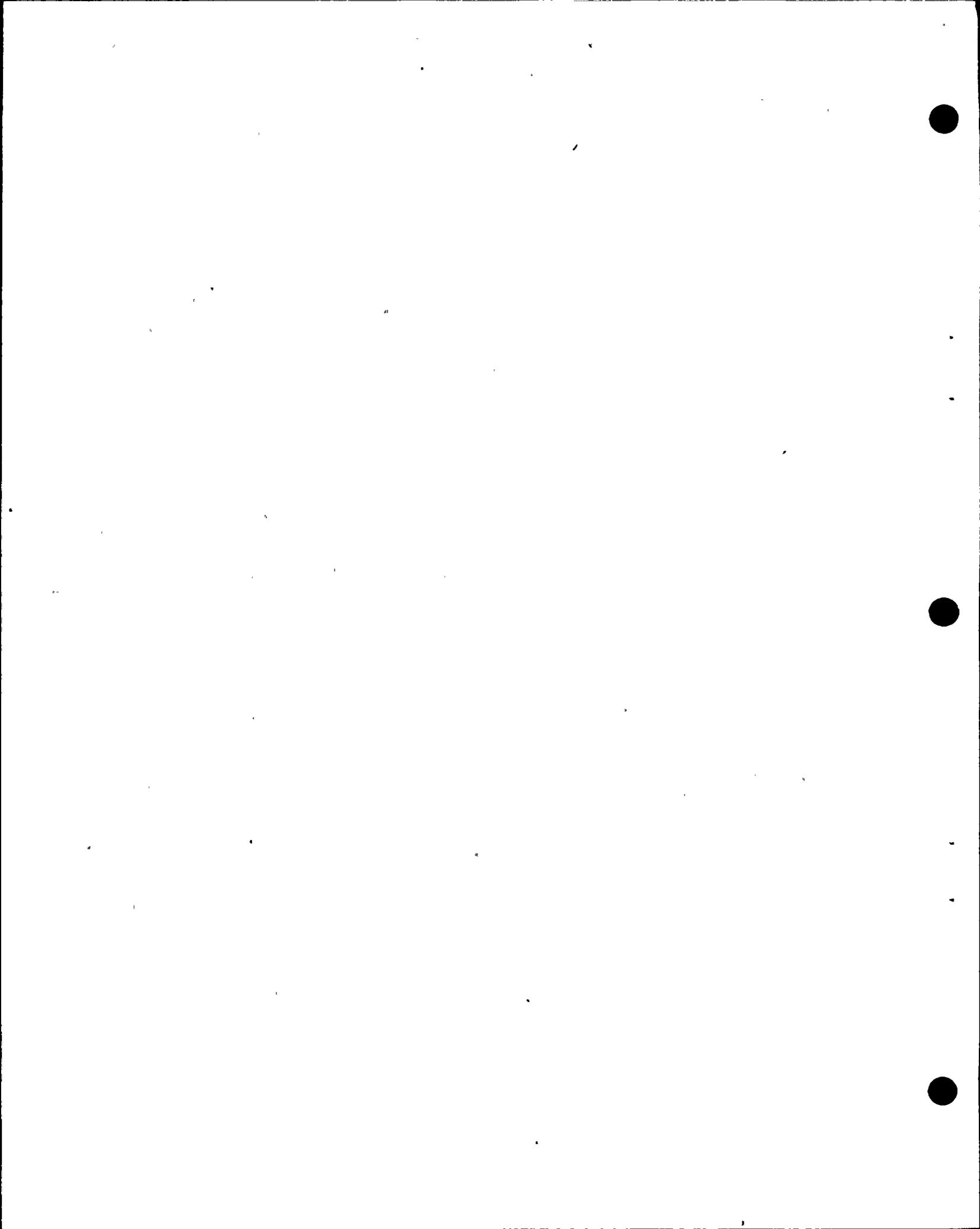
9 Of course, all discovery would be limited to
10 contentions in accordance with Commission rules.

11 I would also propose that summary disposition
12 motions could be filed at any time up to 45 days prior to
13 a scheduled hearing date with responses to be filed three
14 weeks thereafter.

15 Testimony in writing in advance would be filed
16 15 days prior to the start of the environmental hearing or the
17 safety hearing, as appropriate.

