

REGULATORY DOCKET FILE COPY

UNITED STATES ATOMIC ENERGY COMMISSION

IN THE MATTER OF:

THE TOLEDO Edison COMPANY
AND
THE CLEVELAND ELECTRIC ILL
ILLUMINATING COMPANY

(Davis-Besse Nuclear Power Station)



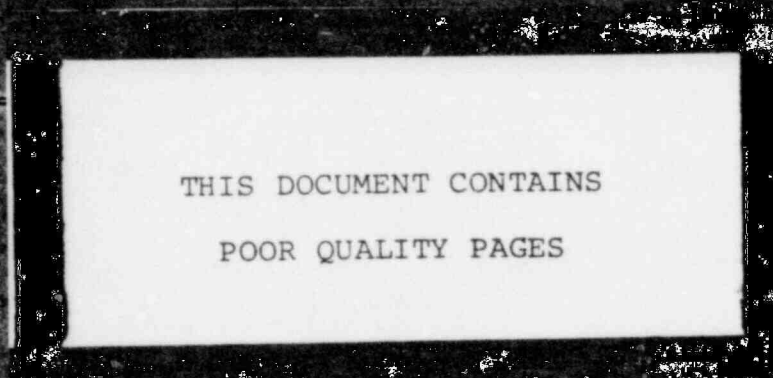
RETURN TO REGULATORY CENTRAL FILES
ROOM 01

Docket No. 58346

Place - Cleveland, Ohio

Date - Tuesday, 22 May 1973

Pages 1-85



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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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In the matter of: :
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THE TOLEDO EDISON COMPANY and :
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY: :
(Davis-Besse Nuclear Power Station) :
:

Docket No.
50-346

City Council Chambers
Cleveland City Hall
Second Floor
601 Lakeside Avenue
Cleveland, Ohio 44114

Tuesday, May 22, 1973

Prehearing Conference in the above-entitled matter
came on for hearing, pursuant to notice, at 9:40 a. m.

BEFORE:

JOHN FARMAKIDES, Esq., Chairman
Atomic Safety and Licensing Board

DR. CADET HAND, Member.

MR. FREDERICK SHON, Member.

APPEARANCES:

For the Applicants:

GERALD CHARNOFF, Esq. and JAY E. SILBERG, Esq.,
Shaw, Pittman, Potts & Trowbridge,
910 17th Street N.W., Washington, D. C. 20006

WILSON W. SNYDER, Esq. and LOWELL ROE, Esq.,
Fuller, Henry, Hodge & Snyder,
300 Madison Avenue, Toledo, Ohio 43652

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For the Applicants (Cont'd):

DONALD H. HAUSER, Esq., Corporate Solicitor
The Cleveland Electric Illuminating Company
Illuminating Building - Public Square
Cleveland, Ohio 44113

WILFRED H. MABLE, Esq.,
13116 Chestnut Oak Drive
Gaithersburg, Maryland
The Toledo - Edison Company

For the Staff:

FRANCIS X. DAVIS, Esq.,
Attorney AEC, Regulatory Staff

MYRON KARMAN, Esq.,
Attorney AEC, Regulatory Staff

For the Petitioner:

MRS. EVELYN STEBBINS,
312 Park Building
140 Public Square
Cleveland, Ohio 44114

P R O C E E D I N G S

CHAIRMAN FARMAKIDES: The hearing will now be in order.

The record will show that this Prehearing Conference began at approximately 9:40 a.m. on May 22, 1973, in the City Council Chambers, Cleveland, Ohio.

Let the record also show that a moment ago I was approached by three people carrying TV cameras and who asked to televise the hearings. I advised that they could televise before, during recesses, and afterwards; that they could not televise during the hearing.

This is a Prehearing Conference primarily to consider the Petition to Intervene filed by Mrs. Evelyn Stebbins, for the Coalition for Safe Nuclear Power.

This process arises from a Notice of Hearing; which Notice was published in the Federal Register on January 5, 1973, at 38 Fed Reg 907. The Hearing arises from requirements of Section B to Appendix D, 10 CFT Part 50. The Toledo Edison Company and The Cleveland Electric Illuminating Company are the holders of Permit CPPR-80 issued by the Atomic Energy Commission on March 24, 1971. This permit authorizes the licensees to construct a pressurized water nuclear reactor designated as the Davis-Besse Nuclear Power Station at the Licensees' site on the southwestern shore of Lake Erie in Ottawa County, Ohio.

The facilities are designed for initial operation of approximately 2,633 megawatts thermal.

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1 Incidentally, during the course of the hearing I
2 would appreciate very much that there be no smoking. Thank you.

3 As I have noted earlier, the facility is subject
4 to the provisions of Section B, Appendix D, 10 CFR Part 50,
5 which sets forth procedures applicable to the review of
6 environmental considerations for facilities, such as Davis-
7 Besse, for which the construction permits were issued during the
8 period January 1, 1970, through September 9, 1971.

9 The Notice of Hearing further specified that a
10 Hearing would be held at such time and place to be set by this
11 Board and specified conditions and procedures in which this
12 Hearing would be carried out.

13 The Board designated for this Hearing, by a Notice
14 published in the Federal Register (38 Fed Reg 6424), consists,
15 on my left, of Dr. Cadet Hand, Director of Bodega Laboratory
16 of the University of California, an environmentalist.

17 On my right is Mr. Federick Shon, a nuclear physicist
18 and an expert on reactor safety.

19 My name is John Farmakides. I am an attorney with a
20 background in biology and chemistry.

21 Also in the room is the Alternate Chairman,
22 Mr. Joseph Tubridy, an attorney and a member of the Bar of the
23 Supreme Court.

24 The Alternate Technical Member is Dr. Harry Foreman,
25 who is not able to be with us today.

1 The Notice of Hearing also provided that any person
2 whose interest may be affected by the proceeding may file a
3 Petition to Intervene on whether the construction permit should
4 be continued, modified, terminated, or appropriately conditioned
5 to protect environmental values.

6 Any such Petition to Intervene must be filed under
7 oath or affirmation and otherwise conform to the rules of
8 practice of the Atomic Energy Commission, specifically
9 Section 2.714.

10 Two petitions for leave to intervene were filed:
11 one by a brief, single-page letter filed by Mr. Steve Ganis;
12 and a second one was filed by Mrs. Evelyn Stebbins on behalf
13 of the Coalition for Safe Nuclear Power.

14 By Memorandum and Order dated March 30, 1973, this
15 Board ruled that the letter of Mr. Ganis failed to meet the
16 requirements of Section 2.714. Accordingly, his petition was
17 duly denied, but he was invited to present his comments and
18 views at the Evidentiary Hearing through a limited appearance.

19 The petition by Mrs. Evelyn Stebbins failed to meet
20 the requirements of Section 2.714, in substantial part; however,
21 the Board felt that Mrs. Stebbins would be given a second
22 opportunity to revise and resubmit a petition within 20 days,
23 conforming to the Section I indicated earlier, Section 2.714.

24 Mrs. Stebbins, by an Amended Petition to Intervene,
25 dated April 16, 1973, resubmitted her petition.

1 The Applicant opposed the petition in its entirety;
2 and the Atomic Energy Commission Staff opposed in part, and
3 agreed in part if certain conditions were met.

4 The Board by Notice of Order for Special Prehearing
5 Conference, dated May 4, 1973, noted that while the petition of
6 Mrs. Stebbins, as amended, attempted to comply with Section
7 2.714, it still remained vague, unclear, and ambiguous.

8 Nevertheless, the Board, mindful of the fact that
9 Mrs. Stebbins was without benefit of counsel and that the
10 failure to comply may stem from a misunderstanding as to the
11 facts needed to meet the requirements for intervention, decided
12 to hold a Special Prehearing Conference in order to clarify and
13 resolve the matter.

14 These are the preliminary remarks of the Board.
15 Perhaps at this time we would appreciate the people appearing
16 before the Board today to identify themselves.

17 For the Applicant?

18 MR. CHARNOFF: Sir, my name is Gerald Charnoff, of the
19 law firm of Shaw, Pittman, Potts & Trowbridge at 910 17th Street
20 Northwest, Washington, D. C., and I am appearing today on
21 behalf of the Applicant in this proceeding.

22 On my left is Mr. Jay Silberg of the same law firm
23 who is appearing with me, and the first seat to my right behind
24 me in the second row is Mr. Wilson Snyder of the firm of
25 Fuller, Henry, Hodge & Snyder in Toledo, and he is also

1 appearing for the Applicants today, sir.

2 CHAIRMAN FARMAKIDES: Thank you.

3 For the Staff?

4 MR. DAVIS: My name is Francis X. Davis, and I am
5 with the office of General Counsel of the Atomic Energy
6 Commission, Washington, D. C. 20545.

7 On my left is Myron Karman of the same office and
8 same address.

9 CHAIRMAN FARMAKIDES: Thank you.

10 For the Intervenor?

11 Can you hear us?

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1 MRS. STEBBINS: I am Evelyn Stebbins, Chairman of the
2 Coalition for Safe Nuclear Power.

