

9/17/79

CF

ENVIRONMENTAL COALITION ON NUCLEAR POWER

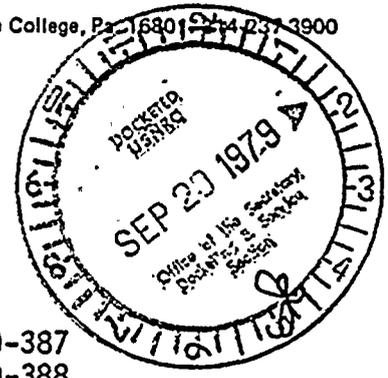
Co-Directors: Mr. George Boomsma—R.D. #1, Peach Bottom, Pa. 17563 717-548-2836

Dr. Judith Johnsrud—433 Orlando Avenue, State College, Pa. 16801 814-231-3900

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of )  
PENNSYLVANIA POWER AND LIGHT CO. )  
ALLEGHENY ELECTRIC COOPERATIVE, INC. )  
(Susquehanna Steam Electric Station, )  
Units 1 and 2 )

Docket Nos. 50-387  
50-388

Responses of ECNP Intervenors to Board Memorandum and  
Order Compelling Intervenors to Answer Applicant and  
Staff Interrogatories

The Environmental Coalition on Nuclear Power (ECNP) submits herein its strong protest to the Board's order for detailed and repetitive responses to unreasonable, burdensome, and unduly oppressive numbers of Interrogatories from the two parties which are proponents of the issuance of an operating license. ECNP again moves the Board to issue a protective order, not just relative to any single interrogatory, but an order protecting all of these inexperienced, unfinanced, and uncounseled citizen intervenors in this case from the unjust work loads, inappropriately short deadlines, unnecessary paperwork, and injustice imposed thus far and which otherwise might be imposed in this proceeding by Staff, Applicant, and the Board itself.

The ECNP representatives make note to this Board of the following background information, with the intent of assisting the Board to understand the capacities of and limitations upon these public-interest intervenors as they differ from those of Staff and Applicant.

7911050 394  
G

1. ECNP is not represented by legal counsel; the organization cannot afford to hire expert attorneys to conduct their case in the public interest. As ordinary citizens concerned enough with public health and safety to donate our time and efforts to this matter, and whose interests have been determined by this Board to be affected by the outcome of this proceeding, we are attempting, to the best of our abilities, to fulfill our responsibilities and we expect to receive fairhanded treatment and due process.
2. ECNP has requested, and has been denied, funds from the NRC to assist in preparing and conducting their case on behalf of the members of the public who belong to ECNP. We have no funding available for researchers, typists, reproduction of the voluminous filings which are required by the Regulations and the Board to be served on all parties. No funds are available, for travel expenses to obtain documents or for their reproduction at the exorbitant rates charged in the NRC's Public Documents Room, or for the purchase of documents produced at taxpayer expense from NTIS, or for the many other purposes available to Government attorneys and the Applicant's counsel.
3. Drs. Kepford and Johnsrud, designated by ECNP to represent its members' interests before the NRC, are unable to afford frequent trips to the Washington, D.C. Public Documents Room of the NRC (350 miles round-trip) or to the Wilkes-Barre Public Library Local Documents Room (250 miles round-trip). And in the energy-constrained society that now characterizes the U.S., these Intervenors' financial

status and place of residence effectively preclude use of public transportation (by air due to expense and by bus due to time and expense of prolonged lodging and meals in Washington or Wilkes-Barre). Through much of the summer of 1979, severe restrictions on the availability of gasoline further prevented the frequent travel which the Staff attorney in his June 27th letter (which is not identified as the Staff's response to ECNP's First Round Discovery Requests) so cavalierly assumes Intervenors are free to undertake in order to make use of the documents requested on discovery.

The Board itself similarly commands these Intervenors to expend large amounts of gasoline and money they do not have to travel to the locales at which the transcript of the proceedings is available. The Reference Librarian of the Local Documents Room in Wilkes-Barre has refused to allow ECNP Intervenors to remove the transcript of the Pre-Hearing Conference in order to prepare their responses. The NRC Staff stated in an April 10, 1979, letter to the Board,

Additionally, with regard to the understanding reached at the prehearing conference involving the availability to the intervenors of the Staff's second copy of the transcript, one limiting fact concerning this arrangement should be clarified. As we advised the Board at the conference, it has been the practice of the Staff to make available to intervenors the Staff's second copy of the hearing transcript whenever such is possible, and in the present hearing the Staff will, as it has indicated, follow that practice. However, the 'whenever possible' limitation of this offer should be, we believe, clearly understood by all parties prior to the commencement of the hearing in this matter. . . . Thus, when we speak of a second copy of the transcript, we are not referring to an extra copy of the transcript for which the Staff has no need or anticipated use, but rather a copy that will be required for use by the Staff at various times throughout the proceeding. The present case is, of course, no exception; because of the nature of this proceeding there will be frequent occasions

when Staff attorneys and witnesses will need to utilize both copies of the daily transcript, thus eliminating the possibility of loaning the second copy of the transcript to the intervenors.