18 We would like to suggest that the hearing itself
19 start on the environmental questions 45 days after issuance
20 of the FES, of course assuming for adjustments for holidays,
21 weekends, et cetera. And on safety issues, not later than
22 45 days after issuance of the supplement to the Safety
23 Evaluation Report.

24 CHAIRMAN BECHOEFER: My only question is that
25 after issuance of the FES should there be further discovery



mb26 1 requests, how would you accommodate that? There could be
2 new information in the FES.

3 MR. SILBERG: It's possible. I would certainly
4 think most of the discovery would be on the DES, since the
5 FES is meant only to address comments which come in from
6 outside parties. I would anticipate that while that could
7 be handled as a special circumstance, that we would not
8 assume that there would automatically be additional dis-
9 covery at that point.

10 DR. JOHNSRUD: For the benefit of the parties
11 who are new to these proceedings, I think it would be a
12 courtesy on the part of the Applicants' attorney to spell
13 out the numerous acronyms he has used.

14 MR. SILBERG: I'm sorry.

15 The DES, or the Draft Environmental Impact
16 Statement is the initial environmental review document issued
17 by the Staff based upon information in our Applicants'
18 Environmental Report, plus information developed by the Staff.

19 The SER or Safety Evaluation Report is the Staff's
20 initial safety document based on information submitted in our
21 FSAR, or Final Safety Analysis Report, plus additional informa-
22 tion developed by the Staff on its own review.

23 Supplement to the Safety Evaluation Report is a
24 document issued by the Staff subsequent to the review by the
25 Advisory Committee on Reactor Safeguards of the Staff's review

mpb27 1 and the Applicants' application.

2 The FES is the Staff's Final Environmental Impact
3 Statement which issues after comments have been received on
4 the Draft Environmental Impact Statement. It includes those
5 comments, and includes the Staff's response to those comments,
6 as well as, of course, any additional information which may
7 have arisen between the issuance of the draft and the issuance
8 of the final.

9 Did I leave out any acronyms?

10 DR. JOHNSRUD: You went so fast; I have no way
11 of knowing without checking the record.

12 CHAIRMAN BECHOEFER: I would like to ask the Staff
13 Do you have any advanced dates for the Draft
14 Environmental Statement and the Safety Evaluation, and in
15 particular, when is the Supplement to the Safety Evaluation
16 which deals with financial qualifications, when is that
17 expected?

18 MR. CUTCHIN: Could I have a moment, Mr. Chairman?

19 MR. HALLIGAN: Mr. Chairman, I have one question
20 for this distinguished board of experts.

21 In your judgment -- they talked about these
22 regulations which were certainly applicable regulations.
23 If an Intervenor was not -- were not to challenge, per se,
24 these contentions -- these regulations, but if they sought
25 to improve, refine them, or make them more workable, or what

mpb28

1 have you, in their judgment, other than the rulemaking hearing
2 proceedings, would it be advisable or possible to suggest that
3 legislation might be prepared by the Congress? Is that
4 another way of bringing about a modification of the rules,
5 to have the Congress amend the law?

6 CHAIRMAN BECHOEFER: You clearly could ask
7 Congress to amend the law. Many of the regulations are based
8 on the law as it stands now.

9 MR. HALLIGAN: If we feel aggrieved or --

10 CHAIRMAN BECHOEFER: That certainly is an option.
11 It's not for us to determine whether you exercise it or not.

12 MR. HALLIGAN: Thank you.

13 MR. CUTCHIN: Mr. Chairman, I could provide these
14 dates as they currently appear in the latest Blue Book
15 schedule.--

16 CHAIRMAN BECHOEFER: Okay.

17 MR. CUTCHIN: -- which is the Staff's official
18 schedule:

19 The Safety Evaluation Report is presently
20 scheduled for late March of 1980. The Supplement to the
21 Safety Evaluation, which would address the Advisory Committee
22 on Reactor Safeguards letter, is scheduled for late July of
23 '80.

24 The Draft Environmental Statement --

25 CHAIRMAN BECHOEFER: What about the financial

mpb29 1 qualifications supplement?

2 MR. CUTCHIN: There at present is planned -- there's
3 only one supplement presently planned. I assume it will either
4 be addressed in the SER or in the first supplement.