3 VOICE: We can't hear you.

4 CHAIRMAN FARMAKIDES: Can you speak up a little bit,
5 ma'am.

6 MRS. STEBBINS: The Coalition for Safe Nuclear Power.
7 And I wish at this point -- I hope this will be an appropriate
8 time to announce that the Coalition for Safe Nuclear Power had
9 voted at a Board meeting to change their name to the Coalition
10 for Safe Electric Power; and they will be known as this organi-
11 zation henceforth.

12 CHAIRMAN FARMAKIDES: Mrs. Stebbins, we are having a
13 little difficulty hearing you. Could you turn the microphone
14 down a little and speak right into it?

15 MRS. STEBBINS: Yes. Is this better?

16 CHAIRMAN FARMAKIDES: Yes, I think it is.

17 Can you all hear in the back?

18 (Chorus of "No.")

19 CHAIRMAN FARMAKIDES: Can you speak up a little bit?

20 MRS. STEBBINS: I guess it is on.

21 I said that I was Evelyn Stebbins, Chairman of the
22 Coalition for Safe Nuclear Power, and that I hope that this
23 would be an appropriate time to advise this Board that the
24 Coalition had voted at a Board meeting to change their name to
25 the Coalition for Safe Electric Power.

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1 CHAIRMAN FARMAKIDES: Is there any significance to
2 that change, ma'am?

3 MRS. STEBBINS: This allows us to have a little
4 wider area of representation or interest rather than just
5 nuclear power plants; but other than that, the organization
6 remains the same.

7 CHAIRMAN FARMAKIDES: Well, during the course of the
8 hearing later we are going to be asking you as to the details
9 of the Coalition, and perhaps this will be clarified further
10 then.

11 MRS. STEBBINS: Yes. Okay.

12 CHAIRMAN FARMAKIDES: We have no problem with you
13 announcing that at this time, no, ma'am.

14 MRS. STEBBINS: And the address is 312 Park Building
15 140 Public Square, Cleveland, Ohio 44114.

16 CHAIRMAN FARMAKIDES: All right. Thank you very much.

17 The Board will propose that we move ahead by consider-
18 ing the Amended Petition to Intervene filed by Mrs. Stebbins.
19 The Board has some direct questions first that we would like to
20 explore to be sure that we understand the position of
21 Mrs. Stebbins. And then after that, what we will do is -- in
22 accordance with our Order -- is ask Mrs. Stebbins to address
23 the objections filed by the Staff and the Applicant. This will
24 be her opportunity to respond to the objections of the other
25 two parties.

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1 First, Mrs. Stebbins, I take it that the Amended
2 Petition to Intervene filed April 16, 1973, is the petition that
3 is before us today?

4 MRS. STEBBINS: It was my understanding that this was
5 a supplementary petition in addition to the original petition.
6 I did not reiterate the items in the first petition, which
7 seemed, to some extent, acceptable to the AEC regulatory staff.
8 I do believe it was called "Supplementary" Petition rather than
9 "Amended."

10 CHAIRMAN FARMAKIDES: No, ma'am. I will have to
11 disagree. The title is "Amended Petition to Intervene" and
12 actually --

13 MRS. STEBBINS: I guess it is Supplementary.

14 CHAIRMAN FARMAKIDES: Actually, the Order that we
15 issued required or directed you to resubmit a Petition to
16 Intervene based on the fact that in our opinion the original
17 Petition to Intervene failed to meet the requirements of
18 Section 2.714 unless -- excuse me. Off the record.

19 (Discussion off the record.)

20 CHAIRMAN FARMAKIDES: I have another request. I would
21 like to have this on the record. I have another request from
22 another TV station to televise the hearing. I have denied the
23 request, as I have earlier with the other two. The position of
24 the Atomic Energy Commission is very clear in this regard: the
25 hearings may be televised before they begin, during recesses,

1 and after they conclude; but not during the hearing.

2 I think, Mrs. Stebbins, we are going to go back now
3 and we will advise you, in view of your statement just a moment
4 ago, we are going to --

5 VOICE: I can't hear anything at all, so I am leaving.

6 CHAIRMAN FARMAKIDES: I am terribly sorry, sir. We
7 are having difficulty with the loudspeaker system. I cannot
8 improve on it. It's a mechanical system.

9 MRS. STEBBINS: Mr. Farmakides, sir, I might point out
10 that when I submitted my Amended Petition, I also resubmitted
11 a copy of the original petition. And on page 1 of the Atomic
12 Energy Commission regulatory staff's answer to our Amended
13 petition, last paragraph, they state, "With respect to the
14 letter and list of contentions --"

15 CHAIRMAN FARMAKIDES: Mrs. Stebbins, you will have
16 to speak up, ma'am. The court reporter cannot hear you.

17 MRS. STEBBINS: "With respect to the letter and list
18 of contentions from the Coalition dated February 2nd and 3rd,
19 1973, respectively, the Staff has no objections to the parti-
20 cipation of the Coalition as Intervenor to the extent discussed
21 in the February 15th response from the Staff."

22 Now, that was a comment in addition to their comments
23 on our Amended Petition.

24 CHAIRMAN FARMAKIDES: Mrs. Stebbins, the fact that
25 the Regulatory Staff said that, speaks for itself. They are

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1 one party, and they in no way bind or control this Board's
2 actions. I will give them the same weight I will give you --
3 if you become a party -- or to the Applicant, and nothing more.

4 I think we will proceed and consider the Amended
5 Petition to Intervene. I will say this: that I will allow the
6 other two parties to also respond to this item of procedure.

7 For the Staff, Mr. Davis?

8 MR. DAVIS: One minute, please, Mr. Chairman.

9 Mr. Chairman, I am not quite sure of the point.

10 CHAIRMAN FARMAKIDES: The point that we are discuss-
11 ing right now is what is before the Board today: Is it only
12 the Amended Petition to Intervene filed April 16th? Or is it
13 the Amended Petition to Intervene, plus the original Petition
14 to Intervene filed February 2, 1973?

15 MR. DAVIS: Mr. Chairman, as you said, the Staff's
16 response speaks for itself. Mrs. Stebbins' group did in fact
17 submit -- resubmit the original list of contentions and the
18 letter attached to the supplemental -- excuse me -- the
19 Amended Petition to Intervene. And we took the Amended Petition
20 to Intervene, the letter, and list of contentions, as a body.

21 CHAIRMAN FARMAKIDES: Mr. Davis, we are having
22 difficulty hearing you, too. Is it possible to talk directly
23 into the microphone, sir?

24 MR. DAVIS: Yes, Mr. Chairman.

25 The Regulatory Staff considered the Amended Petition

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1 to Intervene, the list of contentions originally filed, and the
2 letter with that original list of contentions as a body, as one
3 document, and we responded to all three.

4 As our response to the Amended Petition said, we
5 considered most of the contentions in the original list of
6 contentions abandoned when Mrs. Stebbins did not attempt to
7 correct deficiencies that we noted in our original response;
8 but, however, those contentions where she did attempt to correct
9 some of those deficiencies, we took the original contentions
10 and the attempted correction in the supplemental -- excuse me,
11 the Amended Petition as one. Therefore, --

12 CHAIRMAN FARMAKIDES: Mr. Davis, hold on, please.

13 If some of you, or all of you are having difficulty
14 hearing in the back, there is room here in the front, a little
15 bit closer to the front, and you are welcome to sit there.

16 I see no reason why you can't take those seats. They are prob-
17 ably more comfortable.

18 (Discussion off the record.)

19 CHAIRMAN FARMAKIDES: Mr. Davisk going back to the
20 point that we were discussing with you: We're still not clear
21 as to what your position is. I don't think you have elucidated
22 any more and indicated your response to the Petition.

23 Specifically, if you are saying that there are
24 contentions in the original Petition that you think should be
25 made a part of the Amended Petition, then clarify that and

1 clarify your authority for that, sir. And also what did you
2 mean by saying that Mrs. Stebbins had, in fact, abandoned
3 certain of her contentions and not others?

4 MR. DAVIS: Thank you, Mr. Chairman.

5 In our February 15, 1973 response on page 8 thereof,
6 the Regulatory Staff summed up what it had dealt with earlier
7 in our response by saying that paragraph 26 and paragraphs 28
8 and 29 of Mrs. Stebbins' original List of Contentions was to the
9 extent that we dealt with them and discussed them in our
10 response, and we thought they were adequate. They were
11 adequately phrased for consideration by the Board.

12 Then switching to our April 30 response when on
13 pages 10 and 11 we said that we had no objections to the
14 participation of the Coalition as Intervenors to the extent
15 in the discussion of the February 15 response, we were refer-
16 ring to paragraphs 26, 28, and 29.

17 We, therefore, thought to the extent in the discus-
18 sion in our original response that they should be dealt with
19 by saying that they were not the other contentions in
20 Mrs. Stebbins' and the Coalition's original pleading. We
21 meant -- and I mean now -- that we thought they were adequately
22 phrased. They were incorporated by being attached to
23 Mrs. Stebbins' Amended Petition and Affidavit.

