November 9, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	§	
	§	
HOUSTON LIGHTING & POWER COMPANY	§	Docket No. 50-466
	§	
(Allens Creek Nuclear Generating Station, Unit 1)	§	

MOTION FOR DISMISSAL OF TEX PIRG

I. INTRODUCTION

Houston Lighting & Power Company ("Applicant") hereby moves the Atomic Safety and Licensing Board to issue an order, pursuant to 10 CFR §2.707, dismissing the Texas Public Interest Research Group ("TexPirg") as a party to this proceeding for failure to comply with discovery orders. In support of this motion Applicant will show that TexPirg has, over a period of several months, engaged in a persistent course of conduct in violation of express orders of the Licensing Board and has thwarted any meaningful discovery of its case.

II. BACKGROUND

In two Orders issued by this Board on July 12, 1979, TexPirg was directed: (1) to resubmit its answers to Applicant's First and Second Set of Interrogatories, to

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be signed under oath or affirmation by the person who had both knowledge of the information contained in the answers and the authority to answer for TexPirg; (2) to "file more complete and/or responsive answers" to certain of the interrogatories contained in Applicant's Second Set of Interrogatories as prescribed by the Board;[1] and (3) to file a designation naming persons who were authorized to speak for TexPirg in a representative capacity.[2]

The Board issued the two July 12 Orders in response to a motion to compel filed by the Applicant on June 21, 1979. Applicant's problem arose out of the role which John Doherty, another party in this case, had played in representing TexPirg in discovery matters and TexPirg's subsequent repudiation of that role. As set forth in that motion, Applicant had reached a point in June where it was unable to proceed with discovery against TexPirg.

A. Events Leading up to Applicant's June 21 Motion to Compel.

Briefly by way of background, on March 13, 1979, Applicant served a notice of deposition on John F. Doherty requesting him to appear on March 26, 1979 for the "taking of a

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1/ These directions were contained in the order referred to herein as the "July 12 Memorandum and Order."

2/ This direction was contained in the order referred to herein as the "July 12 Order."

deposition concerning TexPirg's admitted contentions." At the deposition, Mr. Doherty stated under oath that he had been a member of TexPirg since the end of 1977 and explained that he was then Acting Research Director of that organization. Mr. Doherty also represented that he was acting as spokesman for TexPirg in responding to the questions asked in the deposition. On the next day, March 27, 1979, TexPirg served its answers to Applicant's First Interrogatories to TexPirg, wherein TexPirg was asked to provide the names and addresses of all of its officers and directors. The interrogatory answers stated that Mr. Doherty was the Acting Research Director of TexPirg. Moreover, the interrogatories were signed by Mr. Doherty as the "Executive Director" of TexPirg. In short, Mr. Doherty repeatedly held himself out as the spokesman for TexPirg and also represented that he had the status of a corporate officer.

While Mr. Doherty's deposition and his answers to Applicant's First Interrogatories to TexPirg clearly indicated that Mr. Doherty was authorized to speak for the organization, TexPirg served answers to Applicant's Second Interrogatories on June 8, 1979, wherein TexPirg's attorney, James Scott (who signed the interrogatories on behalf of TexPirg), stated that Mr. Doherty no longer worked for

TexPirg and was not authorized by TexPirg to make certain statements in his deposition.

Thus, as of June, 1979, Applicant was faced with an impossible situation -- for several months Applicant's discovery directed at TexPirg had been responded to by Mr. Doherty. While Mr. Doherty had sworn under oath that he spoke for the organization,[3/] counsel for TexPirg subsequently disclaimed Mr. Doherty's representations of such authority. The Applicant filed its motion of June 21 seeking a way out of this morass. The Board's Orders of July 12 confirmed that the Applicant's discovery efforts were not oppressive[4/] and that it was entitled to the relief requested. As described below, TexPirg's subsequent course of conduct has further obstructed Applicant's discovery efforts in a manner which simply flaunts the substance of the Board's July 12 Orders.