The Staff's arbitrarily imposed limitation on the availability of the transcript is not in accord with what Intervenors recall to have been the thrust of the Board's position during the Prehearing Conference. However, ECNP is forced into the position of saying that we cannot cite the record, having been denied the access to the transcript which ECNP clearly requested and which the Board had promised to make available to the intervenors (See Board's Special Prehearing Conference Order, March 6, 1979, pp. 82-83 ).

Since we are denied the promised access to the record, ECNP is denied due process and cannot in any fairness be expected to meet the arbitrary rigid deadlines imposed for responses to this vast number of interrogatories..

4. Dr. Kepford, to fulfill personal responsibilities, left the United States in late June; he returned to Pennsylvania on September 3. Dr. Johnsrud, because of prior commitments, was absent from the state commencing July 3 for most of the remainder of the month and again during much of August. There was, therefore, no opportunity for these intervenors to respond within the allotted time period to Applicant and Staff filings, including the Staff's untitled letter bearing the date of June 27, 1979, that pertained to ECNP's First Round Discovery requests. The lack of responses from ECNP, therefore, ought not be taken as an indication of lack of ECNP interest or desire to participate fully in this proceeding. It is, instead, a manifestation of our limitation of resources, be they personal, temporal, or financial.

We ask the Board to note, in this connection, that the Johnsrud signature on the ECNP June 29, 1979, responses to Staff and Applicant Interrogatories was the only one available in the absence of Dr. Kepford

and that those responses were submitted with his full approval; it is a matter that appears to have troubled the Staff attorney throughout his July 13, 1979, objections.

5. The ECNP Intervenors and their two legal representatives are among the Pennsylvanians who directly experienced, and suffer from, the severe trauma associated with the Three Mile Island, Unit 2, accident which began on March 28, 1979, and is still in progress. Whereas members of the NRC Staff, the Board, or the Applicant's staff may not have considered the accident at TMI a danger to their lives, we who were present in central Pennsylvania during the crisis did; the ECNP representatives were in the vicinity of the plant during portions of the first five days of the crisis; they sheltered refugees from the Harrisburg-Middletown area; as Intervenors in the TMI-2 Operating License Proceedings, they were especially keenly cognizant of the hazards associated with the event and its consequences for the public. The effects of the psychological trauma, thus, were not limited only to residents of Harrisburg and the immediate environs of that reactor. The disruptive impacts of that accident, in March and April; and ongoing effects of uncertainty about the safety of our ECNP members and of others throughout central and eastern Pennsylvania have had severe repercussions for the personal lives of these ECNP representatives. The priority of responding to the calls for information, assistance, and reassurance from the victims of the TMI-2 accident must be understood by this Board as a moral imperative that has absorbed a substantial portion of these Intervenors' time and energies in the ensuing months.

The nature of public-interest involvement in a reactor licensing proceeding differs substantially from that of the Applicant--the proponent of the order

which will issue from the proceeding, the beneficiary of that order, and the bearer of the burden of proof in the proceeding--or of the NRC and, sometimes, the State, both of which have, in general, given support and issued permits for the reactor in question by the time the hearing process begins.

For the Intervenor, public awareness of the pending hearings is likely to produce financial support, if any, only as the time of hearings approaches. Not until there is adequate financing can Intervenor procure the services of expert witnesses. Yet only when there is some determination of the approximate time of hearings can these witnesses decide if they will be free to participate, will have adequate time for preparation of testimony, and can afford the commitment for what, from a citizens' group, can usually at best be the return of travel expenses.

This Board has commanded the citizen intervenors in this case to respond, at the beginning of discovery, to the Staff's request for the identities, addresses, professional qualifications, subject matter, and the very substance of the testimony of such witnesses as the Intervenor may wish to call--if indeed they are able to obtain sufficient funds to be able to retain any witnesses.

Furthermore, this Board has compelled these Intervenor to identify and produce fully two months in advance all documents to be used in their examination and cross-examination of witnesses.