24 We took it as part of that Amended Petition. And
25 since none of the other contentions were rephrased, or none of

1 our objections were dealt with, we thought that they had been
2 abandoned and should not be considered now. Whereas, the three
3 paragraphs we refer to were dealt with adequately.

4 CHAIRMAN FARMAKIDES: So then, sir, in summary,
5 could you identify specifically and give us a list of those
6 contentions that you think are properly before us now?

7 Identify them by document and also by number. Give
8 us the paragraph number.

9 MR. DAVIS: Thank you, Mr. Chairman.

10 In Mrs. Stebbins' original List of Contentions
11 entitled "Petition to Intervene," I don't think we considered
12 paragraphs 26, 28, and 29 to the extent that we discussed in
13 our pleading to be proper for consideration by this Board.

14 If the contentions are specified today to the extent
15 that we thought that Mrs. Stebbins meant it to be as we worded
16 them in our original response, the other contentions in that
17 original List of Contentions we thought were abandoned, since
18 they were not rephrased to meet our objections.

19 In her Amended Petition to Intervene, we thought
20 other contentions were suitable for consideration by this Board.
21 If the interpretation were given to them that we thought they
22 had, or if Mrs. Stebbins respecified her contentions to be
23 adequately expressed for consideration for this Board -- in
24 other words, we did not think that the contentions as expressed
25 in black-and-white, or the Amended Petition in some instances

1 was proper.

2 But if interpreted in one way, they would be proper;
3 and if interpreted in another way, they would be improper.
4 We tried to specify to what means we were referring in our
5 February 15th response -- excuse me -- I meant in our April 30
6 response.

7 We tried to express what we meant, which we thought
8 would be improper. Those paragraphs, the way we thought they
9 should be interpreted, the thoughts expressed in paragraph 3 of
10 the Coalition's Amended Petition, was to the extent that we
11 discussed, all other contentions that were in that Amended
12 Petition and should be denied.

13 CHAIRMAN FARMAKIDES: Thank you, Mr. Davis.

14 For the Applicant, could you give us your thoughts?

15 MR. CHARNOFF: It is our view, sir, that both
16 Petitions are before the Board in the sense that a ruling, I
17 think, is due from the Board.

18 The Intervenors did, in fact, resubmit the first
19 Petition and changed only insofar as an Affidavit was added to
20 the first Petition. For the reasons set out in our filings,
21 we think the Petitions are still deficient and did not, and do
22 not, believe that the addition of the Affidavit to the first
23 Petition cured it in any respect. I am referring to the
24 defects that were found.

25

CHAIRMAN FARMAKIDES: Mr. Charnoff, would you please

1 turn the microphone more towards you.

2 MR. CHARNOFF: The defects were noted by the
3 Licensing Board and by the other parties to this proceeding.

4 We did not address that in our answer, but we do
5 believe that having submitted that paper to the Board that the
6 Intervenors haven't, in effect, asked for another ruling on
7 that original Petition.

8 Clearly, in addition to that before the Licensing
9 Board this morning, is the so-called Amended Petition which,
10 as I recall, it contained the seven contentions which we ad-
11 dress in our reply in that document as well.

12 CHAIRMAN FARMAKIDES: That's enough on this point.

13 The Board will take the entire matter, including this
14 point plus the other points that will come up later this
15 morning, under advisement, and I hope that we should have a
16 ruling in the latter part of this week or the early part of
17 next week on all points including the Petition to Intervene
18 filed by the Coalition for Safe Nuclear Power.

19 All right, let's proceed then.

20 Mrs. Stebbins, the Board was concerned with your
21 showing of interest. Could you point out for the record those
22 members of your organization, the Coalition, even though you
23 changed your name. I am referring to the name of the Petition.

24 Could you point out for the record those individual
25 members of your organization who have such an interest, and

1 their reasons, ma'am?

2 MRS. STEBBINS: Well, I hope that this will clarify
3 matters. The Coalition represents over 350 people who have
4 supported the Coalition. And they come from the following
5 counties in Ohio. The counties are: Ashtabula, Lorain, Lake,
6 Sandusky, Ottawa, Lucas, Fulton, Mahoning, Stark, Ashland,
7 Medina, Erie, Richland, Franklin, Seneca, Geauga, and Cuyahoga.

8 Now, the specific organizations who have signed
9 certificates of representation to our organization are Citizens
10 for Clean Air and Water, Inc., an environmental group of
11 approximately 500 citizens with the majority of the membership
12 in the Greater Cleveland area, but with members throughout the
13 state. They were organized in '68 for the purpose of fighting
14 pollution and preservation of natural environment.

15 Area Councils Association, a group of neighborhood
16 associations in the Greater Cleveland area, representing
17 approximately 20,000 members, whose purpose is to promote a
18 strong and representative citizen action movement for mainten-
19 ance and improvement of neighborhood life, which has included
20 concern and action on air and water pollution problems.

21 CHAIRMAN FARMAKIDES: Is that all written down,
22 Mrs. Stebbins?

23 MRS. STEBBINS: Yes. I am reading it from something
24 that is written out.

25 CHAIRMAN FARMAKIDES: Well, please go a little slower

1 because it is very difficult to follow you and the acoustics
2 are not the best.

3 MRS. STEBBINS: Where would you like me to start
4 again?

5 THE REPORTER: "Which has included..."

6 MRS. STEBBINS: -- ...which has included concern
7 and action on air and water pollution problems. Many of the
8 Area Councils members own property in and use the western
9 basin of Lake Erie as a recreational area for swimming, boating,
10 and fishing.

11 Ohio Consumers Association, an organization concerned
12 about protection of consumers, which has a membership of
13 approximately 50, consisting of about 50 percent individual
14 memberships, and 50 percent organizational members throughout
15 the state.

16 Community Rights Council, organized for the purpose
17 of promoting their personal rights as pertains to their general
18 welfare and the exposition of any attempt at encroachment of
19 such rights, with a membership of approximately 100 persons in
20 the vicinity of Oak Harbor, and including persons residing at
21 Sand Beach.

22 National Health Federation, Cleveland Chapter, an
23 organization with approximately 250 members concerned with
24 maintaining the health freedoms of our nation's people.

25 Southwest Action Group on Environment (SAGE), a

1 citizens organization of approximately 70 members in Berea,
2 Middleburg Heights, North Olmstead, Rocky River, and Olmsted
3 Falls.

4 Avon Lake Task Force on Pollution, an environmental
5 group from that area.

6 Citizens for a Safe Environment, a citizens group
7 from Lake County, 100 members.

8 Dr. David Gitlin, M. D., Berea, Ohio.

9 Mrs. Helen D. McCue, mother, housewife, and Chair-
10 woman of Mothers March on Pollution, North Olmsted, Ohio.

11 Rev. Earl H. Cunningham, Ph.D., Cleveland, Ohio.

12 George Kundtz, Chesterland, Ohio.

13 CHAIRMAN FARMAKIDES: Did you -- I am sorry.

14 MRS. STEBBINS: I do have additional things written
15 here which I could read, which further point out our interest,
16 if you think it has not been proven at this moment.

17 CHAIRMAN FARMAKIDES: I might ask you: Do you have
18 any members that reside in the County of Ottawa?

19 MRS. STEBBINS: Yes, we do.

20 CHAIRMAN FARMAKIDES: And their names, ma'am? At
21 least one name; it doesn't matter.

22 MRS. STEBBINS: All right. Sandra Zenser, Z-e-n-s-
23 e-r.

24 CHAIRMAN FARMAKIDES: What is her address, ma'am?

25 MRS. STEBBINS: Gee, I don't have it right here with

1 me, but it is Oak Harbor.

2 CHAIRMAN FARMAKIDES: Do you know of anyone else who
3 lives in that vicinity?

4 MRS. STEBBINS: Well, yes. Mr. Newman owns property
5 at Sand Beach and he is a member.

6 CHAIRMAN FARMAKIDES: Now, I understand also that
7 you are representing yourself as well here, so you are involved
8 also representing yourself?

9 MRS. STEBBINS: Well, I guess so. I didn't --

10 CHAIRMAN FARMAKIDES: That's a very key point, ma'am.

11 MRS. STEBBINS: Well, yes.

12 CHAIRMAN FARMAKIDES: I am sure that if you are not,
13 then we would have other difficulties. But I assume you are
14 representing yourself --

15 MRS. STEBBINS: Yes.

16 CHAIRMAN FARMAKIDES: -- as well as the Coalition?

17 MRS. STEBBINS: Yes.

18 CHAIRMAN FARMAKIDES: Otherwise, we get involved in
19 a problem of you practicing law, and I don't think that is
20 involved here.

21 MRS. STEBBINS: Okay. Well, I have always felt I was
22 representing myself as well as representing the Coalition as
23 Chairman of the Coalition.