5 The Draft Environmental Impact Statement should be
6 out with luck around May of this year.

7 The Final Environmental Statement, sometime in
8 late October of this year.

9 Those are the present best estimate schedules.

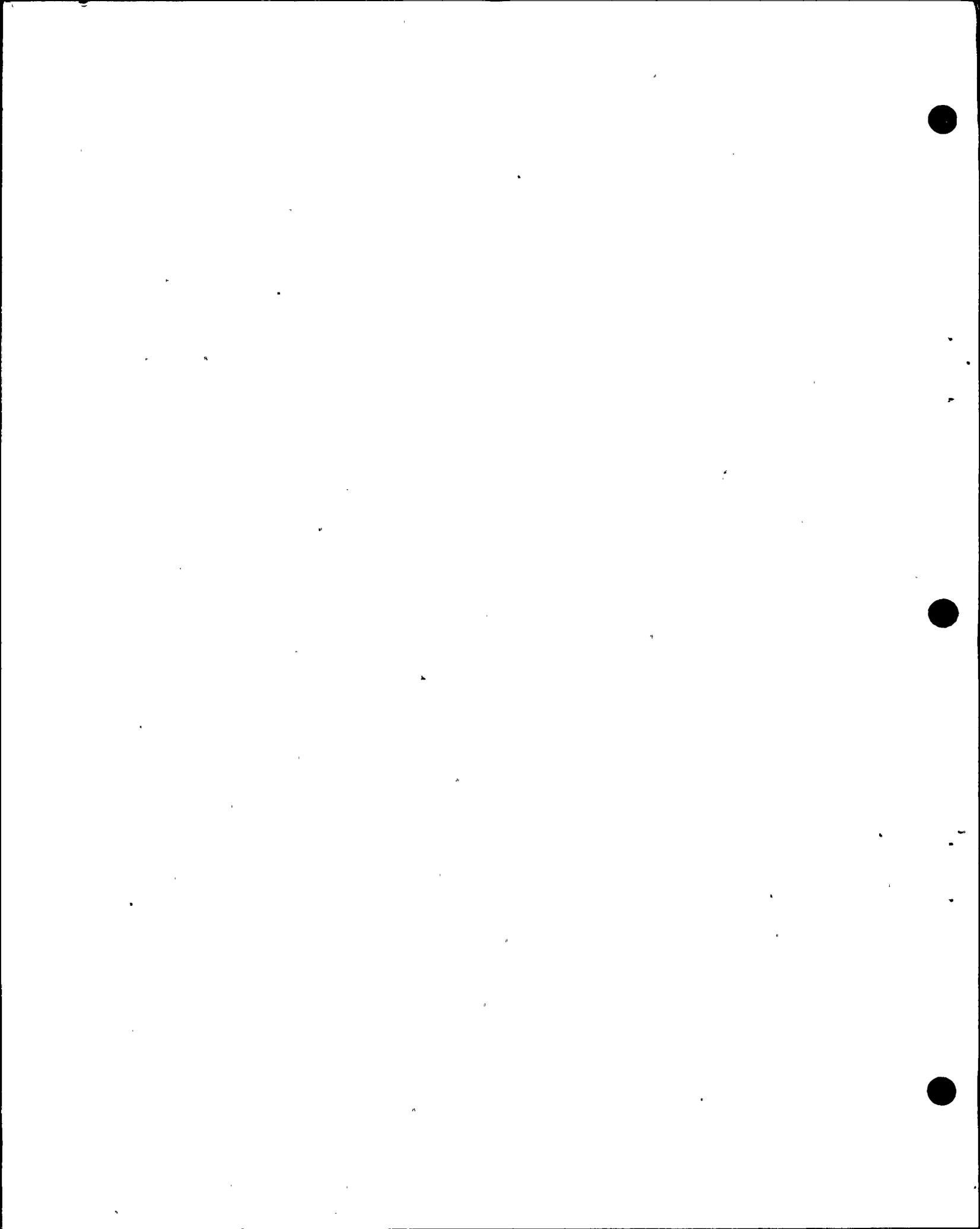
10 MR. SILBERG: Mr. Chairman, I would just like to
11 observe that Applicants have been importuning the Staff to
12 look again at their safety schedule. We think that that is
13 -- their safety review schedule. We would like those dates
14 to be somewhat earlier than they are.