These requirements have been imposed in the absence of receipt of discovery documents from the Staff and with only partial compliance with their requests from the Applicant. It is patently impossible for Intervenor's representatives to provide sixty days in advance the substance of testimony which the Board has required to be filed only 21 days in advance of hearings. Intervenor will know what documents have been utilized by their witnesses when those

witnesses file their testimony. Intervenors, far more than the Applicant and Staff (the proponents of the issuance of an operating license), cannot be expected to identify all those documents upon which they will rely for examination and cross-examination until they have received and studied the testimonies of witnesses for the other parties.

Furthermore, the issues raised in contention are matters about which the Applicant and Staff should be well prepared already, if the license is to issue, regardless of whether or not the Intervenors can supplement their initial responses to interrogatories. In an Operating License proceeding, it is the business of the Applicant to prove it is entitled to a license. It is the responsibility of an Applicant to take whatever preparatory measures it deems appropriate to justify its claim that it should be granted a license. The Intervenors are not paid consultants of the Applicant. If this Applicant cannot prepare its case without the assistance of these Intervenors, then certainly the license should not issue.

Similarly, the taxpayers have gone to great expense to provide the Commission with ample Staff resources to evaluate whether or not the Applicant is entitled to a license. The taxpayers are not paying these Intervenors to prepare the Staff for its role in this proceeding. Further, even if the Commission were to grant these Intervenors financial assistance as requested, the role of the Intervenor in the licensing proceeding is to provide a check and balance to try to ensure that the public health and safety are protected. By no means, under any circumstances, is it the responsibility of these or any other intervenors to assist the Staff and Applicant in preparation for this proceeding.

The ECNP Intervenors note that under the Administrative Procedure Act of 1946 and the Atomic Energy Act of 1954, as amended, the burden of proof rests both with the Staff and the Applicant. The Staff has the responsibility

to ensure that the activities of the Applicant will not affect the health and safety of the public. The Applicant, on the other hand, is required to demonstrate some level of competence in the construction and operation of its facility.

In addition, the Commission's own rules (10 CFR 51.20(d) and 51.21) require the Applicant to search out and highlight information contrary to the positions advocated by the Applicant and include such information in its Environmental Report. In short, if the Applicant is competent to run a nuclear power plant, and has obeyed the Commission's rules, and if the Staff does the job it gets paid for, there can be no surprises in the upcoming evidentiary hearing, regardless of the presence or absence of Intervenors' response to interrogatories. On the other hand, if there are surprises, then either the Staff or the Applicant, or both, have failed to uphold their respective statutory responsibilities, and no operating license should be granted. Discovery upon the Intervenors, as has occurred in this proceeding, is for the sole purpose of annoyance, harrassment, and oppression.

We respectfully ask this Board to bear carefully in mind its responsibilities to protect the constitutional and statutory rights of citizen intervenors, particularly because these intervenors are unschooled in administrative law.

In the wake of the Three Mile Island accident and the admitted inadequacy of that TMI-2 NRC licensing review, we would think that the NRC would be concerned to ensure that further operating licenses are granted only after it has been ascertained that the public health and safety will be properly protected.

However it appears that the Staff, rather than comply with its statutory duties is instead attempting to railroad the ECNP Intervenors out of the Susquehanna proceedings. ECNP objects to this unfair treatment. We are sending a copy of this document registering our objections directly to the Commissioners, as well as to the Presidential Commission investigating the TMI accident. We

reiterate that we had, two months prior to the TMI accident, asked to have an NRC Commissioner serve on this Board in order to avoid the unusually heavy-handed favoritism which had characterized the TMI-2 proceeding. Such favoritism has indeed already been shown to the Applicant and Staff, thus far in this proceeding.

Responses to the NRC Staff and Applicant Interrogatories beyond those which were properly and timely submitted by ECNP would require many months of sorting through private libraries of documents for each Interrogatory. They would also require extensive bibliographic search in those distant Public Document Rooms to which the Staff has referred us in its June 29, 1979, refusal to supply discovery documents requested by ECNP. Furthermore, Intervenors have access to only published information whereas the Staff is composed of many individuals whose job it is to be familiar with this information. Are the Intervenors to be booted out of these proceedings because their timely responses were not to the satisfaction of an NRC lawyer, and because they cannot possibly respond in full in the mere fourteen days allotted by this Board? Such appears to be the intent of the Staff in order to rid the hearings of a public-interest party that raises troublesome issues, issues which the NRC apparently does not wish to confront, even after the Three Mile Island accident. (Issues raised at TMI-2 have still not been resolved a year and a half after that license was issued.)

We note here that the counsel for the Applicant, who demands answers to an unprecedented and outrageous number of interrogatories, is a member of the same law firm which contributed so much in turning the TMI-2 licensing proceeding into a charade and carnival sideshow. There can be little doubt that counsel for the Applicant is trying to scuttle ECNP in this proceeding on procedural technicalities, in order to prevent a repeat of the TMI-2 humiliation his law firm

suffered.