24 CHAIRMAN FARMAKIDES: That is what we understood. I
25 just wanted the record to reflect that.

1 MRS. STEBBINS: Fine.

2 CHAIRMAN FARMAKIDES: Off the record.

3 (Discussion off the record.)

4 CHAIRMAN FARMAKIDES: Mrs. Stebbins, I think you did
5 have some Certificates of Representation there that you were
6 going to file?

7 MRS. STEBBINS: Yes, I do.

8 CHAIRMAN FARMAKIDES: Well, you may file them, ma'am,
9 either with us today, and by serving the other two parties,
10 or you can mail them in to us with proper service.

11 MRS. STEBBINS: Well, I have them, sir, so if you
12 will give me a moment, I will.

13 MR. DAVIS: Mr. Chairman?

14 CHAIRMAN FARMAKIDES: Mr. Davis.

15 MR. DAVIS: Thank you.

16 I have one question regarding these Certificates of
17 Representation, as to their currency, as to how recent they are.

18 CHAIRMAN FARMAKIDES: I haven't seen them, Mr. Davis,
19 have you?

20 MR. DAVIS: I have this question of Mrs. Stebbins,
21 Mr. Chairman.

22 CHAIRMAN FARMAKIDES: Oh. Wait until you get it
23 and then you can raise the question then, if there is a
24 question.

25 MR. DAVIS: Thank you.

1 CHAIRMAN FARMAKIDES: Ordinarily, the rules require
2 a certain number of copies to be made of every submittal, but
3 we will make copies of these with the Xerox machine.

4 Off the record.

5 (Discussion off the record.)

6 CHAIRMAN FARMAKIDES: Back on the record.

7 MRS. STEBBINS: Mr. Chairman, sir?

8 CHAIRMAN FARMAKIDES: Mrs. Stebbins.

9 MRS. STEBBINS: Would you like me to give copies of
10 these certificates to the court reporter?

11 CHAIRMAN FARMAKIDES: We will take care of it. We
12 will file it in the Public Proceedings Branch when we go back.

13 MRS. STEBBINS: Well, I do have a set here if you
14 want them.

15 CHAIRMAN FARMAKIDES: If you have extra copies.

16 MRS. STEBBINS: Yes, I have an extra copy for the
17 court reporter.

18 CHAIRMAN FARMAKIDES: Fine. Then please give that
19 extra copy to the court reporter.

20 Incidentally, the proceedings in this hearing are
21 available -- all of the documents filed are available both
22 in Washington, D. C., the Atomic Energy Commission Proceedings
23 Room, as well as here in Cleveland at the Ida Rupp Public
24 Library -- I'm sorry, it is not in Cleveland. It is the
25 Ida Rupp Public Library, Port Clinton, Ohio. That's in the

1 vicinity of the site.

2 Ida Rupp Public Library, Port Clinton, Ohio, 43452.

3 Anything else that the parties might wish to state
4 with respect to the interest shown by the Petition to Intervene?

5 Let's proceed then to the matters raised by the Staff
6 and the Applicant. And I want to be sure, Mrs. Stebbins, that
7 you understand.

8 You have got to show us, this Board, that there is a
9 genuine fact that you are going to dispute. In other words, we
10 can't have a hearing merely on the law of a problem; it's got
11 to be some fact that you know of that you dispute and that you
12 dispute, and that you intend to show either by filing direct
13 evidence, or through your cross-examination, and this Board
14 will permit you to cross-examine on that fact so long as we
15 are assured that you do have a material fact in dispute.

16 So when we say, "What are the bases of your conten-
17 tion?" it's really up to you to establish to the satisfaction
18 of this Board that there is a genuine issue of fact to each
19 of your contentions.

20 Now, we do not request that you offer proof at this
21 time. Of course, when the hearing takes place you will be in
22 the position of offering proof. We simply ask that you make a
23 showing of what you have based your contention on.

24 Now, both the Applicant and the Staff in their
25 response to either your Amended Petition -- I think the

1 Applicant's was filed 26 April 1973, and the Staff's was dated
2 30 April 1973 -- they raise some very vital points in opposition
3 to your intervention. And in our Order of 4 May 1973, we
4 asked that you direct your attention to those points that they
5 raised in reply, and this, then, permits you to respond. And
6 we would like to hear from you now.

7 MRS. STEBBINS: Just a moment, please.

8 CHAIRMAN FARMAKIDES: What we can do, if you would
9 like, is to take a recess for 10 minutes to give you time to
10 get these in order, or we can proceed, whichever is your desire.

11 MRS. STEBBINS: Let's just take a short recess, please.

12 CHAIRMAN FARMAKIDES: All right. Let's take a 10-
13 minute recess until 10:40.

14 (Short recess.)

15 CHAIRMAN FARMAKIDES: We'll continue, please.

16 Mrs. Stebbins?

17 MRS. STEBBINS: Mr. Chairman, I would want to address
18 myself to the contentions in my original Petition, as well as
19 the Supplementary Petition, the Amended Petition, inasmuch as
20 you have not ruled on whether this is to be included at this
21 point or not.

22 With respect to our first contention and the February
23 submittal, we have stated that we felt that the environmental
24 report --

25 CHAIRMAN FARMAKIDES: Mrs. Stebbins, let's be clear

1 about that. We have ruled earlier that your February petition
2 was denied because it failed to meet a substantial part concern-
3 ing the requirements of Section 2.714.

4 Then we gave you 20 days to resubmit, and you re-
5 submitted an Amended Petition to which was attached the original
6 Petition that you submitted.

7 Now, as to the Amended Petition which included the
8 incorporation of the original Petition, we have not ruled as
9 to that.

10 MRS. STEBBINS: Yes. I know you ruled, so I thought
11 it might be appropriate to address myself to the whole thing.

12 CHAIRMAN FARMAKIDES: Well, how long would you take,
13 ma'am?

14 MRS. STEBBINS: I really don't know, but I don't
15 think it would be too terribly long.

16 CHAIRMAN FARMAKIDES: I would appreciate if you would
17 first start with the Amended Petition, the April 16 petition.
18 Then you can go into other attachments that you had to that
19 Petition with respect to the Staff's comments on the Petition
20 and also to the Applicant's comments. I would like to hear
21 your response to the Applicant and your response to the
22 Staff on your Amended Petition.

23 MRS. STEBBINS: All right. One moment, sir.

24 Starting with my response to paragraph 4, we feel
25 that the consequences --

1 MR. CHARNOFF: Excuse me. I'm sorry. Could we do
2 this in some sequence? As I view it, the first contention in
3 the Amended Petition appears in paragraph 3.

4 CHAIRMAN FARMAKIDES: Mr. Charnoff, I know that's
5 the way it is in the response, but I would like to allow
6 Mrs. Stebbins to proceed the way she is going. Let's take it
7 as to individual paragraphs. Now, we will worry later as to
8 which contentions that paragraph might be. Let's address
9 ourselves to the paragraphs, and I think you are speaking about
10 paragraph 4?

11 MRS. STEBBINS: Yes. Paragraph 4 is the one I am
12 referring to right now.

13 In our original Petition, it was more or less
14 Contentions 8, 10, and 12. It concerns Class 9 (Catastrophic)
15 Accidents. We would like to point out that this has been
16 brought up by our federal agencies, one being the U. S.
17 Department of Interior. They responded to an AEC Environmental
18 Statement objecting to the failure to consider Class 9 Catastro-
19 phic Accidents.

20 We also think that Class 9 accidents resulting in
21 both air and water releases should be described -- and the
22 impact on human life and the remaining environment discussed --
23 as long as there is any possibility of occurrence. That's the
24 U. S. Department of Interior.

25 CHAIRMAN FARMAKIDES: Do you have a name?

1 MRS. STEBBINS: No, I do not have a name on that.

2 CHAIRMAN FARMAKIDES: These were the comments in the
3 final environmental statement?

4 MRS. STEBBINS: Yes. The consequences of an accident
5 of this severity could have far-reaching effects on land and
6 in Long Island Sound which could persist for centuries affect-
7 ing millions of people in this densely populated area.

8 Now, also, the Federal Environmental Protection
9 Agency has criticized the AEC for failing to explore the risk
10 of catastrophic accidents from the operation of atomic plants.

11 These federal agency comments indicate very clearly
12 that the Coalition's contentions regarding Class 9 accidents
13 should be fully considered in environmental statements, and we
14 submit these comments as further evidence of this fact. Any
15 failure to allow consideration of Class 9 accidents will be a
16 further violation of the National Environmental Policy Act.

17 With respect to paragraph 5 --

18 CHAIRMAN FARMAKIDES: Could we hold off on that?

19 I would like to hear -- what we'll do is: I'll leave
20 it up to the parties. Do you want to proceed on each individual
21 paragraph?

22 Mrs. Stebbins, how do you feel? Do you want to go
23 through the entire Amended Petition and then have responses to
24 that, or do you want to go through individual paragraphs?