On July 23 and 25, 1979, TexPirg filed a group of documents in response to the Board's orders. A copy of those documents is attached to this motion in exactly the

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3/ The representations by Mr. Scott as to Mr. Doherty's lack of authority to speak for TexPirg did, of course, raise serious questions as to the truthfulness of Mr. Doherty's sworn testimony. Obviously, there is no way for both of them to be correct.

4/ July 12 Memorandum and Order, p. 3.

form they were received from TexPirg (Exhibit A hereto).[5/] Page 2 of Exhibit A states that Mr. Scott and Mr. Johnson are the designated representatives of TexPirg. This representation was filed in response to the Applicant's motion seeking designation of agents by TexPirg for purposes of discovery and the Board's July 12 Order granting that motion. Page 23 of Exhibit A is an affidavit filed by Messrs. Scott and Skie in which Mr. Scott swears, inter alia, "that he answered" the Applicant's First and Second Interrogatories except for the one interrogatory answered by Mr. Skie. The affidavit also recites that each (Mr. Scott and Mr. Skie) "has stated responses contained therein as true and correct to the best of each's knowledge."

It should be noted that Mr. Doherty executed TexPirg's responses to Applicant's First Set of Interrogatories and that Mr. Scott executed the responses to the second. The July 12 Memorandum and Order expressly required TexPirg to "resubmit" its answers to each set and that the resubmission be signed by a person "with knowledge of the information contained in each of said answers and who has been authorized by TexPirg to submit such answers." TexPirg's

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5/ Applicant has taken the liberty to paginate this document in the upper right-hand corner for ease of reference in this motion.

July 25 submission stated that Messrs. Scott and Skie possessed the requisite authority. However, it failed to state that either individual "had knowledge of the information contained in" the answers. Nor did the affidavit state that Mr. Scott was adopting Mr. Doherty's answers to the First Set of Interrogatories. Rather it unequivocally stated that Mr. Scott "has answered" those interrogatories and that the responses were true and correct "to the best of [his] knowledge." Accordingly, Applicant issued a notice for Mr. Scott's deposition since he appeared to be the individual from whom clarification and further information relating to "his" answers to the first and second set of interrogatories could now be obtained.

B. Mr. Scott's Deposition.

On September 12, 1979, Mr. Scott appeared for his deposition in the offices of counsel for Applicant.[6/] After asking a number of questions about Mr. Scott's background (Dep., pp. 6-26), counsel for Applicant questioned Mr. Scott about certain answers contained in TexPirg's Answer to Applicant's First Interrogatories. Mr. Scott, indicated,

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6/ A copy of Mr. Scott's deposition is being provided to the members of the Board because of the numerous references to the deposition in this motion.

in effect, that he could not answer counsel's question because the answers to the First Interrogatories were "TexPirg's", not his. (Dep., pp. 28-29). Counsel for Applicant then confronted Mr. Scott with the affidavit that he had signed in which he swore that he had answered Applicant's First and Second Interrogatories. (Dep., pp. 30-38). In response Mr. Scott explained that the affidavit was signed with the intent that ". . . if I as an attorney had not done the research and written the literal words in a question, that was meant that this is a TexPIRG answer."[7/] (Dep., p. 36). Mr. Scott then stated with respect to the First Interrogatories that "it wasn't my answer. If you notice, that was signed by John Doherty." When asked why he had signed an affidavit attesting that "he had answered" those interrogatories, Mr. Scott first said "I don't know

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7/ Mr. Scott first explained that the affidavit was a "mistake". (Dep., p. 40). Then Mr. Scott accused counsel for Applicant of trying to "trap him" by showing him documents with different dates, i.e., the answers signed by Doherty on March 27 and the affidavit signed by Scott on July 23. (Dep., pp. 41-45). Incredibly, Mr. Scott then stated that the affidavit had "nothing to do with the March submittal." (Dep., p. 45). However, there has never been any other answers to Applicant's First Interrogatories other than the ones signed by Doherty in March. Mr. Scott testified he knew of no other documents. (Dep., p. 82).

that I did." And even when confronted with his affidavit of July 23, 1979, he admitted: "Well, I obviously didn't answer those questions. John Doherty answered them." (Dep., pp. 38-39).

