



Three major areas of concern for public health and safety are raised by the Petitioner's contentions: (1) the long term on site storage of steam generator lower assemblies in an earthen floor facility; (2) the occupational radiation exposure; and (3) the release of liquid effluents containing radioactivity into a closed cycle cooling canal. The witnesses set forth below will testify with regard to those issues.<sup>1/</sup>

KARL Z. MORGAN

Professor Karl Z. Morgan is Neeley Professor in the School of Nuclear Engineering at the Georgia Institute of Technology, Atlanta, Georgia. He received his Ph.D. at Duke University. Professor Morgan was the first president of the Health Physics Society and the International Radiation Protection Association. He is an emeritus member of the National Council on Radiation Protection and Measurement and a member of the International Commission on Radiological Protection. He was awarded a gold medal by the Royal Academy of Sweden for his work in Radiation Protection.

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<sup>1/</sup> We do not abandon the issues raised by contentions addressing the safety of the present operation at Turkey Point or the potential for recurring steam generator repairs. However, this submission focuses on the three enumerated areas in order to satisfy the Board that the Petitioner has the ability to contribute to a hearing.

One of the more recent of the 300 articles published by Professor Morgan is an April 5, 1979 New Scientist article entitled "How Dangerous Is Low Level Radiation?"

Professor Morgan will address the occupational radiation exposure problem created by the proposed repairs. The recently prepared Safety Evaluation Report (SER) on Turkey Point Plants 3 and 4 apparently believes the licensee's "estimated 1300 man-rem" exposure is within tolerable bounds. See SER pp. 2-9 through 2-11. Professor Morgan's recent New Scientist article recommends a 500 man-rem limit. His testimony will explain his conclusions and also analyze the validity of the licensee's methods for determining the exposure level.

Moreover, Professor Morgan's testimony will deal with the potential radiation dangers stemming from the method of on-site storage and release of radioactive effluent. That testimony will be elicited after laying a predicate built on meteorological data reflecting unique South Florida dangers caused by the possibility of surging tides and winds accompanying a major hurricane.<sup>2/</sup>

WALTER GOLDBERG

Walter Goldberg is an associate professor at Florida International University. He received his Ph.D. in Oceanography from the University of Miami in 1973 and currently specializes in radioecological studies, evaluating the impact of radionucleoids on marine organisms and marine environments.

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<sup>2/</sup> The meteorological data is presently available from various published sources and reflects analyses of South Florida storms. The licensee's use of the 10.1 foot storm tide during Hurricane Betsy in 1965 fails to consider the potential dangers posed by more serious hurricanes. Since the Petitioner has not pursued the meteorological side of his case until counsel recommended it, the names of any witnesses are not presently available.

Professor Goldberg is a member of the Health Physics Society and served as a consultant to the Florida Department of Environmental Regulation to assist in the review of the Florida Power and Light site certification application for the St. Lucie No. 2 plant. He has some expertise in South Florida weather conditions.

Building on that expertise and the meteorological data to be submitted, Professor Goldberg will examine the possible consequences of escape of radioactive material from the on-site waste facility and the cooling canals. Obviously the integrity of the stored steam generator seals will be considered, since leakage upon the earthen floor, washed and drained by underground flooding resulting from strong storm activity, could seriously damage Biscayne Bay and inland areas. Similarly, strong winds and tides surging over the cooling canal system could create a similar effect.<sup>3/</sup>

Professor Goldberg will focus on the marine dangers; Professor Morgan will focus on the risk to human health and safety caused by such eventualities.

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<sup>3/</sup> The NRC Staff Response of May 23, 1979, p. 3, intimates that Petitioner's "environmental" claims are resolved by the decision in U.S.A. v. F.P.&L., No. 70-328-CA (S.D. Fla. 1971). The admonition against Turkey Point discharges into Biscayne Bay contained in that decision would be small consolation to human and marine life accidentally destroyed as a result of a serious storm. The thrust of the Petitioner's case is the danger to life proposed by the suggested repairs; an issue the NRC is supposed to consider. NRC staff misses the point when it seeks to dismiss Petitioner's environmental claims as beyond the jurisdiction of this Board.

B. THE 10 CFR §2.714(a)1 STANDARDS

Resolution of this Petition to Intervene is governed by the several factors enumerated in 10 CFR §2.714(a)(1)(ii)-(v). We address those factors in light of the material submitted above.

THE AVAILABILITY OF OTHER MEANS WHEREBY  
THE PETITIONER'S INTEREST WILL BE PRO-  
TECTED AND THE EXTENT TO WHICH PETITION-  
ER'S INTEREST WILL BE REPRESENTED BY  
EXISTING PARTIES.

Unless the Petitioner is permitted to participate, the public safety and health issues presented by the Turkey Point repairs will be determined primarily by NRC staff. We do not denigrate the ability and commitment of that staff, but in matters which vitally affect the health and safety of thousands of South Florida residents, it is not unfair to ask that those residents have a chance to be heard on a subject which is critical to their future.