The Board stated in its August 24 Order the importance of discovery to the Applicant (at p.6). The fact that Intervenors from ECNP member organizations have participated in three construction permit proceedings (Newbold Island 1&2, Limerick 1&2, and Fulton 1&2) and three operating license proceedings (TMI-1, Peach Bottom 2 &3, and TMI-2) without, to our recollection and knowledge, ever having been asked to answer a single interrogatory or discovery request, casts a dark cloud of doubt over the Board's statement. We also note that in each of the above mentioned proceedings the Applicants ultimately got what they requested. The quote offered by the Board in support of its ridiculous statement only detracts from the credibility of this Board and the Board which made the quoted statement. The record of ASLBs in granting commercial nuclear power plant applications is perfect; none has ever been rejected by an ASLB. So the assertion that an applicant may have a burden to discharge that "may be impossible" not only has no basis whatsoever in fact, but the assertion of such a ludicrous idea degrades the entire process. Furthermore, if indeed the Applicant is surprised by the testimony and cross-examination provided by the Intervenors, the Applicant can move for an extension of time to respond to the information provided at the hearing.

In any event since the proposed testimony is submitted 21 days prior to hearing, any inability of the Applicant to prepare for hearing suggests that the Applicant is not competent to operate the Susquehanna reactors.

Fairness can only be approached by careful contemplation of all of the

---

To the best of our recollection (since the transcript is not available to us) the Board stated in the Prehearing Conference in this proceeding that it was familiar with the record in the TMI-2 proceeding. If so requested by the Board, we would be willing to describe briefly some examples of the manner in which embarrassment was caused to the Staff and the law firm of the Applicant in the TMI-2 proceeding. See the record in the TMI-2 proceeding.

parties' filings, at a bare minimum. In the case of this Memorandum and Order (M&O), this minimal standard was not approached. The rulings came down granting the the Staff and Applicant everything they requested and denying the various intervenors everything they requested, whereas precisely the opposite result was in order.

The Board in its M&O does not reveal that it has read and understood any of the parties' filings, even though the Board sides with the Staff and Applicant. The Board has clearly failed to come to grips with the sheer magnitude of the Applicant's discovery request. We repeat what we stated earlier: two thousand seven hundred interrogatories constitute a burden of extraordinary magnitude, whose purpose is none other than harrassment. Two thousand seven hundred interrogatories based on about a dozen contentions works out to about 200 interrogatories per contention. This number of questions is oppressive and inappropriately burdensome under the Commission's rules, 2:740(c).

We must note here that the Board in its August 24th Memorandum and Order claims it has "mitigated the burden" of the Applicant interrogatories (at p. 12). The Board in fact has only reduced the number of these interrogatories from two thousand seven hundred (2700) to two thousand six hundred twenty-eight (2628)! The Applicant withdrew four of its questions, each of which was composed of twenty-eight parts. In addition, the Board has requested these Intervenor's to specify in detail our objections we wish to express, if any, to each of these 2628 interrogatories--plus those from the Staff--all in a mere two weeks.

The Board apparently does not realize that, just as answering 2700 (or 2628) questions is extraordinarily oppressive, so too specifying why each of the 2700 (2628) is burdensome is also oppressive.

The ECNP Intervenors submit that to answer all of the Applicant's interrogatories would take many months--most of a year--of effort, even if all other previously scheduled commitments and activities of the Intervenors' representatives were to be terminated, which they cannot be. If indeed the Applicant or Staff can justify the need for these Intervenors to provide such responses to this enormous number of interrogatories, the ECNP Intervenors request the Board to order a postponement of the due-date for the answers to the

Applicant's interrogatories until September 15, 1980, at the very earliest.

An alternative would be for the Applicant voluntarily, as we previously suggested, or under Board order to reduce its interrogatories to a rational and defensible number and call off its purely retaliatory, vindictive, and punitive campaign against these intervenors.

With regard to our timely answers to the Staff's interrogatories, the Memorandum and Order of the Board is ambiguous on the subject of these Intervenors' responses. The Board appears to order ECNP to reanswer the Staff's questions. However, ECNP has already attempted to answer the Staff's questions and is prevented from further attempting to answer the interrogatories in part because the Board has not informed ECNP which specific questions need to be reanswered. Our problem here <sup>is</sup> knowing which questions to reanswer: do we reanswer only those described by the Staff as "evasive," or do we reanswer all questions objected to by the Staff? If the latter, then why? The Staff appears far more interested in volume than in content, no matter what our response was. ECNP has made a good faith effort to answer the Staff's questions. Furthermore, how are we to know beforehand at what point the Staff will be satisfied with our answers? The Staff and Applicant could very well occupy the Intervenors with answering and reanswering interrogatories until the date of the hearing, effectively preventing us from preparing for the hearing and thereby preventing us from assisting the Board in compiling a full and complete record. The M & O of the Board does not offer a clue to these matters.