III. TEX PIRG IS IN CONTEMPT OF JULY 12 ORDER

A. Non-compliance with July 12 Memorandum and Order.

The foregoing clearly establishes that TexPirg never complied with the July 12 Memorandum and Order. That order specifically directed TexPirg to resubmit its answers under oath by the person with knowledge of the information contained in each of the answers. The only purported response to that order is the attached Exhibit A. TexPirg did not resubmit answers to the First Interrogatories. All that was submitted was an affidavit stating that Mr. Scott had answered them, and that statement has now been repudiated. It is quite clear from examination of Exhibit A that Mr. Scott simply duplicated Mr. Doherty's answers and then attached an affidavit saying he, Mr. Scott, had answered them. The deposition testimony confirms this.

Nor have responses to the First and Second Set of Interrogatories been resubmitted by individuals with "knowledge of the information" contained in the answers as required by the July 12 Memorandum and Order. By his own

admission, Mr. Scott did not have any personal knowledge of the answers. To the contrary, Mr. Scott flatly admitted that he was not submitting the answers in the "expert witness sense" but "as attorney I was submitting them as TexPirg's responses." (Dep., p. 59). In the same vein, Mr. Scott also admitted that he could only answer interrogatories as "true and correct" as to issues on which he intends to testify as an expert. All other answers were signed simply as TexPirg's attorney. (Dep., p. 79).

B. Improper Assertion of Attorney-Client Privilege.

As can be seen from reviewing the deposition, Mr. Scott repeatedly fended off questions about the interrogatories by assertions of attorney-client privilege. Mr. Scott stated that he would answer questions as to TexPirg Additional Contention 6, relating to over-pressurization of the containment, because he was going to be the "expert" witness on this contention for TexPirg.[8/] However, Mr. Scott

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8/ If TexPirg is permitted to remain a party in this case it is clear that Mr. Scott will be disqualified to represent TexPirg. An attorney cannot serve in the dual role of attorney and expert witness, with a possible narrow exception which does not apply here. See, J. P. Foley & Co. Inc. v. Vanderbilt, 523 F.2d 1357 (2nd Cir. 1975); Supreme Beef Processors, Inc. v. American Consumers Industries, Inc., 441 F.Supp. 1064 (N.D. Tex. 1977).

reiterated repeatedly that he would not answer questions on any of TexPirg's other contentions -- again asserting the attorney-client privilege even though he had been designated as one of two people to represent TexPirg for discovery purposes and even though he filed an affidavit in which he swore that he had answered the First and Second Interrogatories. (Dep., pp. 40, 45, 47, 80).

Mr. Scott's assertion of attorney-client privilege is entirely without merit. When an attorney is deposed by an opposing party, that attorney's obligation to answer questions at the deposition is subject to the right to claim the privilege only "regarding matters as to which the attorney-client privilege may be invoked." In Re Penn Central Commercial Paper Litigation, 61 FRD 453 (S.D.N.Y. 1973). "The mere fact that a person is an attorney does not render as privileged everything he does for and with a client." United States v. Bartone, 400 F.2d 459, 461 (6th Cir. 1968), cert. den., 393 U.S. 1027. Most importantly, a party cannot make his attorney the repository of information relevant to a particular proceeding and thereby shield that information from discovery by asserting the attorney-client privilege. Balistrieri v. O'Farrell, 57 FRD 567, 569 (E.D. Wis. 1972); see also, Merrin Jewelry Co. v. St. Paul Fire and Marine Ins. Co., 49 FRD 54, 57 (S.D.N.Y. 1970).