25 MRS. STEBBINS: It really doesn't make that much

1 difference to me. I have something written down. Whether you
2 want to break it down with comments on each paragraph from the
3 people, that's okay.

4 CHAIRMAN FARMAKIDES: We'll address ourselves to
5 paragraph 4, and I will hear responses from the Applicant and
6 Staff and any further response that Mrs. Stebbins may have.

7 For the Applicant? Do you wish -- I know you
8 responded to the original petition. Do you have further
9 comments in view of what Mrs. Stebbins just said?

10 MR. CHARNOFF: No, sir. I would simply indicate, as
11 you reflected the fact, that we have already responded to this
12 contention. We think that this particular contention is a
13 matter of commercial policy, and the law has been excluded from
14 this hearing for reasons set forth in our filing.

15 I would also point out that the Department of
16 Interior's comment read by Mrs. Stebbins referred to Long
17 Island Sound as a possible repository for the aftereffects of
18 an accident of this sort, and I would point out it would be
19 nowhere near the area. This was obviously written from the
20 context of another statement.

21 CHAIRMAN FARMAKIDES: Is that correct?

22 MRS. STEBBINS: That was. I was merely pointing out
23 that this catastrophic accident should be considered.

24 CHAIRMAN FARMAKIDES: But these were not comments,
25 then, on the drafting of Davis-Besse?

1 MRS. STEBBINS: No, I don't believe I saw any com-
2 ments from the Department of Interior.

3 CHAIRMAN FARMAKIDES: When you said they were, I was
4 a little surprised, but I may have overlooked it.

5 Anything else, Mr. Charnoff?

6 MR. CHARNOFF: No, sir.

7 CHAIRMAN FARMAKIDES: For the Staff? Do you have
8 anything further to add, Mr. Davis?

9 MR. DAVIS: Mr. Chairman, we believe our responses
10 are clear on pages 6 and 7 in our response to the Coalition's
11 amendment as far as paragraph 4 is concerned. I have nothing
12 further to add.

13 CHAIRMAN FARMAKIDES: There is one thought that
14 comes to mind, Mrs. Stebbins. Is there any reason you chose
15 to start with paragraph 4 instead of paragraph 3?

16 MRS. STEBBINS: When I was typing things up I
17 happened to put paragraph first, by accident. And there is
18 another reason: as I go through some of these things, I refer
19 to paragraph 3, and I really felt that paragraph 3 belonged at
20 the end.

21 CHAIRMAN FARMAKIDES: In other words, paragraphs 1
22 and 2 go to your interests, and all the rest is to the Petition?

23 MRS. STEBBINS: Yes.

24 CHAIRMAN FARMAKIDES: But you will include paragraph
25 3?

1 MRS. STEBBINS: Yes, later on.

2 CHAIRMAN FARMAKIDES: All right, go ahead. What's
3 the next paragraph?

4 MRS. STEBBINS: Paragraph 5 is the next paragraph.
5 This more or less could refer to Contention 13 in our original
6 Petition.

7 We rather feel that the seeds of destruction for Lake
8 Erie as a water supply will be contained within the core of the
9 Davis-Besse plant. There is the possibility of no more water
10 supply for over 11 million people even if they escape with their
11 life in case of a major accident. The life-giving water can
12 be turned to death-dealing by radiation poisoning.

13 In our Amended Petition we did point out testimony
14 by Dr. Ford. The Strontium 90 inventory in Davis-Besse is
15 adequate to more than contaminate the entire body of Lake Erie
16 above water quality standards. It becomes such a serious
17 subject that it needs to be considered.

18 Now, in addition, the Davis-Besse has an untested
19 safety system. There will be extensive hearings in Washington
20 on this. There has been extensive testimony of other types of
21 accidents that would not be controlled by an Emergency Core
22 Cooling System. The total thing, in our estimation, needs to
23 be considered because of the problem. We're talking about
24 water supply for over 11 million people.

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1 If this water supply is contaminated, there isn't
2 going to be any water for this country. It is going to be
3 evaluated, and we are trying to point this out in our report.
4 And I don't know how we could further justify it other than
5 what we have said now on the failure of the Emergency Core
6 Cooling System on these various accidents which would not be
7 controlled. And we think that a true environmental assessment
8 needs to consider this fact.

9 CHAIRMAN FARMAKIDES: Well, Mrs. Stebbins, what would
10 you show, ma'am -- that is what I said earlier -- a dispute
11 as to the fact? What is it that you would show us with respect
12 to your paragraph 5 during the evidenciary hearing?

13 MRS. STEBBINS: All right. Then I guess the thing
14 that we would have to show to prove this would be the possi-
15 bilities of an accident, since it is the consequence of the --
16 the environmental consequences, and the thing you have to show
17 is the possibility.

18 CHAIRMAN FARMAKIDES: And you would do that how? How
19 would you do that?

20 MRS. STEBBINS: Through witnesses.

21 CHAIRMAN FARMAKIDES: So you would then put on witness-
22 ses to show what you have just said it would show?

23 MRS. STEBBINS: I'm sorry. I didn't hear.

24 CHAIRMAN FARMAKIDES: In other words, then, you would
25 intend to put on a direct case using witnesses to prove your

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1 paragraph 5 contention?

2 MRS. STEBBINS: Yes.

3 CHAIRMAN FARMAKIDES: Now, what about your paragraph
4 4? Would you have the same thing?

5 MRS. STEBBINS: Well, paragraph 4 would -- pretty
6 much the two would go together to a certain extent because you
7 are talking catastrophic accident; but we had put this in
8 specifically with Lake Erie because we simply considered this
9 such a great problem if there ever was an accident, that we
10 feel that it is something that needs to be truly evaluated.

11 CHAIRMAN FARMAKIDES: Could you give us a little bit
12 more detail on how you are going to show this? What is it
13 that you have in mind?

14 MRS. STEBBINS: Well, I don't know what more I can say
15 other than to have witnesses who have studied these accident
16 possibilities and who would testify at the hearing.

17 CHAIRMAN FARMAKIDES: Dr. Shon has a question.

18 DR. SHON: Mrs. Stebbins, would you intend to show
19 by your witnesses that, for example, the ECCS, the Emergency
20 Core Cooling System, doesn't meet the AEC criteria, or something
21 on that order? Would you intend to prove that the containment
22 will break or will release material, for some specific reason?
23 Do you have witnesses that intend to address themselves to that?

24 MRS. STEBBINS: We would have witnesses that would
25 speak to the failure of the Emergency Core Cooling System.

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1 CHAIRMAN FARMAKIDES: You mean this one? We are
2 talking about Davis-Besse now.

3 MRS. STEBBINS: Yes. All right.

4 CHAIRMAN FARMAKIDES: All our comments are related
5 to Davis-Besse.

6 MRS. STEBBINS: We are talking about failure of the
7 Davis-Besse plant.

8 CHAIRMAN FARMAKIDES: Do you know of some fact or
9 other that would indicate to you that the reactor would fail,
10 or that there is some fault with the ECCS system?

11 MRS. STEBBINS: It would appear that there is a
12 distinct possibility that there are faults with the ECCS system.

13 CHAIRMAN FARMAKIDES: In other words, you are not
14 alleging any particular fact with respect to the building or
15 design of the plant that would cause it to fail?

16 MRS. STEBBINS: Well, sir -- may I have a recess for
17 a moment?

18 CHAIRMAN FARMAKIDES: Yes. And before we recess,
19 look, we are going to be asking you these questions, as we told
20 you earlier.

21 MRS. STEBBINS: Yes, I understand that.

22 CHAIRMAN FARMAKIDES: And we are going to be asking
23 you, too, to tell us what it is -- what the facts are you are
24 putting into dispute. We cannot have a hearing merely on the
25 legal issues involved; that is up to Congress. We are going to

ip A-4 1 have a hearing here strictly on the facts in dispute. And we
2 have to have some indication from you that there is a fact in
3 dispute.

4 Now, we will also ask you later what you mean when
5 you say the Coalition asserts its interest as a private attorney
6 general. So, ma'am, we would appreciate an answer on that, too.

7 Let's recess. It is 5 minutes to 11:00. Let's
8 recess until 10 minutes after 11:00.

9 (Short recess.)

10 CHAIRMAN FARMAKIDES: May we proceed?

11 Proceed, ma'am.

12 MRS. STEBBINS: Yes. Mr. Chairman, I would say that
13 we know of no fault in the construction, perhaps, of the plant
14 specifically. But we have had three occurrences within the
15 past six months when environmental stresses could have made the
16 operation ineffective had the plant been in operation.

17 There was a blocked intake at the water pipe at
18 Sandusky; there has been flood waters surrounding the plant;
19 and the dikes were broken around the plant. And we do have
20 some photographs of some of the extensive storm damages surround-
21 ing the plant, which we would go into further.

22 CHAIRMAN FARMAKIDES: Okay. That is what you would
23 show, then. All right.

24 Could you then go to the other question we raised;
25 that is, what is your definition, ma'am, of appearing here as

ip A-5 1 a private attorney general?

