

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of NRC PUBLIC DOCUMENT ROOM

HOUSTON LIGHTING & POWER COMPANY

Docket No. 50-466

(Allens Creek Nuclear Generating

May 24, 1979

(7 pages)

Brief in Support of Intervenor's Contentions.
D. Marrack (Intervenor) submits
the following in support of his contentions
Nos. 2, 3, 4, 6.

2. Contention: That neither the original FES nor the Final Supplement address the impact of the power lines (b) on the human, wildlife and biological systems and (c) on migratory waterfowl.

Discussion: In the FES and Final Supplement, substantial detail exists concerning the site's environment. However, no reference to the impact of the transmission lines upon biological communities can be found. Additionally, no discussion (inventory) of waterfowl usage across the proposed corridor routes can be found. In particular, sections S.4.1.4. and S.5.1.2. discuss the route of transmission lines only with respect to land use impacts. No mention is made of the fact that Route 2C (the preferred alternative) crosses a major waterfowl wintering area. Acreage estimates of production lost do not begin to describe the impact of a linear land use directly across a high usage waterfowl corridor nor is any discussion offered concerning the impacts of low level non-iodizing radiation on farm workers or wildlife.

Of the two, however, the omission of information concerning migratory waterfowl is the most flagrant and the most noticeable. First, no data is offered concerning the waterfowl usage of the prairie areas east of the Brazos River roughly running from Brookshire to Fulshear to Clodine to Katy. This area experiences substantial usage by migratory ducks and geese in winter and is a critical migratory wildfowl wintering resource, yet no mention of this critical fact appears in either document.

312 017
7907110558

One cannot choose reasonable alternative routes without such information.

Second, as indicated in the recent case of Public Service Co. of N.H. v. NRC, 12 ERC 1561 (1st Circuit, 1978) the NRC has asserted that transmission lines are clearly within their jurisdiction and that the impact of transmission lines are substantial enough for the NRC to assume jurisdiction over these land uses from the state PUC (New Hampshire) and to order route changes to mitigate environmental impact. That transmission lines have an impact upon migratory waterfowl is clear (See Avery, 1978, Fish and Wildlife Service; Scott et al, 1972; Anderson, S.H., 1979; Anderson, W.L., 1978; Wilson Bulletin, 1971; Stout and Cornwell, 1976). However, the essence of this contention is that neither the original EIS nor the Supplemental EIS contain sufficient information to identify this impact and there is certainly no consideration to alternatives to mitigate this impact. Given the NRC's own position in Public Service Co. of N.H., I contend that this position violates the NRC's own mitigation policy, not to mention Sections 102 (2)(c)(ii)(iii) of the National Environmental Policy Act.

312 018

3. Contention: Secondary impacts of the Allen Creek Power Plant have not been presented.

Discussion: Secondary impacts relate to the changed investment patterns and subsequent land use changes occasioned by large scale infrastructure items (See CEQ, 1976). These secondary impacts are well known as a generic impact type, substantially different from direct and consequential impacts ensuing from the land use being analyzed. Current CEQ guidelines for EIS preparation emphasize secondary environmental effects and they have been the basis for the Department of Transportation being ordered to reroute portions of Interstate 10 through Mississippi

1976). The extent to which environmental effects of secondary impacts may be avoided depends upon the extent to which alternatives generate secondary impacts spatially different than those ensuing from the proposed action (i.e. with respect to agricultural productivity, flooding and drainage and water supply). However, in both the EIS and Supplement, no consideration is given to these impacts at all. This violates the full disclosure mandate of NEPA and should be addressed in a procedurally correct EIS.

4. Contention: Alternative sites have not been adequately addressed.

Discussion: One of the most important aspects of the National Environmental Policy Act was the requirement that alternatives be analyzed in respect to environmental impact (Section 102(2)(C)(iii)). Further amplification of this requirement is found in section 102 (2)(D) which expands upon the general requirements of Section 102 (2)(C)(iii). The consideration of alternatives to the proposed site of the Allens Creek Power Plant appears quite sparse and ~~lightly~~ ^{highly} conclusionary.

I. Initially, it is important to note that in the supplemental discussion of the South Texas Project (STP) alternative, no mention is made of the impact of transmission lines upon migratory waterfowl. Because the STP line is in place at this time, the impact upon migratory waterfowl has already occurred. Secondly, the power line route through the STP line's most sensitive areas, in terms of wildfowl ecology, (Perry Ranch) lies within forests, thereby offering a contextual break for waterfowl. However, since no impact upon migratory waterfowl was noted initially, (See Contention 2) it is impossible for this factor to have been included in the Supplement's discussion. Thirdly, alternative grid connections from the STP site to the H.L.& P. grid were not considered at all.

Fourth, the construction impact associated with the Allens Creek plant would be absent in the STP site because this impact and subsequent land use change has already occurred.