15 We do not think that those dates are necessarily
16 the ones which will ultimately be met. We hope they will be
17 somewhat earlier than the ones Mr. Cutchin has just stated.

18 MR. CUTCHIN: The Staff understands the Applicant
19 has that desire and the Staff will be discussing schedules.
20 However that is the present tentative schedule that appears
21 in the official publication.

22 CHAIRMAN BECHOEFER: Do any of the Petitioners have
23 any comments on scheduling, only? We have to get going very
24 quickly.

25 DR. KEPFORD: Yes, I realize that.



mpb30

1 I don't have any objections, and I don't know
2 whether or not any of the other parties do. I would appreciate it if this scheduling information which is certainly
3 available to the Staff and the Applicant, could be also made
4 available on a timely basis to the Intervenors whenever there
5 is a change in it.

7 MR. CUTCHIN: To the extent there are significant
8 changes in the schedule, Mr. Chairman, the Staff would expect
9 to be advising the Board and by copies of those letters would
10 be expecting to advise the parties. But not every time there
11 is a week or two change. If it is a significant change of a
12 matter of months, the Staff would expect to advise all the
13 parties.

14 DR. KEPFORD: A couple of other matters I would
15 like to discuss:

16 First off, with regard to -- I'm sort of going on
17 the assumption that there will be a hearing in this proceeding.
18 IF that is the case, a rather serious problem arises with the
19 Intervenors, that being transcripts.

20 In the past we have been provided, myself and
21 ECNP have been provided with a single set of the transcripts
22 in various other proceedings for the use of the Intervenors
23 because we simply cannot afford to buy them.

24 In this particular proceeding there are four sets
25 of Intervenors. And they are pretty widely scattered,

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1 geographically. To provide one set of transcripts for this
2 proceeding, for the Intervenor in this proceeding would really
3 impose a severe hardship on these four Intervenor in trying
4 to share them, trying to hustle them back and forth and still
5 make filing deadlines after the proceeding.

6 So I would request, Mr. Chairman, if the Staff could
7 make available a set of transcripts to each of the Intervenor
8 on a timely basis.

9 MR. CUTCHIN: Mr. Chairman, the Staff would only
10 say that it has no budget to provide such a number of tran-
11 scriptions. The Staff believes that this falls within the area
12 of requests for financial assistance, and that it is forbidden
13 by the Commission's present policy.

14 To the extent that transcripts are --

15 CHAIRMAN BECHOEFER: One inquiry I would like to
16 make:

17 What is the source of the one transcript that is
18 normally provided? Is that the same transcript that would
19 otherwise go in the local Public Document Room?

20 MR. CUTCHIN: I do not know.

21 CHAIRMAN BECHOEFER: Or could the Board make a
22 ruling that the Intervenor may use temporarily but later
23 return to the Public Document Room the copy that appears there?

24 MR. SILBERG: I believe that has been done in other
25 cases, at least on a short-term temporary basis.

mpb32

1 CHAIRMAN BECHOEFER: Would that make available
2 to -- what's the source of the other one? Who funds the
3 other one?

4 MR. CUTCHIN: Mr. Chairman, I understand that
5 the copy that is normally made available to the Public
6 Document Room is made available from the Staff's copy --
7 maybe Mr. Reïs could explain it.

8 MR. REIS: There is a copy that goes normally to
9 the Public Document Room. In addition to that, the Staff
10 orders two copies. As a courtesy, we have been lending one
11 of those copies to the Intervenors, just as a courtesy. And
12 we only have authority to buy the two, one of which we need,
13 of course, for our own use, and we have been lending the
14 other one as a courtesy, and that is how the other one has
15 gotten to Intervenors generally.

16 CHAIRMAN BECHOEFER: Would we be authorized, in
17 your opinion, to order the copy that appears in the local
18 Public Document Room to be made available to one or more
19 Intervenors as an additional copy? on a borrowed basis?

20 MR. REIS: I have not focused on your -- on the
21 right that you might have to do that, and do feel that it
22 would trample on the rights of the public generally who might
23 not be Intervenors; and the purpose of the Public Document
24 Room is not just for Intervenors, but for the public generally.
25 And that document is put there for the public generally.