2 MRS. STEBBINS: Okay. Well, we feel that the, you
3 know, people of the State of Ohio -- all of the people of the
4 State of Ohio -- really are being affected by anything that
5 happens at the Davis-Besse plant. And it was in this context
6 that we felt that the people of the State of Ohio needed
7 representation that we were attempting --

8 CHAIRMAN FARMAKIDES: Are you representing the people
9 of Ohio?

10 MRS. STEBBINS: Well, we felt that this was appropriate.

11 CHAIRMAN FARMAKIDES: Well, this will be most diffi-
12 cult. You cited to me a coalition of peoples and organizations,
13 and I totaled the number and I have roughly, oh, 1500, I think.
14 Now --

15 MRS. STEBBINS: No.

16 CHAIRMAN FARMAKIDES: -- I think you are going to be
17 hard pressed to make the point that you represent the people
18 of Ohio on this.

19 MRS. STEBBINS: Sir, there are 20,000 people in the
20 Area Councils Association.

21 CHAIRMAN FARMAKIDES: In which one?

22 MRS. STEBBINS: Area Councils; 20,000.

23 CHAIRMAN FARMAKIDES: Well, just to be clear about
24 this -- because we may have a problem on this and I would like
25 to avoid it, if possible; if we cannot avoid it we will have to

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1 answer it -- but are you also representing yourself with respect
2 to these three contentions? Or the Coalition that you are
3 representing?

4 MRS. STEBBINS: I am also representing myself and the
5 Coalition.

6 CHAIRMAN FARMAKIDES: All right. Let's go on, then,
7 to the next paragraph, which is 6, I believe. And I wish you
8 would please direct your response -- I'm sorry, I haven't given
9 the Applicant or Staff an opportunity to comment with respect
10 to paragraph 5.

11 We will have from the Applicant at this time. Again,
12 let's have an understanding, Mr. Charnoff, that you don't have
13 to repeat the material that you had presented in your response.
14 I am just saying if you have anything in addition you would
15 like to present at this time.

16 MR. CHARNOFF: I want to make one point:

17 I believe the issue extends beyond that of the design
18 basis aspect as one -- an issue that was attempted to be
19 litigated -- and at a great extent was litigated -- at the
20 radiological hearing which was conducted in 1970 and 1971. I
21 think the identification of matters by Mrs. Stebbins as to
22 recent events do not indicate that she is talking about
23 environmental matters; but, rather, she is talking about radio-
24 logical safety matters.

25 The event referred to with regard to the flood

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1 effects of last year's storm creating a high water mark of
2 576 feet above sea level. The design of the plant is for
3 583.7 feet above sea level --

4 CHAIRMAN FARMAKIDES: Hold on for a moment. The
5 court reporter is obviously having difficulty getting this.
6 Speak slower.

7 MR. CHARNOFF: I think to a great extent some of the
8 remarks made by Mrs. Stebbins reflect the fact that there is
9 nothing specific about the Davis-Besse plant that are of con-
10 cern to her; but, rather, that her concern relates to whether
11 or not Emergency Core Cooling Systems and the criteria for them
12 are adequate. That matter began under litigation in the rule-
13 making hearing.

14 Other than that, we would stand on what we said in
15 our written answer.

16 CHAIRMAN FARMAKIDES: The Staff, Mr. Davis?

17 MR. DAVIS: The Staff will stand on its written
18 Answer on the April 30th filing.

19 CHAIRMAN FARMAKIDES: Anything further on that,
20 Mrs. Stebbins, that you would care to address yourself to?

21 MRS. STEBBINS: The court reporter took my paper. I
22 am waiting for it to be returned.

23 CHAIRMAN FARMAKIDES: Off the record.

24 (Discussion off the record.)

25 CHAIRMAN FARMAKIDES: Mrs. Stebbins, you may proceed

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1 anytime you are ready.

2 MRS. STEBBINS: Mr. Chairman, on 6, which is Contention
3 tion 22 in our original Petition, the issues of environmental
4 harm because of storm damage we feel is a very real hazard.

5 It is perfectly evident that storm damage and
6 consequential environmental damage has not been properly
7 considered. The main reason we feel for this is that the lake
8 is now at its highest level. We find that Davis-Besse plant was
9 designed for a 4-foot 8-inch level above low water datum.
10 However, the April storm on Lake Erie which flooded the western
11 basin of Lake Erie, the water was 8-feet 1-inch above low water
12 datum at Toledo with a wave action above that level.

13 The pictures which we have from newspapers and aerial
14 photos were taken two days after -- the aerial photographs were
15 taken two days after the November 14th storm.

16 With predictions that lake levels could go higher,
17 we certainly feel that this must bring reconsideration on
18 whether the Davis-Besse plant is being constructed in an area
19 which will be subjected to floods, and which would, consequently,
20 seriously endanger every citizen in this area of Ohio either
21 directly or through environmental damage which has contaminated
22 the land and water, making it unlivable.

23 We have several aerial pictures here showing extensive
24 flood damage. It appears possible that there was damage to the
25 auxiliary building last November.

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1 When we look at this one picture, it appears to us
2 there is no roof on the building. While comparing it to a
3 previous picture in the environmental report, it appears that
4 the building had a roof on it. The auxiliary building will
5 house the control room and related facilities, the new and spent
6 fuel handling, storage and shipment facilities, the radwaste
7 decontamination facilities, radwaste (blank) control facilities,
8 access control areas, and engineered safety systems, electrical
9 and mechanical penetrations.

10 If, as appears possible, that the roof was damaged
11 in the storm, you know, we would wonder what might have
12 happened if the plant had been operating at that time.

13 Now, the extensiveness of the water surrounding the
14 plant, including flood beyond Route 2 on the other side of the
15 plant, the reports in the paper by the Toledo Edison officials
16 who said that they were unable to get to the plant to find out
17 if there was any damage --

18 CHAIRMAN FARMAKIDES: Mrs. Stebbins, you don't have to
19 read the entire statement that you have there. We wanted to
20 know, really, what are the facts that you are going to show.

21 MRS. STEBBINS: Okay. The facts are that we are
22 going to show would be this storm damage --

23 CHAIRMAN FARMAKIDES: Could you finish that statement?
24 The storm damage, you feel -- go ahead.

25 MRS. STEBBINS: Yes. The consequences of storm damage

ip A-10 1 and the consequential -- the possibilities of what could
2 happen as to accidents and so forth because of storm damage.
3 Now we, you know, really feel that while they said this was a
4 matter that should have been considered at the original
5 hearing, I think this is new evidence that was not available
6 at the original hearing. I think that this is a matter that
7 is to be considered at the operating license hearing. It
8 hardly makes sense to us to continue construction of the plant
9 if there is such a threat.

10 CHAIRMAN FARMAKIDES: As I understand you, ma'am,
11 your whole point is that the staff as not "adequately considered
12 this in the environmental statement"?

13 MRS. STEBBINS: That's right.

14 CHAIRMAN FARMAKIDES: So what you are saying is that
15 you are disputing the final environmental statement as to its
16 efficiency on this point?

17 MRS. STEBBINS: That's right.

18 CHAIRMAN FARMAKIDES: Mr. Shon has a question. Just
19 a moment.

20 (Discussion off the record.)

21 CHAIRMAN FARMAKIDES: Let's go then to paragraph 6.

22 MRS. STEBBINS: That was paragraph 6.

23 CHAIRMAN FARMAKIDES: I see. You had already gone to

24 6? 6 is the same response as 5?

25 MRS. STEBBINS: Right.

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1 CHAIRMAN FARMAKIDES: All right. Is there anything
2 on 6?

3 MR. CHARNOFF: I would point out that there were no
4 damages to the auxiliary building from the storm. I don't
5 know what picture Mrs. Stebbins was talking about, but the
6 roof was under construction at the time, and it may be a
7 picture of being incomplete.

8 With regard to other storm damage and the design of
9 the plant, the storm and the tornadoes, this was precisely a
10 matter that was litigated in 1970 and 1971.

11 CHAIRMAN FARMAKIDES: Those go to the facts that
12 Mrs. Stebbins is alleging. And Mr. Charnoff, if he prefers to
13 dispute the facts, we'll certainly hear it.

14 But I was going to the other question, and that is
15 the thrust of the contention is that the final environmental
16 statement is inadequate. Do you have anything on that?

17 MR. CHARNOFF: We would understand that the conten-
18 tion -- we think it goes to the question of Regulatory Safety
19 rather than Environmental Management. We don't understand
20 the need to make a reiteration.

21 CHAIRMAN FARMAKIDES: Therefore, that's really your
22 answer?

23 MR. CHARNOFF: That's correct.

24 CHAIRMAN FARMAKIDES: The Staff? What is your res-
25 ponse?

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2 MR. DAVIS: The Staff, too, believes that the issue
3 of storm damage is not in issue now. Consequently, the final
4 environmental statements are adequate in this regard and is
5 an issue ready to stand, on which we can present evidence.

