

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PENNSYLVANIA POWER & LIGHT COMPANY)	Docket Nos. 50-387
and)	50-388
ALLEGHENY ELECTRIC COOPERATIVE INC.)	
)	
(Susquehanna Steam Electric Station,)	
Units 1 and 2))	

APPLICANTS' BRIEF IN SUPPORT OF
MOTION FOR SUMMARY DISPOSITION
OF CONTENTION 2 (CHLORINE)

Applicants' Motion for Summary Disposition of Contention 2 (Chlorine) and its supporting Affidavit and Statement of Material Facts deals with the relationship between chlorine use at the Susquehanna facility and the presence in the Susquehanna River water of mine acid drainage and toxic chemical wastes. These documents show that there is no such relationship, i.e. that increasing the levels of mine acid drainage and toxic chemical spills in the Susquehanna River will not increase the amounts of chlorine which need to be used at the Susquehanna facility.

The Motion is addressed to these specific issues because Citizens Against Nuclear Danger ("CAND"), the sponsor of this part of Contention 2, ^{1/} has specified its concerns on chlorine in

^{1/}Special Prehearing Conference Order, LBP-79-6, 9 NRC 291, 299 (March 6, 1979).

its discovery responses. Both Applicants^{2/} and the NRC Staff^{3/} filed discovery requests with CAND to better understand CAND's concerns. Among other things, the Staff asked CAND to specify

1. The errors that exist in the estimates of health effects of chlorine releases
2. The amount of chlorine to be released, and
3. The health effects which would result.^{4/}

Applicants' interrogatories sought similar information.^{5/}

In response to the NRC's interrogatories, CAND explained quite specifically the nature of its concerns with regard to chlorine:

"The NRC's specific questions concerning chlorine releases must be rephrased to take into consideration the magnitude of the water problems on the river, because there exists a major miscalculation due to unforeseen detrimental environmental circumstances that are beyond the control of the Applicants, but must be addressed nonetheless. This matter, outlined below, is in response to the specific questions about chlorine.

"The adverse health effects from the discharge of chlorine from the Berwick plant into the Susquehanna River will be substantially greater than estimated by the Applicants, due to planned government endorsed

^{2/}Applicants' First Set of Interrogatories to Intervenor Citizens Against Nuclear Dangers, dated May 25, 1979, pp. 3-4.

^{3/}NRC Staff's First Round Discovery Requests of the Citizens Against Nuclear Dangers (CAND), dated May 21, 1979, p. 3.

^{4/}Id.

^{5/}Id. footnote 2, supra.

large-scale mining of Anthracite coal commencing in the near future. The necessity of continual pumping of billions of gallons of mine acid drainage into the Susquehanna River from numerous existing abandoned mine workings covering hundreds of square miles, to make possible the new mining operations, will in turn necessitate massive increases in the use of chlorine at the Applicants atomic power plant.

"Another major source of serious pollution, located about 20 miles upstream from the Berwick plant, that will require the Applicants to further increase the use of chlorine, is the Butler Mine Water Tunnel waste chemical spills into the Susquehanna River (see attached partial list entitled "Chronology of Events On The Susquehanna"). It is considered by many government experts to be the worse single occurrence [sic] of chemical pollution in the Commonwealth's history, and perhaps the nation. It is estimated that, over a period of time, hundreds of thousands of barrels of highly toxic chemical wastes (possible including radioactive wastes) were covertly dumped down boreholes into abandoned coal mine voids near Pittston, Pa., allegedly by 'midnight haulers.' After nearly one year of frantic and costly attempts to halt the intermittent flows of the toxic chemical wastes into the Susquehanna River from the Butler Tunnel outflow, the DER and the EPA are nowhere near stopping the pollution. The solution is years away at a cost of millions in taxpayer dollars.

"The PP&L will simply have to cope with this pollution at the Berwick in-take by revised design engineering to increase, even further, the use of chlorine to demineralize and clarify the river water for plant use. It might take ^{6/}tons of chlorine each day to do the job!"^{6/}

^{6/}"Citizens Against Nuclear Dangers Motions and Replies to Interrogatories Nos. 2, 16 & 17", dated April 29, 1980, pp. 4-5. (original emphasis)



Based upon this identification by CAND that its concerns with chlorine are the affects of mine acid drainage and toxic chemical wastes, Applicants have filed a Motion for Summary Disposition which addresses these specific issues.

One of the purposes of discovery is to "narrow and clarify the basic issues between the parties".^{7/} As the Appeal Board has recently observed, the contentions

"provide general notice of the issues. It is left to the parties to narrow these issues through the use of various discovery devices so that evidence need be produced at the hearing^{8/} only on matters actually controverted."^{8/}

Now that CAND has narrowed the issues via discovery, summary disposition on the issue as narrowed is in order.^{9/}

Respectfully submitted,
SHAW, PITTMAN, POTTS & TROWBRIDGE

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Dated: November 6, 1980

^{7/}Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 11 NRC ____, slip op. at 5 (September 23, 1980), quoting Hickman v. Taylor, 329 U.S. 495, 501 (1947).

^{8/} ALAB-613, supra, slip op. at 30.

^{9/}The Commission's regulations on summary disposition, 10 CFR §2.749, explicitly allow the use of answers to interrogatories in summary disposition motions.

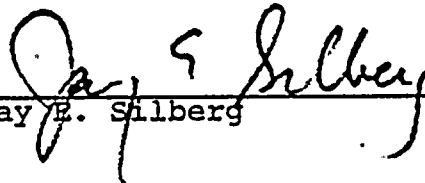
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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Motion For Summary Disposition of Contention 2 (Chlorine)", "Applicants' Statement Of Material Facts As To Which There Is No Genuine Issue To Be Heard (Contention 2 - Chlorine)", "Affidavit Of James Rios In Support Of Summary Disposition Of Contention 2 (Chlorine)", and "Applicants' Brief In Support Of Motion For Summary Disposition Of Contention 2 (Chlorine)" were served by deposit in the U. S. Mail, first class, postage prepaid, this 6th day of November, 1980, to all those on the attached Service List.



Jay E. Silberg

Dated: November 6, 1980

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