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1 DR. PARIS: Off the record.

2 (Discussion off the record.)

3 DR. PARIS: On the record.

4 CHAIRMAN BECHOEFER: I don't think we'll be able
5 to decide this question today. We will explore what we can
6 do about at least making one extra copy available, as we have
7 suggested.

8 DR. JOHNSRUD: Mr. Chairman, I would like to ask,
9 as an Intervening party, I would feel that our ability to
10 participate in these proceedings, and, hence, our due process,
11 would be severely restricted without access to a transcript
12 of the proceedings. So for us it would mean a 200 mile trip
13 to a public document room in Wilksbury or a 200 mile trip to
14 a public document room in Washington, D.C. every time we wanted
15 to consult a transcript.

16 I don't think that either the Applicant or the
17 Staff would be willing or able to meet the filing deadlines
18 any better than we could under such a severe stricture, and,
19 I might add, expense.

20 CHAIRMAN BECHOEFER: I am talking about that there
21 may be two copies available, and maybe the various Intervenors
22 of which there will be -- well, there are four Petitioners --
23 might have to arrange how they may be divided. That may be
24 all the copies that are available in terms of the Commission's
25 authority to fund Intervenors.

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1 DR. JOHNSRUD: Could we then make a request
2 through the Board that the Commissioners of the NRC consider
3 making available by special order such transcripts?

4 CHAIRMAN BECHOEFER: I don't think such a request
5 could be forwarded through this Board.

6 DR. KEPFORD: Would this Board not have authority
7 to certify such questions to the Commission?..

8 CHAIRMAN BECHOEFER: To the appeal board, yes.

9 DR. KEPFORD: The appeal board serving for the
10 Commission?

11 CHAIRMAN BECHOEFER: Yes, but only certain types
12 of questions.

13 MR. REIS: I think we would all be better off read-
14 ing -- and could more intelligently address these questions
15 if we reread the Commission's opinion on financial assistance.
16 As I remember, it covered Counsel fees and other types of aid,
17 and I don't remember what it said, very frankly, sitting here.
18 But I think we ought to rereview that before we discuss this
19 further so that we see what guidelines were handed down. They
20 might well cover some of these matters that we are discussing.

21 CHAIRMAN BECHOEFER: Okay.

22 I think at this stage --

23 DR. KEPFORD: I'm not through.

24 CHAIRMAN BECHOEFER: We have to catch a plane.

25 DR. KEPFORD: I understand. There's one last issue

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1 I'd like to bring up, and that is the Commissioners them-
2 selves of the NRC have made it known, at least some have in the
3 past, that they're-interested in the workings of the Staff
4 and the licensing boards in licensing proceedings. And I
5 understand indeed one Commissioner has volunteered to serve on
6 a licensing board.

7 I would therefore request that this Board pass
8 on to the Commissioners the request from that at least now the
9 potential Intervenors in this proceeding, the Environmental
10 Coalition on Nuclear Power, that one of the Commissioners who
11 has expressed interest in this process in the past be asked
12 to serve on the licensing board in this proceeding.

13 CHAIRMAN BECHOEFER: I don't think we have
14 authority to do that.

15 MR. SILBERG: I would object to that as being an
16 improper request.

17 DR. PARIS: For your information, Commissioner
18 Gilinsky has already been appointed to another board.

19 DR. KEPFORD: I'm aware of that, and I was asking
20 if perhaps one of the other Commissioners who has expressed an
21 interest in the past be appointed to this Board.

22 DR. PARIS: I think he's the only one who has
23 expressed such an interest.

24 CHAIRMAN BECHOEFER: I think with this, we will
25 -- Mr. Cutchin?

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MR. CUTCHIN: I would like to make one additional comment, sir.

I would appeal to the Board, when they issue their rulings on contentions, that it would be helpful in the determination of what type hearing, bifurcated or single hearing, if the Board would indicate clearly which contentions it is admitting as safety and which it is admitting as environmental contentions.

MR. SILBERG: We would second that request.

CHAIRMAN BECHOEFER: With this, the conference is adjourned.

(Whereupon, at 11:47 a.m., the hearing in the above-entitled matter was adjourned.)