6 CHAIRMAN FARMAKIDES: In other words, you don't agree
7 with the witness, but you think if the Board permits this
8 contention you are prepared to proceed to show your side of
9 the case?

10 MR. DAVIS: Exactly.

11 CHAIRMAN FARMAKIDES: Off the record.

12 (Discussion off the record.)

13 CHAIRMAN FARMAKIDES: All right. Mrs. Stebbins,
14 do you have anything further in response to the two allegations
15 made by Mr. Charnoff?

16 MRS. STEBBINS: Let's go to the next one.

17 CHAIRMAN FARMAKIDES: So we are now on paragraph 7?

18 MRS. STEBBINS: Yes. I have really nothing further
19 to justify paragraph 7 other than what I have already put into
20 this. We think that the shortage of uranium fuel and with the
21 way that --

22 CHAIRMAN FARMAKIDES: Excuse me, ma'am, but what is
23 your response to the objections raised by Applicant and Staff
24 on this point?

25 MRS. STEBBINS: I will have to look at that for just
one second. I don't know how I can respond to it other than

ip A-13

1 the way I have.

2 CHAIRMAN FARMAKIDES: All right.

3 MRS. STEBBINS: They said that the consequences --

4 CHAIRMAN FARMAKIDES: Well, that's all right. I just
5 wanted to know if you had an additional response.

6 All right. Anything further on paragraph No. 7 from
7 either the Applicant or the Staff?

8 For the Applicant?

9 MR. CHARNOFF: We will rest on what we have submitted,
10 sir.

11 CHAIRMAN FARMAKIDES: Mr. Davis?

12 MR. DAVIS: No comment.

13 CHAIRMAN FARMAKIDES: How about paragraph 8?

14 Mr. Stebbins?

15 MRS. STEBBINS: Yes. Paragraph 8, as we look
16 through the environmental statements here, we felt that it
17 was a violation of the requirements because they did not have
18 the adequate prior monitoring.

19 CHAIRMAN FARMAKIDES: Yes. But how would you respond,
20 ma'am, to their reply to you on that?

21 MRS. STEBBINS: It is a conclusion without any basis.

22 CHAIRMAN FARMAKIDES: You mean their reply is a
23 conclusion without basis?

24 MRS. STEBBINS: That's what they say ours is -- that's
25 the response to our paragraph: that it is conclusional without

ip A-14 1 basis.

2 CHAIRMAN FARMAKIDES: Do you understand what that
3 means? Perhaps we can have the Staff clarify that.

4 MRS. STEBBINS: Yes, perhaps if they could do that.

5 CHAIRMAN FARMAKIDES: Mr. Davis, would you care to
6 clarify that?

7 MR. DAVIS: This paragraph 8 in the Coalition's
8 Amended Petition appears to be a (blank) approach pursuant to
9 the National Environmental Policy Act. This is what we meant
10 it to say.

11 CHAIRMAN FARMAKIDES: In other words, you are saying
12 there is no fact in dispute as far as you can see, in this
13 paragraph?

14 MR. DAVIS: That's right. We have nothing to dispute,
15 and it is in evidence now.

16 CHAIRMAN FARMAKIDES: Mrs. Stebbins, I think that is
17 the real thrust of it: there is no genuine issue of the fact
18 here that is presented by paragraph 8. In other words, if we
19 are going to go to a hearing, what would they show and what
20 would you show?

21 MRS. STEBBINS: I cannot respond further on that
22 particular paragraph at this time.

23 CHAIRMAN FARMAKIDES: All right. Let's go then to
24 paragraph -- I'm sorry.. Did the Applicant have anything else?

25 MR. CHARNOFF: No, sir.

ip A-15

1 CHAIRMAN FARMAKIDES: Now to paragraph 9. Mrs. Stebbins

2 MRS. STEBBINS: On paragraph 9, in our estimation as
3 to what is in the reports, it does not give you a true evalua-
4 tion of the transportation aspect. At the moment, we still don't
5 know what direction the spent fuels, and so forth, are going to
6 be transported. In reading about how containers are made for
7 the AEC and the shipment of waste, I don't believe these
8 containers would be strong enough to withstand the dumping into
9 the Cuyahoga Valley if there was a train accident, and dropped
10 from the train into the Cuyahoga Valley; it would be a consider-
11 able depth there. This is the part of the region that we
12 are talking about in the evaluation of the possibilities of
13 transportation accidents.

14 CHAIRMAN FARMAKIDES: Mrs. Stebbins, we are going to
15 have the same problem. Look, this Board has certain authority,
16 certain jurisdiction. Now, primarily, that stems from the
17 fact in dispute, and we will resolve that fact, but you have
18 got to put something in dispute.

19 Now, you made a contention. The staff came back with
20 their answer and said they had, in fact, addressed the problem
21 you stated in their Section 7.2.2. How do you respond to that?
22 Do you disagree? And if you disagree --

23 MRS. STEBBINS: We disagree that it's properly
24 evaluated in Section 7.2.2.

25 CHAIRMAN FARMAKIDES: Okay. So then your response to

ip A-16

1 to their reply is that in fact the final environmental statement
2 in Section 7.2.2 does not meet the legal requirement?

3 MRS. STEBBINS: That's right.

4 CHAIRMAN FARMAKIDES: All right. Mr. Applicant or
5 Mr. Charnoff?

6 MR. CHARNOFF: I am still at a loss as to the 7.2.2.

7 CHAIRMAN FARMAKIDES: As they address this point,
8 Mrs. Stebbins -- as I understand it -- says it is inadequate.

9 MR. CHARNOFF: What we don't understand is in what
10 way it is inadequate.

11 CHAIRMAN FARMAKIDES: Yes. I think also that would
12 be my next question. What are you going to show, ma'am? What
13 do you intend to show to support your allegation or your
14 contention?

15 MRS. STEBBINS: With respect to this contention, we
16 would hope to show that these transportation accidents have not
17 been properly evaluated; by witnesses who can prove this point.

18 CHAIRMAN FARMAKIDES: Would the reporter read that
19 last part back?

20 (Record read.)

21 CHAIRMAN FARMAKIDES: In other words, as I understand
22 that, you are going to put on direct cases of witnesses to show
23 that (blank) (blank) (blank) did not adequately consider this
24 point?

25 MRS. STEBBINS: That is the point, yes.

ip A-17

1 MR. CHARNOFF: Mr. Chairman, that still leaves me in
2 some doubt as to what it is they are going to prove other than
3 the general allegation that something is inadequate.

4 There are established regulations governing the
5 (blank) for spent fuel levels. What Mrs. Stebbins has to
6 establish is which of those regulations have not been met, or
7 which of those regulations are not accurate.

8 She must identify which of those she has in mind,
9 and maybe the allegation of the inadequacy of the compilation.
10 If we don't have that, we don't have an idea of the allegation.

11 CHAIRMAN FARMAKIDES: I think that she has said that
12 they are going to be discussing the transportation of the fuel
13 aspect. It is in contention and I think she clarified it
14 further.

15 Let me hear from the staff.

16 MR. DAVIS: Mr. Chairman, the Staff stands by its
17 statements in Section 7.2.2. If this contention is allowed, we
18 will present evidence stating its reasoning and any statements
19 to the effect that the consideration of transportation accidents
20 has been properly addressed and reviewed and the results have
21 been put in that review of the SDS.

22 CHAIRMAN FARMAKIDES: There is one thing that should
23 be clear to all parties. I am not sure that the Board has not
24 yet decided on these contentions, but once the decision is made
25 assuming that a contention, two contentions, or all contentions

ip A-18

1 are admitted, we will have at some further time another Pre-
2 hearing Conference at which time I want to know specifically and
3 precisely the witnesses and the documents that are going to
4 be used in the evidenciary hearing. I want each of the parties
5 to know the case of each other. All right?

6 Do you understand in Contention No. 9, Mr. Davis, in
7 respect --

8 MR. DAVIS: As I understand it, Mr. Chairman,
9 Mrs. Stebbins' contentions are quite broad, but they are to the
10 effect that the environmental statements to review the trans-
11 portation accidents have been inadequate under the performance
12 of NEPA.

13 CHAIRMAN FARMAKIDES: You address it in your paragraph
14 7 on page 8 of the final environmental statement.

15 MR. DAVIS: Excuse me. The Section 7.2, particularly
16 subsection 7.2.2. -- oh, it is a cross-section.

17 CHAIRMAN FARMAKIDES: It is 7.2.2.

18 MR. CHARNOFF: I don't know whether it is appropriate
19 to ask the Board a question, but let me suggest that I am at
20 a loss in terms of understanding the contention and partly
21 because, as I recall it, you asked Mrs. Stebbins what it is that
22 is inadequate. And she responded by saying that, "We will have
23 witnesses who will testify as to the inadequacy of the trans-
24 portation evaluation."

25 I must say I am at a loss to understand how that

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1 responds to your question, or to clarify the contention in any
2 way. I did raise the question of the standards that apply to
3 shipment of fuel in containers, and we don't know now -- but
4 may later -- we don't know whether the Coalition is challenging
5 the AEC regulation with respect to containers, or the compliance
6 with those regulations, or some other hidden allegation.