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TexPirg designated Mr. Scott as an agent against whom discovery may be directed for all purposes. The designation (Exhibit A, p. 2), contains no limits on Mr. Scott and, indeed, he signed answers as to interrogatories directed to each and every TexPirg contention. Thus, TexPirg obviously regards Mr. Scott as a repository of information relevant to this proceeding. Given these facts, it is difficult to imagine how any factual information related to TexPirg's contentions could be construed as a "confidence" imparted to Mr. Scott by his client. The simple fact is that if there ever was any privilege to assert TexPirg waived it by designating Mr. Scott as an agent to answer discovery requests. As an attorney, Mr. Scott was charged with knowledge of such waiver and clearly had no basis for the tactic that he followed in his deposition.

C. Mr. Scott's Deposition Indicated Further Non-compliance with §2.740b.

On September 7, 1979, TexPirg served its answers to Applicant's Third Interrogatories. As noted in an order issued by the Board on August 27, 1979, TexPirg excused its failure to comply with the deadline for answering the interrogatories because its expert, Mr. Sansom, had not

been able to work on them due to flooding of his home. When the answers were finally delivered, however, the affidavit attached to the answers was signed by Mr. Clarence Johnson. (Exhibit B hereto).

Counsel for Applicant immediately queried Mr. Scott as to the incongruity between TexPirg's representation that Mr. Sansom had been unable to work on the interrogatories and the fact that they were signed by Mr. Johnson. Mr. Scott responded that Mr. Sansom had in fact answered the interrogatories. Counsel for Applicant thereupon advised Mr. Scott that he should bring the proper affidavit from Mr. Sansom to Mr. Scott's deposition on the following Wednesday; however, Mr. Scott appeared at his deposition without the affidavit. At that time, he explained that he had sent the interrogatories to Mr. Sansom to answer, that Mr. Sansom had done most of the work on the answers and that he had even attempted to get an affidavit from Mr. Sansom. (Dep., pp. 85-88). Given these admissions, it is clear that Mr. Johnson's affidavit (like Mr. Scott's July affidavit) was filed as nothing more than an expedient in order to give the appearance of compliance with 10 CFR §2.740b(b).

TexPirg has again failed to provide proper answers to interrogatories. As explained below, Applicant believes dismissal is the only proper remedy for such continued non-compliance with the rules of discovery.

IV. DISMISSAL IS THE ONLY APPROPRIATE REMEDY

Applicant believes the Board should dismiss TexPirg as a party for its repeated and deliberate refusal to comply with Applicant's discovery requests and for flagrant disregard of this Board's discovery orders. The Board is empowered to exercise the dismissal sanction under 10 CFR §2.707, and other Boards have done so where intervenors refused to comply with discovery requests and orders. See, Offshore Power Systems (Manufacturing License for Floating Nuclear Power Plants), 2 NRC 813 (1975); Public Service Electric and Gas Company (Atlantic Nuclear Generating Station, Units 1 and 2), 2 NRC 702 (1975); Northern States Power Company, et al. (Tyrone Energy Park, Unit 1), 5 NRC 1298 (1977). Under the Commission's rules of practice, the Applicant has the burden of proof of an intervenor's admitted contentions. 10 CFR §2.732; Consumers Power Company (Midland Plant, Units 1 and 2); ALAB-315, 3 NRC 101 (1976). "Unless it can effectively inquire into the positions of the intervenors, discharging that burden may be impossible." Northern States Power Co., 5 NRC at 1300.

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What TexPirg has done is far worse than a simple refusal to answer discovery requests. TexPirg has utilized a series of evasive tactics which have had the effect of precluding meaningful discovery while giving the appearance of attempting to comply with the regulations and this Board's Orders.