II. the Trinity River Basin site should be treated in the same, if not greater, detail than that accorded to the STP site in the Supplemental EIS. As admitted in the EIS (p. 9.3), this site was rejected on the basis of current rather than future power networks and loads, and the water supply issue appears on its face inadequate. More importantly, the statement on p. 9-2 stating the applicant did not consider a Trinity River site, yet indicating an acceptable population density for a nuclear power plant begs the issue of the Trinity Basin as a potential site. The statement appears on p. 9-5 (Section 9.1.2.1.4) asserting that only two reasonable alternatives exist to the Allens Creek plant and the Trinity River site is not among the two. How this conclusion was derived is unclear and appears to utilize questionable logic. This flawed reasoning was not corrected in the Supplement and should be addressed in detail prior to a final decision being made, notwithstanding the fact that the applicant was aware of this deficiency as a result of the Public Hearing of March 1975.

312 020

Third, alternative transmission line routes that avoid the impact upon waterfowl should be considered as alternatives within the proposed Allens Creek plant. It has long been known that various levels of alternatives exist to any proposed action. The possibility exists that transmission line impact upon migratory waterfowl could be minimized (mitigated) by following the Brazos River to the South of site, then turning East and then North to the O'Brien substation. Of course, due to the absence of impact data (See Contention 2), and full disclosure, no need for such an alternative was identified. However, given the NRC's position with respect to power line routes and their mitigation potential

(See PUC of N.H. v. NRC, supra), and the impact of the current alternative upon the migratory waterfowl using the prairie, HL&P should be required to present data and alternative routes to minimize the impact of the Allens Creek transmission line upon migratory waterfowl.

Fourth, additional data on alternatives was required of HL&P by the NRC in order to meet the requirements of various court and administrative decisions. Until this data is included within an EIS and distributed, it is impossible to understand how NEPA compliance can be asserted.

6. Contention: Discrepancies and inconsistencies exist between the FEIS and Supplement and these documents should be developed into a single EIS to be distributed and commented upon prior to a hearing being undertaken on the license application. This situation is further exacerbated by the NRC staff's questions of February 5, 1979, and the new proposal and data in the applicant's letter of May 17th (AC-HL-AE- 302) "Allens Creek Nuclear Generation Station Reactor Pressure Vessel Off-Loading Facility" with impacts on the San Bernard River. This additional NRC-requested information, the Applicant's letter and statement of May 17, 1979, the Supplement and the original "Final" EIS must all be combined into a single cogent document to satisfy the full-disclosure requirements of the National Environmental Policy Act.

312 021

Discussion: The procedure followed to date in the preparation and dissemination of NEPA-required information makes a mockery of the National Environmental Policy Act. NEPA requires an "action-forcing" document containing cogent and readable information to inform a lay person of the impacts of a proposed action upon the environment. At this time, the impact statement of the Allens Creek Power Plant consists of several paragraphs that consider certain aspects not at all (See Contention 2),

certain alternatives in some detail yet comparable alternatives in limited detail (See Contention 4) and other alternatives in great detail without this documentation ever being publicly distributed (NRC Staff questions).

What has been prepared is not an Environmental Impact Statement required by NEPA. The assorted documents are a blatant attempt to avoid environmental full-disclosure and to deny the public a cogent description of the impact of the facility and reasonable alternatives upon the environment.

The essence of this contention is that these proceedings circumvent NEPA and its procedural requirements. Further, the applicant's actions created this situation by their actions and the proceedings can come into NEPA compliance only by a compilation in a single statement of the assorted documents that are currently being distributed, prepared and acted upon. Only in this way can the legal requirement of the U.S. Courts be met in this matter.

D. Marrack

D. Marrack, Intervenor

*24 May 79
420 Mulberry St
Ballwin, 77401*

REFERENCES

1. Avery, M.L., 1978. "Impacts of Transmission Lines on Birds in Flight." FWS/ OBS-78/48. U.S. Fish & Wildlife Service, Dept. of Interior, Washington, D.C.
2. Scott, R.E. et al, 1972. "Bird Deaths from Power Lines at Dungeness." *British Birds*, 63, No.7, July, p.273.
3. Anderson, S.H., 1979. "Changes in Forest Bird Species Composition caused by Transmission Lines Corridor Cuts." *American Birds*, 33, No.1, Jan., p.3.
4. Anderson, W.L., 1978. "Waterfowl Collisions with Power Lines at a Coal-Fired Power Plant." *Wildlife Soc. Bull.*, 6, No.2, p.77.
5. Cornwall, G., Hochbaum, H.A., 1971. "Collisions with Wires - A Source of Anatid Mortality." *The Wilson Bull.*, 83, No.3, Sept., p. 305.
6. Stout, J., Cornwall, G.W., 1976. "Non-Hunting Mortality of Fledged North American Waterfowl." *J. Wildl. Manage.*, 46, No.4, p.681.

U.S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SUPPORT DIVISION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 5/25
Copies Received 2
Add'l Copies 23
Special Distribution _____

312 024

Copies of the document "Brief in Support of Intervenor's Contentions,"
D. Marrack (Intervenor) 24 May, 79 have been sent to the following
persons:

Sheldon J. Wolfe, Esq.
Dr. E. Leonard Cheatum
Mr. Gustave A. Linenberger
Mr. L. Newman
Chase R. Stephens
Richard Lowerre, Esq.
Steve Schinki, Esq.
Robert S. Framson
Carro Hinderstein
Kathryn Hooker
Brenda McCorkle
Wayne E. Pentfro
James Scott, Jr.



312 025