In its M & O, the Board stated its concern about allowing a party to demand answers to questions while at the same time that party refused to answer questions directed to it. (See M & O, p. 10). The Board cautions another Intervenor about the seriousness of this "offense." Yet the Board sits back while the NRC Staff takes exactly this position. The Staff demands answers from ECNP and refuses to comply with ECNP's discovery request. The Staff has not supplied a single document requested by ECNP nor has the Staff moved for a protective order. This failure to provide documents requested by ECNP, of course, compromises and prejudices the ability of ECNP to prepare its case. The ECNP Intervenors submit that if the threat of banishment from a proceeding is a threat that can be held over the heads of Intervenors, then fairness (under 10 CFR 2.718) would require that such a threat also be leveled at the NRC Staff.

With respect to the Staff's first General Interrogatory, and with respect to many if not most of Staff interrogatories, ECNP, for reasons stated in our previous filing, has not yet obtained its witnesses. For the Board to require the information requested by Staff 60 days in advance of hearing of witnesses is a clear denial of due process and is contrary to the letter and spirit of the Commission's own regulations. In other proceedings, one or two weeks has been considered entirely adequate. The Staff proposes to prohibit Intervenors from using at the time of hearing any documents which are not now identified in response to this interrogatory. These proposed limitations and prohibitions, when combined with the Staff's refusal to supply the documents requested months ago by the Intervenors, constitute an effort by the Staff to deprive us of our rights as participants in this proceeding (10 CFR 2.743(a)). The Staff has provided no meaningful justification for these unusual strictures.

We note, for example, that, in the Three Mile Island, Unit 2, operating license proceeding, the Staff's testimony on the nuclear fuel cycle was

introduced in the midst of the evidentiary proceeding without any 60 days of filing in advance of the hearing date.

ECNP can hardly be expected to have completed the preparation and substance of its entire case at this stage of the proceedings. ECNP objects to this General Interrogatory<sup>and</sup> requests a protective order, because the Staff has provided no justification for these unusual strictures and because the Staff's request is burdensome, oppressive, and is intended to harrass these Intervenors.

With respect to the Staff's second General Interrogatory, it is impossible for ECNP to have assembled the documents requested--its entire case--at the time of the First Round Discovery requests. It is patently absurd, furthermore, to expect or request, much less order, the identification of all documents to be used in cross-examination of witnesses for the other parties who have not yet been required or even asked to identify their witnesses. Furthermore, ECNP does not have the funds to produce any documents for the Staff as requested. In addition, it is the Staff's responsibility to prepare for this hearing on its own, since they and Applicant have the legal burden of proof. We object to this General Interrogatory and request a protective order because the Staff's request is burdensome, oppressive, constitutes an undue expense, and is intended for harrassment purposes.

ECNP Intervenors submit the following specific objections to the detailed Interrogatories of the Staff.<sup>2</sup>

2

ECNP Intervenors do not feel it is appropriate here to list specific objections to the Applicant's interrogatories above and beyond those objections listed elsewhere in this filing, due to the extraordinarily burdensome nature of Applicant's interrogatories. However, we note that most of the general objections which follow in the text above are applicable also to the Applicant's interrogatories.

Interrogatory

G-1 and 2

1. The ECNP Intervenors object to the 60 day requirement requested by the Staff that ECNP identify all its witnesses, the substance of their testimonies, and all documents to be relied upon for evidence, examination, and cross-examination. Since the Staff itself refused to make available to the Intervenors the background information the Intervenors requested months ago, the Staff puts the Intervenors in an impossible position: the Staff refuses to forward necessary documents upon which the Intervenors would rely and require for preparation of their case, and then demands the identification of documents to be relied upon. This demand of the Staff constitutes a continuing oppressive harrassment of the Intervenors. The Intervenors move for a protective order so that discovery not be had under this burdensome (and impossible) schedule, but instead be had, if it is necessary at all, only to the extent provided under the commission's rules, 2.743(b)(which provide only that written testimony be submitted fifteen days prior to the scheduled day of the hearing for that testimony.)

All

2. The documents, discussions, conferences, research reports, and all other source materials, experiences, and reflections used by ECNP in formulating its contentions and its responses to the Staff Interrogatory represent an accumulation of information, knowledge, analysis and synthesis over the period of more than a decade.