The NRC staff's understanding of the unique environmental problems here is remote and the Commission is even more removed from South Florida safety considerations. Commissioner Galinsky, testifying before the special panel appointed by President Carter to investigate the Three Mile Island accident said:

"Safety is still the number 1 area for the Commission, there's no question of that. But it has not delved as deeply, I think, into the details of that area of decision-making as it has in other areas."

Miami Herald, June 2, 1979, p. 2A.

Leaving the resolution of the licensee's application only to the NRC staff and the licensee will prevent the "deeper delving" which can only occur when critical or opposing viewpoints are aired. Hearings after an accident come too late. Hearings before the repairs are made cannot insure the safety and health of South Florida residents, but they can guarantee that a decision made by this Board or the NRC is based on all relevant information.

For example, we are concerned about various inconsistencies in the licensee's position which have occurred throughout their submissions. Without belaboring the point, we note that Section 3.4.5.1(d) of the Steam Generator Repair Report says "90 days of radioactive decay assumed prior to cutting operations." Section 5.2.2.1(e) of the Report states "15 days of radioisotopic decay were assumed prior to cutting the reactor pipes." Which statement is accurate? Permitting the Petitioner to participate would allow these queries to be raised and resolved.

The essence of Petitioner's position is that he is entitled to an opportunity to be heard. NRC staff does not speak for him. The licensee does not speak for him. Therefore his interests cannot be protected by those parties. His attempt to intervene has a constitutional foundation. The Fifth Amendment provides protection against deprivation of life, liberty or property without due process of law. The regulatory authorization for intervention is an effort to provide due process for interested and affected citizens. Armstrong v. Manzo, 380 U.S. 545, 552 (1965) defined due process this way:

A fundamental requirement of due process is 'the opportunity to be heard' Grannis v. Ordean, 234 U.S. 385, 394. It is an opportunity which must be granted at a meaningful time and in a meaningful manner.

Granting Mark Oncavage a hearing prior to permitting the steam generator repairs is the only meaningful time for protecting the life and property of all South Florida residents.

THE EXTENT TO WHICH PETITIONER'S PARTICIPATION MAY REASONABLY BE EXPECTED TO ASSIST IN DEVELOPING A SOUND RECORD AND THE EXTENT TO WHICH THE PETITION WILL BROADEN OR DELAY THE PROCESSING

By telephone conversations on June 4, 1979, undersigned counsel has obtained commitments from Professors Morgan and Goldberg to testify in the manner proffered above.<sup>4/</sup> Hopefully this representation alleviates the licensee's concern over the Petitioner's failure to present evidence on the nature, scope and relevancy of the testimony. Florida Power and Light Response, May 21, 1979, p. 6.

Similarly, we have addressed the NRC staff's request for the identity and qualifications of Petitioner's witnesses. In addition, by presenting testimony from Dr. Morgan concerning occupational radiation exposure, we have raised a "significant matter not considered by the staff." NRC Staff Response of May 23, 1979, p. 4. Compare also the NRC Staff Response of April 6, 1979, which may fairly be read as supporting Petitioner's intervention if he became more specific regarding witnesses and testimony. He has now provided that information and demonstrated the contribution he can make to a sound record.

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<sup>4/</sup> The only caveat to those commitments regards the date of the hearing, should one be set. Dr. Morgan has international travel plans this summer.

Allowing the Petitioner to intervene will not cause serious delay or broadening of the proceedings. While it is true that another party creates additional issues, the benefit derived from hearing opposing contentions far outweighs any small time savings gained by exclusion of Mr. Oncavage. A pre-hearing conference will serve to narrow and define the scope of the hearing, thereby eliminating redundant and irrelevant testimony. Stipulations can save time. Submission of written materials without live testimony may expedite the proceedings. Numerous devices are available to the Board for insuring the integrity of the hearing process.

Finally, to the extent that the presence of counsel enhances a fact finding proceeding, the commitment of counsel to this case also helps insure the ability of the Petitioner to present a sound record.<sup>5/</sup>

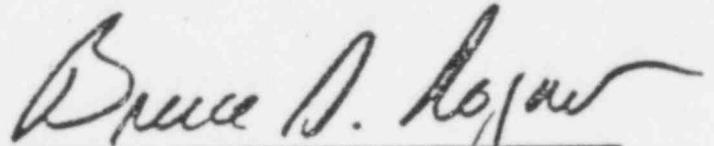
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<sup>5/</sup> Undersigned counsel has submitted a Notice of Appearance pursuant to 10 CFR §2.713(a) and will serve as lead counsel in this matter. He has commitments from several other South Florida lawyers to assist in the preparation of this case if Mr. Oncavage does become an intervenor. No useful purpose would be served by submitting additional Notices of Appearance until Mr. Oncavage's intervention status is determined.

CONCLUSION

For the foregoing reasons, MARK P. ONCAVAGE's  
Petition to Intervene should be granted.

Respectfully submitted,



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