Under the analogous Rule 37 of the Federal Rules of Civil Procedure,[9/] the Federal Courts have on numerous occasions dismissed parties for failure to comply with the Courts' discovery orders. E.g., Emerick v. Fenick Industries, 539 F.2d 1379 (5th Cir. 1976); Mangano v. American Radiator & Standard Sanitary Corp., 438 F.2d 1187 (3rd Cir. 1971); Diaz v. Southern Drilling Company, 427 F.2d 1118 (5th Cir. 1970), cert. denied sub nom. Trefina v. United States, 400 U.S. 878. In Diaz, the Court dismissed a party who had forwarded a litany of excuses, including assertions by a deposed corporate agent that he did not have authority to make representations on behalf of a corporate party, which served to delay and avoid the progression of meaningful discovery. The Court there noted that:

9/ When the Commission revised its rules of practice in 1972, it specified that the new section on discovery, 10 CFR §2.740 "adopts rules 26 and 37 of the Federal Rules of Civil Procedure." 37 Fed.Reg. 15127 (July 28, 1972).

> "Without adequate sanctions the procedure for discovery would be ineffectual...a party who seeks to evade or thwart a full and candid discovery incurs the risk of serious consequences. Wright, Federal Courts, §90 (1963)." Id., 427 F.2d at 1126.

The Supreme Court recently affirmed that dismissal must be available as a penalty against those whose conduct warrants such a sanction and as a deterrent to parties who might be tempted to flout discovery orders of other courts in the future. National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639, 96 S.Ct. 2778, rehearing denied, 429 U.S. 874, 97 S.Ct. 197 (1976). Where a party's refusal to respond to discovery requests and court orders constitutes "flagrant bad faith" and a "callous disregard" of responsibilities that counsel owes to the Court and opposing parties, the dismissal sanction is appropriate. 96 S.Ct. at 2781.

TexPirg has never, over a period of seven months, complied in any meaningful way with reasonable discovery requests and Applicant has therefore been utterly unable to advance the preparation of its case. In addition, TexPirg has acted in contempt of the Board's July 12 Orders attempting to structure meaningful discovery. Given TexPirg's past and continuing conduct, the Board cannot fashion any appropriate remedy short of dismissal.

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Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	§	
	§	
HOUSTON LIGHTING & POWER COMPANY	§	Docket No. 50-466
	§	
(Allens Creek Nuclear Generating Station, Unit 1)	§	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Dismissal of TexPirg in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 9th day of November, 1979.

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EXHIBIT A

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TexPIRG
Texas Public Interest Research Group
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(713) 749-3130

7-25-79

To: Docketing and Service

Attached find one original and 20 copies of TexPIRG's filing in Docket #50-466.

---Clarence Johnson

I

Doc. 50-466

I, Clarence Johnson, herein certify that the attached filing pursuant to the Board's Order of July 12, 1979 was served by mail on this the 25th day of July, 1979 upon the following:

J. Gregory Copeland
Sheldon Wolfe
Dr. E. Leonard Cheatum
Gustave Linenberger
Richard Lowerre
R. Gordon Gooch
Stephen Sohinki
John Doherty
Carro Hinderstein
Brenda McCorkle
Wayne Rentfro
F.H. Potthoff III
Kathryn Hooker
Madeline Framson
David Marrack

ocation	Key Participants	Process	Output	Reported Capacity	Reported Capital Costs (millions of $)	Status
coma, sh.	City of Tacoma (owner/ operator); Boeing Engineering (designer)	Shredding; air classification; magnetic separation	RDF; magnetic metals; steam	500 TPD	2.5[i]	In shakedown; full operation by late Fall 1978
lmington, l.*	Delaware Solid Waste Authority; EPA; Raytheon Service Co.	Shredding; air classification; magnetic and other mechanical separation; froth flotation; aerobic digestion	Ferrous metals; nonferrous metals; glass; RDF; humus	1000 TPD municipal solid waste coprocessed with 350 TPD of 20% solids digested sewage sludge	51[k] 9 from EPA, OSW; 16 from EPA, Water Prog.; 6 from State matching grants; remainder from the Authority through sale of revenue bonds	Contract signed August 10, 1978 with Raytheon Service Co.; groundbreaking expected by Sept. 1979