S-1.2-7  
S-5.1-3  
S-5.6-7  
S-1.11-14  
S-7.2-3  
S-8.4

3. The Staff request of ECNP for a listing of the "incorrect assumption(s)," the effect of incorrect assumptions, and what assumptions or models should be used, and what the effect of such assumptions or models would be, is wholly out of place. The Staff has the burden of proof (10 CFR 2.732) to establish that its assumptions are correct. The Intervenors do not have the time, money, or expertise to do the work for which the NRC Staff itself gets paid. ECNP requests a protective order that discovery not be had as such would be inconsistent with the Commission's rules (2.732): any such discovery would constitute an undue burden and expense.

S-1.8

4. ECNP does not understand this ineptly phrased question any more now than it did before, since the Staff has not clarified the question following our initial response. We therefore again request from the Staff clarification which is consistent with 10 CFR 2.732. However, we note that the record in the Three Mile Island, Unit 2 proceedings demonstrates that on the order of one million future human deaths would occur due to future releases of radon attributable to each year's fuel supply for the reactor. To specify each of these future health effects and how each is caused would be burdensome and oppressive in the extreme. It would, in fact, obviously be impossible, since we cannot foresee exactly how each of these one million premature deaths per annual fuel requirement will occur. Under 10 CFR 2.740(c) we therefore move for a protective order.

S-1.9-10  
S-3.1-4  
S-1.1-9  
S-5.6-7

5. This matter is the subject of ongoing proceedings before the Commission, of which the ECNP representatives are a part (see ALAB-562). The ECNP Intervenors have made no calculations or assumptions beyond those already thoroughly documented and in the possession of the Staff in those proceedings covered in ALAB-562. We therefore request a

protective order that discovery on this subject not be had as it is unduly burdensome, expensive, constitutes harrassment of the ECNP Intervenors, and is repetitive of information already in the hands of the Staff. Alternatively, we request that the entire record in the ongoing radon proceeding be incorporated by reference in this proceeding in response to the Staff's interrogatory. As a further alternative, we move that the Susquehanna proceeding be held in abeyance until completion of the radon proceeding currently underway pursuant to ALAB-480.

S-1.10-15  
S-9.7

6. In NRDC v. USNRC (547 F.2d 633), rev. on other grounds, at p. 639, note 12, the Court observed, in part,

The environmental effects to be considered...are those for the full detoxification period. ...

Until the Staff can show that this simple criterion is met, the criterion has not been met (10 CFR 2.732). ECNP has made no calculations or assumptions for any isotope other than radon-222. See response 4, above.

S-2.1-5  
S-8.1-3  
S-9.1-6  
S-18.1-3

7. ECNP requests a protective order that discovery not be had of ECNP for contentions and positions not sponsored by ECNP in its filings. In its interrogatories the Staff misrepresents many of ECNP's contentions. Discovery under this condition constitutes an undue burden and expense.

S3.5  
S-1.10  
S-2.5

8. Since ECNP believes the cost-benefit balance has already been tipped against any nuclear power plant on the basis of radon-222 emissions (see #4, above), ECNP has made no further calculations concerning cost/benefit analysis. Furthermore, it is not our burden to develop an alternative cost/benefit analysis; it is, instead, the Staff's and Applicant's burden to set forth the full and complete cost/benefit analysis (10 CFR 51.20(b), 51.23(c) and 51.23(f)).

S-5.1

9. The ECNP Intervenors have reason to believe that a document exists (requested by the NRC on discovery by ECNP) in English translation by the NRC from the original German which describes how certain NRC models underestimate the effects of certain radio-isotopes on man. Until the NRC supplies this document, requested months ago, it is impossible to answer this question. ECNP requests a protective order that no discovery be had on this subject until the Staff supplies the requested document, as this demand of the Staff otherwise would constitute an impossible burden.

S-5.1-9  
S-6.2-4  
S-7.2-3  
S-7.6-10

10. ECNP has made no independent assessment concerning what models, assumptions, conversion factors, calculations, and so on should be used, beyond the information on radon already in the possession of the Staff (see ALAB-562). At any rate, this is the province of the Staff (10 CFR 2.732). ECNP therefore requests a protective order that discovery not be had on this interrogatory as such would constitute an undue burden.

S-6.1  
S-6.4  
S-7.16

11. In the Salem Unit 1 spent fuel pool compaction proceeding (Docket No. 50-272), the Staff has concluded that the TMI-2 accident was indeed a Class 9 accident. As a result, ECNP believes this question to have been fully answered in our previous response to Staff interrogatories. We therefore request a protective order since the burden of establishing that the health and safety of the public can be preserved is the Commission's responsibility under law.

