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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)	
)	
VIRGINIA ELECTRIC AND POWER)	Docket Nos. 50-338SP
COMPANY (VEPCO))	50-339SP
)	
(North Anna Power Station)	Proposed Amendment to
Units 1 and 2))	Operating License NPF-4

Order Overruling Objections by Intervenors to
Licensing Board's Designation of Contentions

In its Order dated April 21, 1979, entitled Order Granting Intervention, Providing for a Hearing and Designating Contentions of Intervenors, the Licensing Board designated contentions of the intervenors Potomac Alliance and Citizens Energy Forum for the scheduled hearing. The order itself, including the designation of contentions, reflected the Licensing Board's consideration of presentations by the parties, Virginia Electric and Power Company (VEPCO) and the NRC Staff, and by the intervenors at their conference in this special proceeding on Thursday, March 29, 1979 at Charlottesville, Virginia.

Potomac Alliance and Citizens Energy Forum (CEF) each filed a Statement of Objections, dated May 2 and May 3, 1979, respectively, on account of the Licensing Board's designation of contentions in its order of April 21, 1979. Compliance with the 5 days limitation for making

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objections pursuant to 10 CFR §2.751a(d), under which Potomac Alliance and CEF filed its objections, and compliance with any timing requirement for VEPCO's answer to the objections are both assumed.

The objections of the intervenors are considered below under the headings used by the intervenors in their respective Stipulations of Contentions executed on March 29, 1979, which were then presented to the Licensing Board at the conference of that date.

Alternatives (at Attachment C of Stipulation of Contention by Potomac Alliance)

The subject of "Alternatives" as set forth at Attachment A of Potomac Alliance's referenced Stipulation of Contentions, which Attachment A had been agreed to by Potomac Alliance, VEPCO and the NRC Staff as a listing of acceptable contentions, was used verbatim by the Licensing Board in its order of April 21, 1979. At the same time, the Licensing Board did not use the second contention under the same subject heading of "Alternatives" as proposed by Potomac Alliance alone at Attachment C of the referenced Stipulation of Contentions. This second contention was unacceptable to both VEPCO and the NRC Staff.

In the Licensing Board's judgment, the first two of the latter set of "Alternatives" are not within the alternatives with which the Applicant needs to concern itself in the absence of showing that they are

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fundamentally better than the applicant's proposal. Thus it is the Licensing Board's view that neither VEPCO nor the NRC Staff must show that it adequately considered:

"(a) the use of design features which increase the safety of the spent fuel pool, such as boral plates or radiation absorbing safety curtains;

"(b) the use of different rack configuration from that proposed by the Applicant. . . . "

Nor, in the Licensing Board's opinion, is VEPCO obliged to consider the proposed third alternative to its proposed action, namely --

"(c) the derating of Units 1 and/or 2, in order to postpone the point at which additional spent fuel storage capacity will be needed. "

VEPCO is not required to consider the downgrading, in effect, of its operating license already granted. Further, in the licensing proceedings culminating in the grants of a construction permit and operating license of the plants in question, the need for the power of the plants at their full capacity was established, and there is no requirement for re-viewing that need further.

Emissions (at Attachment A of Stipulation of Contentions by
Potomac Alliance)

Potomac Alliance objected to the consolidation of its contention, which the Licensing Board accepted verbatim, with a similar contention, also entitled Emissions of Citizens Energy Forum (CEF), under CEF's management. The Licensing Board affirms that the two contentions are well within its authority, under 10 CFR §2.714(e) and 10 CFR §2.715a, to consolidate under CEF's management. Potomac Alliance's objection to the consolidation has since become moot in view of the recent consolidation of the full cases of Potomac Alliance and of CEF under the former's management.

Heavy Loads (at Attachment A of Stipulation of Contentions
by CEF)

The contention of Heavy Loads concerns a dropped full element upon fully loaded racks in the spent fuel pool, as the racks are proposed to be modified. The analyses of a dropped spent fuel element in the applicant's FSAR Paragraph 15.4.5.1, in the Staff's SER Section 15.4, and in the SER related to this license amendment are all applicable here. Basically, the increased density of fuel in the fuel racks does not alter the fact that the proposed spent fuel pool arrangement would be adequately sub-critical after the postulated drop of fuel element upon the top of the racks.

Leakage (at Attachment A of Stipulation of Contentions
by CEF)

The general subject of leakage in the spent fuel pool is treated under the subject of Thermal Effects. A separate heading to cover the material in CEF's Leakage contention was not deemed necessary.

No Proven Need (at Attachment A of Stipulation of Contentions
by CEF)

The proposed contention that VEPCO has failed to demonstrate the present need to make the proposed modification is not a legitimate one. It is clearly associated with the need for the plant itself, which had been satisfied in prior licensing proceedings.

Final GEIS (at Attachment B of Stipulation of Contentions
by CEF)

The contention echoes the opinion of the General Accounting Office that NRC should not permit spent fuel compaction unless a reactor is threatened with shutdown, pending a final generic environmental impact statement. The contention further states that NRC violates the National Environmental Policy Act when it permits spent fuel compaction on a case by case basis without the benefit of a final generic environmental

impact statement. The foregoing contention is unacceptable in this proceeding as it is contrary to NRC policy.

The two technical members of the Board agree with this Order and participated in its preparation.

Done on this 8th day of June, 1979, at Washington, D. C.

ATOMIC SAFETY AND LICENSING
BOARD

By Valentine B. Deale
Valentine B. Deale, Chairman

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