The following localities are either operating or constructing small modular combustion units to produce steam from mass combustion of municipal solid waste:

Operating:
- ✓ Blytheville, Ark. (50 TPD)
- Groveton, N.H. (30 TPD)
- ✓ Siloam Springs, Ark. (19 TPD)
- ✓ North Little Rock, Ark. (100 TPD)

In shakedown:
- Crossville, Tenn. (60 TPD)
- Salem, Va. (100 TPD)

Under construction:
- Lewisburg, Tenn. (50 TPD)

In addition to the systems listed above, projects are underway to recover methane-containing gas mixtures from sanitary landfills which can be purified to pipe line quality. They are:

Azusa, Calif. – Azusa Land Reclamation Co., a wholly-owned subsidiary of the Southwestern Portland Cement Co. – Began operations in April 1978

Mountain View, Calif.* – City of Mountain View; EPA; Pacific Gas & Electric Co. – In shakedown

Palos Verdes, Calif. – Los Angeles County Sanitation District; Reserve Fuels, Inc. (joint venture of Reserve Oil & Gas Co. and NRG, Inc.) – Operational

Staten Island, N.Y. – (Fresh Kills Landfill) – New York City Resource Recovery Task Force; Brooklyn Union Gas Co., Inc.; Leonard S. Wegman, Inc.; New York State Energy Research and Development Authority – Plan to enter demonstration phase of project; preliminary testing of gas has been completed

The following state and local governments are in the "Request for Proposal" (RFP) stage, *i.e.*, RFP's have been issued – or are reportedly imminent – but contracts have not been signed:

Auburn, Maine
Central South Central Conn.
Jefferson County, Ky.
Knoxville, Tenn.
Montgomery County, Ohio
St. Paul, Minn.
Seattle, Wash.
Tulsa, Okla.

Cost information as reported:

[a]Construction (including $5 million for extensions to existing steam distribution system) $31 million; engineering and construction supervision $1.5 million; interest during construction $5.5 million; contingency, start-up and land costs $1.5 million; fees, underwriting and issuance costs $2.0 million; debt service reserve fund requirement $4.5 million.

[b]Construction and engineering $5.6 million; land $98,000; miscellaneous equipment $165,000; plant start-up in Fall 1975 $322,000.

[c]Total revenues (including bond proceeds and investment income) $54,386,040. Total expenditures: $53,386,040, consisting of the following: project development $3,026,458; bond issue expenses $1,391,413; construction $39,549,771; special capital reserve $5,022,588; debt service $5,395,810 (including main facility and six transfer stations).

[d]Includes design and construction. Funding through G.O. bonds.

[e]Including incineration.

[f]Cost of Phase II of the project including construction of the resource recovery facility alone and in-plant equipment. Built in conjunction with Phase I which includes central receiving, transfer station and transfer equipment which cost approximately $2.2 million.

[g]For the processing plant

[h]Total funding authorized by county legislature; $50.4 million, including an $18.5 million grant-in-aid from New York State, O.E.C. funding under the Environmental Quality Bond Act. Includes $28.4 million for construction of the resource recovery facility. Construction of Russell Station RDF handling facility is estimated at $8 million. Balance of funds will be spent for engineering, startup, mobile equipment, etc.

[i]Includes Reduction Module (including landfill) $4,908,000 and Recovery Module $2,848,300.

[j]Not including shredder which was already on-site.

[k]Total project costs – $51 million, including $20 million for sludge module.

*Partially funded by the U.S. Environmental Protection Agency (EPA)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	X	
	X	
HOUSTON LIGHTING AND POWER CO.	X	Docket No. 50-466
	X	
(Allens Creek, Unit 1)	X	

TEX PIRG'S RESPONSE TO H L&P'S SECOND SET OF INTERROGATORIES

Tex PIRG submits the following answers to the questions.