S-6.1-5  
S-7.1  
S-7.4-15

12. ECNP has requested background information on this subject on discovery from the Staff, and none has been forwarded as requested. Beyond repeated statements in the press concerning this subject, the Intervenor can supply no further information not already identified. The Staff, again, has the full burden of proof (10 CFR 2.732).

S-6.1-5  
S-7.16  
S-1.10  
S-7.4-5  
S-7.11

13. ECNP believes this question has been answered fully. We therefore request a protective order so that oppression of these Intervenor at the hands of the Staff will cease and further harrasment will be prevented.

S-8.4

14. ECNP has made no independent calculations concerning this interrogatory. The basis of our concern is contained most concisely in "Nuclear Regulatory Commission Staff Report Concerning Allegations by Robert Pollard," February 28, 1976, pages 146-7. Nothing in that report alters those conclusions. We note again that ECNP has requested updated materials on this subject from the Staff months ago, but none has been supplied to the Intervenor. We move for a protective order under 10 CFR 2.740(c), as additional requirement of response would be unduly burdensome, oppressive, and expensive of time and research capabilities which these Intervenor do not possess.

---

Addendum to Response 2: Therefore, no specific documents can be cited as the sole or primary ground for the ECNP contentions or other positions relative to issues in contention. We move for a protective order, since the production of materials to satisfy the Staff's demand would be burdensome and oppressive in the extreme, unduly expensive, and impossible as well.

---

The ECNP Intervenor requested, during the Prehearing Conference in January, 1979, (tr. 372-3, as cited in the Board's Special Prehearing Conference Order of March 6, 1979, transcript not available to these Intervenor) that a Commissioner of the NRC serve as a member of the Atomic Safety and Licensing Board in this proceeding. The Board stated in its March 6 Order (at p. 83) that the request was beyond the scope of the Board's authority, that it would be inappropriate for the Board to take any action, but that "[i]f it so desires the Commission could of course reconstitute the Board to include one or more of its members."

The ECNP Intervenor here formally request that the Commission reconstitute this Board so that a member of the Commission who has expressed an especial interest in assuring the evenhandedness of the licensing process by so serving become an ASLB member for these Susquehanna Operating License proceedings. In light of questions asked, lessons learned, accidents suffered, and damage experienced by members of the Environmental Coalition on Nuclear Power in consequence of the Three Mile Island, Unit 2, accident and the inadequacy of the licensing process for that reactor, we believe it is entirely proper and in accordance with the Commission's mandate to protect the public health and safety for a member of the Commission to serve on this Board. We ask the Board to certify this question to the Commission.

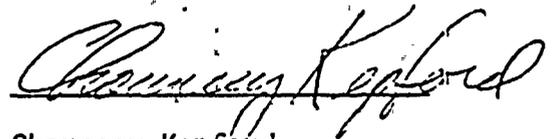
With regard to the Board's comments in its August 24 Memorandum and Order (at p. 16) pertaining to the Staff's requests for a deposition from Mrs. Mary K. Creasy, a member of ECNP, these Intervenor urge the Board to order the NRC Staff to discharge its regulatory responsibilities by undertaking a full investigation of those allegations made in the Limited Appearance statement of Mrs. Creasy at the January, 1979, Prehearing Conference. We ask further that the Board order the Staff attorney to cease his continuing harrassment of this limited appearance witness. His campaign is based on nothing more substantial than a newspaper account in which a reporter attributed to Mrs. Creasy statements and motives that are not hers.

ECNP Intervenor regard the Staff attorney's pursuit of this matter as further evidence that the NRC Staff are unwilling to fulfill their lawful regulatory functions and instead are intent upon annoyance and pitiless harrassment of members of the public and the intervenors in such ways as to intimidate them, burden them unduly, and cause them to be expelled from these proceedings which are important to the public health and safety, and thereby to deny the ECNP members due process.

For this Board to impose or threaten to inflict punitive measures on the Intervenors in the Susquehanna 1 and 2 proceedings is indicative of NRC's insensitivity or a purposive intent to force the ECNP Intervenors and others out of the operating license hearings. We are compelled to ask if the purpose is sheer vindictiveness or a desperate attempt to hide the inability of Applicant and Staff to convince the Commission that the Susquehanna reactors and their associated nuclear facilities can be operated safely. In view of the continuing tragedy at Three Mile Island, the attitudes shown thus far in this proceeding by attorneys for the Staff and Applicant are truly ominous and ugly.

The ECNP Intervenors respectfully request, for all the reasons discussed above, that the Board reconsider and revise its Memorandum and Order of August 24, 1979, in view of the particular and general objections that ECNP has raised previously and again in this filing.

