

05/29/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
CONSUMERS POWER COMPANY
(Palisades Nuclear Plant)

NRC } PUBLIC DOCUMENT ROOM
} Docket No. 50-255SP
}

NRC STAFF FURTHER RESPONSE TO CONTENTIONS
SUBMITTED AT PREHEARING CONFERENCE



At the prehearing conference held on May 9, 1979, the Licensing Board invited the petitioners to intervene to submit additional contentions and for the parties to comment then, and later in writing, upon those contentions. The petitioners then submitted eight new contentions, copy attached, at the conference. The Staff commented upon those contentions and the discussion of them by Mrs. Sinclair at the prehearing conference and herein expresses its further views.

Contention 1 (Tr. 96-104) alleges an exposure of 7342 man rem and was explained (Tr. 96) as being important as "workers are normally allowed only 5 rems per year." We affirm our position taken at the hearing, as we affirm our position taken there upon all eight contentions. The table to which Mrs. Sinclair referred is a Primary Coolant Piping Contact Radiation Survey and has nothing to do with worker dose. As pointed out by the Board (Tr. 100, line 8) the gross figure 7342 man rem is by itself meaningless in reference to worker doses. The citation to this exposure is not a contention, as it raises no factual dispute or a health and safety or environmental concern.

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Contention 2 (Tr. 104-109) Petitioners allege repeated malfunctions and breakdowns of Three Mile Island, frequent breakdowns of Palisades and that Palisades should be closed. This proceeding is to authorize or decline replacement of the steam generators. Closing the facility is beyond the scope of the proceeding or the jurisdiction of the Licensing Board. The contention should be rejected.

Contention 3 (Tr. 109-113) - Here it is alleged that the Consumers Power Company Steam Generator Repair Report (Report) is deficient because it fails to provide information concerning meteorological conditions. The Report does address meteorology in Section 6. Further, the PSAR, FSAR, ER, FES and SERs contain a great deal of meteorological information. Absent some demonstrated defect in that information or change in conditions, it is sufficient to permit a reasoned analysis of the replacement of steam generators as may be affected by meteorological conditions. No defect or change in conditions is set forth. No basis for a contention is alleged.

Contention 4 (Tr. 113-115) - Here the petitioners allege that noise and dust have not been considered [in the Report]. The Report addresses noise and dust due to construction in Section 7. No basis for a contention is alleged.

Contention 5 (Tr. 115-118) - Here petitioners allege the Report is deficient for not considering credible accidents such as tornadoes or erosion of the Lake Michigan shore line. Natural phenomena are not accidents, 10 CFR Part 50, Appendix A, Criterion 2. Credible accidents are considered in Section 6 of the Report.

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Mrs. Sinclair did not identify any credible accident which was not included in Section 6. No basis is given for the contention.

Contention 6 (Tr. 119-123) - Petitioners allege that there is no repository for the radioactive waste to be produced by the replacement of the steam generators. There is such a repository and it is discussed in Section 4 of the Report. Also, the removed steam generators could legally be stored on site, and this also is addressed in the Report as a possible, but not a preferred, alternative.

Contention 7 (Tr. 125-127) - Mrs. Sinclair alleges that NRC requirements for radiation exposure "simply can't be met in this kind of operation" (Tr. 126, lines 10 and 11). This is so vague as to be meaningless and no basis for the allegation is provided by Mrs. Sinclair. This lacks the specificity and basis required by 10 CFR §2.714. As the Supreme Court made clear in its Vermont Yankee decision:

[w]hile it is true that NEPA places upon an agency the obligation to consider every significant aspect of the environmental impact of the proposed action, it is still incumbent upon intervenors who wish to participate to structure their participation so that it is meaningful, so that it alerts the agency to the intervenors' position and contentions. ^{1/}

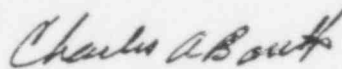
Contention 8 (Tr. 127-131) - Here petitioners allege that the replacement of the steam generators will result in radiological and chemical discharge which will

^{1/} Vermont Yankee v. NRDC, 435 U.S. 519, 552 (1978).

violate the 402 discharge permit (FWPCA). Mrs. Sinclair further states (Tr. 131, lines 7 and 8) that she doesn't know what pollutant will be the violator "but we know they will be" (Tr. 131, line 8). As a matter of law the 402 discharge permit under the FWPCA does not include radiation. Secondly, there is no specification of what pollutant, or in what manner, will violate the 402 permit nor is any basis given to substantiate the allegation. This completely lacks the specificity and basis required by 10 CFR §2.714. See Vermont Yankee, supra.

For all of the above reasons the Staff recommends that the eight contentions first submitted at the prehearing conference be denied, that there be **no** intervention, and that the Board issue an order terminating the proceeding.

Respectfully submitted,



Charles A. Barth
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 29th day of May, 1979

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CONTENTIONS SUBMITTED MAY 9, 1979
AT PREHEARING CONFERENCE

1) Total man rem exposure according to the applicants will be 7342 man rem. When any federal agency contemplates an action having this substantial human impact, there should be an Environmental Impact Statement (figure 4, 3-3) to consider both the semantic and genetic effects of this possibility.

2) The NRC staff evaluation of the Three Mile Island accident emphasized the fact that the repeated breakdowns and malfunctions that the Three Mile Island n-plant was experiencing was a clear indication that the plant was headed for a disaster. This was stated as a clear signal of severe trouble at an n-plant.

Given the poor quality control record of the Palisades plant which was brought into the record at the operating license hearing only by citizen intervenors, and given the history of frequent breakdowns and malfunctions of Palisades, and given the fact that the plant has operated at only 44% capacity, one alternative which was not considered in the applicants' report and that should be considered, is closing the plant down entirely beyond the purview of the proposed amendment.

3) The applicants' report is deficient because it fails to provide information concerning how meteorological conditions will affect the population through air borne emissions, the local usage of ground and surface water, and other local conditions.

4) The impact of the construction such as noise, dust, etc., on the surrounding environment which is a prize resort area has not been considered. This area is used by people to rest and recover from work--to maintain and improve their health. This activity will seriously affect the public health and safety of the surrounding area from construction activities alone.

5) We do not agree with the applicants' claims that there are no credible accident considerations associated with on-site storage of the steam generators that would result in the release of radioactivity. The report does not indicate that seismic considerations, tornados, or erosion of the Lake Michigan shore line in the decades that these generators must be stored will not threaten the release of radioactivity to the environment.

6) No repository now exists for safe disposal of any radioactive waste containing high degrees of radioactivity and the size of these steam generators which is stated as possible by applicants in their suggestion of disposing of the steam generators by shipping them by barge. No indication of what licenses would be required to ship these steam generators as a hazardous material by barge on the Great Lakes.

7) The applicant will violate NRC regulations in requiring occupational exposures to be kept as low as possible.

8) The applicant will violate the Federal Water Pollution Control Act which prohibits the discharge of any pollutant by any person except under the terms of a valid permit and according to report, plans to dispose of the polluted effluents at their own discretion.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF FURTHER RESPONSE TO CONTENTIONS SUBMITTED AT PREHEARING CONFERENCE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 29th day of May, 1979:

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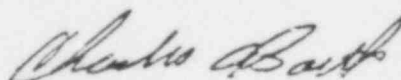
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