1. Building Allens Creek at the S. Texas construction site prevents environmental damages to the farm land, fresh water, wildlife, and nearby people and only 1/5th as many people would be exposed to the safety dangers from the plant within the 50 mile radius. The NRC staff says that 17,700 acre-ft per year would be saved.

2. Page 10.7 of S. Texas ES. Also Houston L&P would not be so dumb as to build a lake that was planned for 4 units if it did not know that it had enough water for four (not just 3) units.

3. Applicant owns 11,152 acres at Allens Creek site of which the bottomland portion(about 9,000 acres) is Prime-1 farmland and the upland portion(about 2,000 acres) is prime-2 farmland.(b) I din't know.

4. Page S.9-11 of Allens Creek final Supplement.

5. The Harris-Galveston County Subsidence District requires present users of ground water to convert to surface water. A large amount of Brazos River is already being diverted for use in the Houston area by the Brazos River Authority, i.e. Oyster Creek Canal system.

6. Rice, sorghum, corn, cotton, hay, and other crops that could be grown on the Allens Creek land would have to be transported longer distances (at high freight rates that will increase as energy increases in cost) (b) I don't know and it is not important to the local people. In some other state the local utality is telling them that the lake flooding their land is an insignificant part of the national total because the Allens Creek site will grow their crops. (c) I don' t know, that is grown at the Allens Cree

7. I read that large operat radioactivity than 1,000 atomic on Japan.

ONLY COPY

U. S. NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Inthe Matter of:

Houston Lighting & Power Co.,
(Allens Creek Nuclear Gen. Station
Unit 1)

Docket #50-466

TexPIRG'S REPLY TO THE NRC'S FIRST SET OF INTERROGATORIES

1. Mr. Greg Skie, who is handling much of this contention for us states that "household waste", "commercial waste", or "residential waste" defines solid waste. Municipal solid waste is reckoned to produce approximately 7,000 BTU per pound of waste. According to a study by Browning & Ferris, a large refuse gatherer, 6,000 tons equals two landfills. For the catagories of items, he suggests use of Handbook of Solid Waste Disposal from the Van Nostrand Engineering Series.

2. The precise area would be slightly larger than the city of Houston, and would include separate but engulfed communties as West University, Bellaire, South Houston, and Galena Park. I am not certain if it would include Pasadena. The average waste produced per person is 4 pounds per day. The data on area would remain the same until 1985. At the moment we have no basis to consider if the per person weight of waste will increase or decrease in the next six years, nor any studies to that effect.

As Mr. Skie will be away for a month, we merely took these down very quickly on his last visit before he left. When he returns, he might be able to give more details. We regret the delay in this answer.

James M. Scott
Texpirg Attorney.

Sent to the following this 14th day of May, 1979,:

Brenda McCorkle, Esq.
John F. Doherty
Carro Hinderstein, Esq.
Wayne Kentfro M. B. A.
Sheldon J. Wolfe, Esq.
Dr. E. Leonard Cheatum
Gustave A. Linenberger
R. Gordon Gooch, Esq.
J. Gregory Copeland, Esq.
Richard A. Lowerre, Esq
Steve Sohinki, Esq.

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DUPLICATE

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STATE OF TEXAS X
X
COUNTY OF HARRIS X

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared JAMES MORGAN SCOTT, JR., who upon his oath stated that he has answered the foregoing Tex PIRG's Response to NRC Staff's Interrogatories to Tex PIRG dated April 2,1979 in his capacity as Attorney for Tex PIRG in this Construction Permit proceeding, and that all statements contained therein are true and correct to the best of his knowledge.

James Morgan Scott, Jr.
James Morgan Scott,Jr.

SUBSCRIBED AND SWORN TO BEFORE ME by the said James Morgan Scott, Jr., on this 24th day of July,1979.

Paxrette Alburge
Notary Public in and for
Harris County, Texas

Commission expires 4-29-81

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EXHIBIT B