Respectfully submitted,



Chauncey Kepford  
Representative of the Intervenors

Dated this 17 day of  
September, 1979

---

Judith H. Johnsrud  
Co-Director  
Environmental Coalition  
on Nuclear Power

ENVIRONMENTAL COALITION ON NUCLEAR POWER

Co-Directors: Mr. George Boomsma—R.D. #1, Peach Bottom, Pa. 17563 717-548-2836

Dr. Judith Johnsrud—433 Orlando Avenue, State College, Pa. 16801 814-237-3900

We, the undersigned persons, affirm that the statements in Responses of ECNP Intervenors to Board Memorandum and Order Compelling Intervenors to Answer Applicant and Staff Interrogatories are true and correct to the best of our knowledge and understanding.

*Chauncey Kepford*

Chauncey Kepford  
Representative of the Intervenors

and

*Judith H. Johnsrud*

Judith H. Johnsrud  
Co-Director  
Environmental Coalition  
on Nuclear Power

Dated and witnessed  
this 17<sup>th</sup> day  
of September, 1979

SWORN AND SUBSCRIBED BEFORE ME THIS 17  
DAY OF SEPTEMBER 19 79

*Jean B. Harris*

Jean B. Harris, Notary Public  
State College, Centre County, Pa. 16801  
My Commission Expires March 16, 1981



CERTIFICATE OF SERVICE

I hereby certify that copies of RESPONSES OF ECNP INTERVENORS TO BOARD MEMORANDUM AND ORDER COMPELLING INTERVENORS TO ANSWER APPLICANT AND STAFF INTERROGATORIES have been served on the following by deposit in the U. S. Mail, First Class, postage paid, on this 17 day of September, 1979:

Charles Bechhoefer, Esquire  
 Chairman, ASLB Panel  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Docketing and Service Section  
 Office of the Secretary  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Mr. Glenn O. Bright  
 ASLB Panel  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Jay Silberg, Esquire  
 Shaw, Potts, Pittman, and Trowbridge  
 1800 M Street NW  
 Washington, D.C. 20036

Dr. Oscar H. Paris  
 ASLB Panel  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Mrs. Irene Lemanowitz Butz, Chairperson  
 Citizens Against Nuclear Danger  
 P.O. Box 377, R.D. 1  
 Berwick, Pa. 18603

Atomic Safety & Licensing Board  
 Panel  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

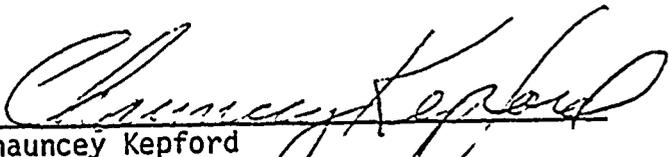
Mrs. Colleen Marsh  
 558 A, R.D. 4  
 Mountain Top, Pa. 18707

Atomic Safety & Licensing Appeal  
 Board Panel  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Gerald Schultz, Esquire  
 Susquehanna Environmental Advocates  
 500 South River Street  
 Wilkes-Barre, Pa. 18702

James M. Cutchin, IV, Esquire  
 Office, Executive Legal Director  
 U.S. Nuclear Regulatory Commission  
 Washington, D. C. 20555

Thomas M. Gerusky, Director  
 Bureau of Radiation Protection  
 Department of Environmental Resources  
 Commonwealth of Pennsylvania  
 P.O. Box 2063  
 Harrisburg, Pa. 17120

  
 Chauncey Kepford  
 Representative of the  
 ECNP Intervenors

U.S. NUCLEAR REGULATORY  
DOCKETING & SERVICES  
OFFICE OF THE  
OF THE COMMISSIONER

Document Status

Postmark Date 9/17  
Copies Received 1  
Add'l Copies Reproduced 2#  
Special Distribution Boad

---

---

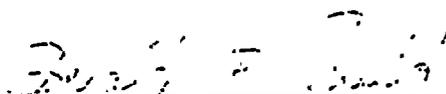
---

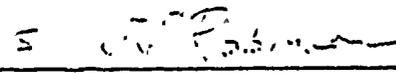
pallid, condescending measures, far short of what the NRC, and the Board, should do, were not taken. This has further impeded SEA's ability to respond to the interrogatories.

WHEREFORE, SEA moves that the Board extend the time limit to answer or object to the first round interrogatories to the applicant and the NRC 180 days.

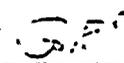
DATED:        7 17, 1977

SUSQUEHANNA ENVIRONMENTAL ADVOCATES

  
\_\_\_\_\_  
GERALD R. SCHULTZ

  
\_\_\_\_\_  
JOHN J. ROBINSON

I hereby certify that a copy of the foregoing Motion has been served on all parties to this action.

  
\_\_\_\_\_  
GERALD R. SCHULTZ