7 I am perfectly prepared to have a hearing from our
8 standpoint, of course, on any matters. But we do need someone
9 to stand in and guide us to some of the responsiveness like
10 "What is it that is inadequate?" Other than that, we just have
11 witnesses that will testify that something is inadequate.

12 CHAIRMAN FARMAKIDES: We don't suggest that the
13 Intervenors need to show proof with respect to their allegations
14 at this time, but I think that Contention No. 9 goes to the
15 adequacy of the final environmental statement, as I understand
16 Mrs. Stebbins, and specifically to the issue of transportation
17 of fuel.

18 Now, by the time we get to the hearing, this will be
19 crystallized so that the parties will know exactly, if this
20 contention is admitted, it will be crystallized so the parties
21 will know what the issue is. I am not going to require the
22 Intervenor to go beyond the point that you did today.

23 Again, that would be satisfying the Board as to the
24 fact that there is a genuine issue. The genuine issue here,
25 as Mrs. Stebbins suggests, is the adequacy of the final

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1 environmental statement on the transportation of fuel.

2 Let's go on, then, to the attachment. Let's go back
3 to paragraph 3.

4 MRS. STEBBINS: This will take me a second to get
5 together.

6 MR. DAVIS: Mr. Chairman, I have a question, please.
7 Could the reporter please read back what you just said regard-
8 ing what her contention is?

9 CHAIRMAN FARMAKIDES: Mr. Reporter, would you read
10 back my response?

11 (Record read.)

12 MR. DAVIS: As the reporter read back your statement,
13 it appeared that the issue -- there might be some question
14 whether the issue deals with transportation in general, or
15 transportation accidents.

16 CHAIRMAN FARMAKIDES: I beg your pardon. I see the
17 problem. The contention deals with transportation accidents.
18 If I did not use that one word "accident," I should have.
19 She is going to transportation accidents.

20 MR. DAVIS: Then during the course of prehearing
21 procedures that contention will be further specified?

22 CHAIRMAN FARMAKIDES: Yes, if the Board admits it,
23 that contention will definitely be further specified.

24 Mrs. Stebbins, are you prepared now on paragraph 3?

25 MRS. STEBBINS: I hope so. With respect to 3, I may

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1 take this a little bit out of order concerning the cost benefit
2 analysis, but in our estimation it was not properly evaluated
3 in terms of the report.

4 Now, the reasons for this was to point this out --
5 and this refers to our paragraph 5 that we were talking about,
6 the possibility of the Lake Erie water supply being contaminated.
7 If this was thrown into cost benefit analysis, this would be
8 one point.

9 A further point would be with reference to our para-
10 graph 6, referring to potential storm damage and possible
11 environmental harm. This wasn't evaluated in the cost benefit
12 analysis.

13 Paragraph 3 -- excuse me. Now this goes to some of
14 our original contentions in 16 and 18 in the original Petition,
15 and the fact that this storm in November proved that it was
16 impossible to evacuate people quickly from this Sand Beach area.
17 The Coast Guard boat was not able to get into the area, and
18 helicopters had to be called in, which took considerable time.
19 So it becomes apparent that when we talk about the ability to
20 be able to evacuate people quickly, this ability is not always
21 there. And this is a rather proven fact now and something for
22 the cost benefit analysis.

23 Now, one of the -- now, a couple of the other
24 contentions in our original petition were 33 and 34, and this
25 referred to the total fuel cycle as an environmental effect of

ip A-22

1 the Davis-Besse plant.

2 Now when you consider that these wastes must be
3 stored for thousands and thousands of years this, in our estima-
4 tion, needs to be thrown into this cost benefit analysis, and
5 is one of the missing links, in our opinion, in this cost bene-
6 fit analysis.

7 CHAIRMAN FARMAKIDES: How do you read that into your
8 paragraph 3, ma'am?

9 MRS. STEBBINS: The fact that there is the problem of
10 long-term storage of waste, that this will be possibly a very
11 costly procedure; nobody can really tell at this moment. And
12 we felt that this was part of the cost benefit analysis that
13 should be considered.

14 CHAIRMAN FARMAKIDES: Well, as I read your paragraph
15 3, it summarizes -- the last sentence in which you say, "In
16 other words, all alternatives to construction of this plant
17 have not been considered, including but not limited to,
18 conservation of energy and underground siting."

19 So, insofar as I am concerned, I see two alternatives
20 that you feel have not been considered: one is this conserva-
21 tion of energy, to which you attach in your Petition -- Amended
22 Petition you attached an affidavit; and the other one is the
23 underground siting.

24 I don't see any other information which you have
25 submitted in the Amended Petition that goes to, for example,

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1 storage of waste that you just alluded to, and relates to in
2 paragraph 3.

3 MRS. STEBBINS: Oh. I was of the opinion I was
4 talking of the cost benefit analysis as we had it in paragraph
5 28 originally, and --

6 CHAIRMAN FARMAKIDES: Well, we will get into that
7 later, 28, as a paragraph --

8 MRS. STEBBINS: I thought that was incorporated in
9 paragraph 3 at this point.

10 CHAIRMAN FARMAKIDES: Oh, so you are incorporating
11 paragraph 28?

12 MRS. STEBBINS: I thought I had incorporated it in
13 paragraph 3. So --

14 CHAIRMAN FARMAKIDES: Well, let's limit ourselves to
15 paragraph 3 at the moment.

16 MRS. STEBBINS: Okay.

17 CHAIRMAN FARMAKIDES: And when we finish with this
18 Amended Petition, the Board has questions with respect to three
19 other contentions you raised earlier.

20 Anything else in paragraph 3, ma'am?

21 MRS. STEBBINS: All right.

22 Then you are talking about the possibility of under-
23 ground siting as being considered. We would like to point out
24 that with respect to objections of Toledo Edison, that Toledo
25 Edison has proceeded in this entire project at its own risk.

in A-24

1 They started in September of 1970 with a variance of construc-
2 tion at their own risk before the original safety hearings were
3 held to determine whether the plant could be placed safely in
4 that area.

5 When the Calvert Cliffs decision came along, and the
6 rules were adopted by the Atomic Energy Commission, the
7 Applicants again were proceeding at their own risk, at their
8 choice, to continue constructing and not halt construction
9 pending the full review.

10 Now, if they are to use at this time an excuse that
11 it's too late to give consideration to this fact, we would
12 simply have to point out that back in 1970, at the original
13 hearings, we tried to discuss environmental aspects, we tried
14 to talk about underground siting, and were not permitted to.
15 This was in our original petition. So this is nothing new,
16 but something that we have not been able to bring before this
17 Hearing Board due to rules which were adopted by the AEC.

18 So this is what we would have to respond, you know,
19 reiterate again that all along the Applicant has insisted upon
20 going ahead with this at their own risk and --

21 CHAIRMAN FARMAKIDES: What specifically would you
22 show, ma'am? What would be --

23 MRS. STEBBINS: All right. There are plans over in
24 Europe, they are arguing more about underground siting, to try
25 to specifically show that this is an alternative. It is an

ip A-25

1 alternative which should have been considered.

2 There is a possibility that this is an alternative
3 which might have offered more safety.

4 CHAIRMAN FARMAKIDES: Okay. Mr. Charnoff, do you
5 have anything to respond?

6 MR. CHARNOFF: No, sir.

7 CHAIRMAN FARMAKIDES: Mr. Davis, do you have any
8 further response?

9 MR. DAVIS: I feel that our original response was
10 adequate to that point of underground siting.

11 CHAIRMAN FARMAKIDES: Thank you.

12 The Board also would like to go to the original
13 petition submitted by Mrs. Stebbins as an attachment to the
14 Amended Petition. We would like to discuss paragraphs 26, 28,
15 and 29, which occur on page 4, page 5, and page 6 of the
16 original Petition which, as I said earlier, was attached to the
17 Amended Petition.

18 We have not determined yet how we are going to
19 handle this. We have listened to the comments of the Staff and
20 the Applicant, and Mrs. Stebbins' further comments with
21 respect to those initial contentions, and we will rule on these
22 in our order.

23 On 26, Mrs. Stebbins, do you have anything further
24 to add on 26?

25 MRS. STEBBINS: One moment, please.

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1 CHAIRMAN FARMAKIDES: In your answer, please consider
2 the response of the Staff to that contention.

3 MRS. STEBBINS: Let me review the response of the
4 Staff again.

5 CHAIRMAN FARMAKIDES: Well, I will tell you what: I
6 am going to be asking you the same questions on 26, 28, and 29.
7 Let's break for lunch. You will have time then to review, and
8 let's reconvene at a quarter of 1:00, is that all right?

9 (Discussion off the record.)

10 CHAIRMAN FARMAKIDES: Back on the record.

11 We will change that to 1:00 o'clock to allow a little
12 more time for preparation.

13 (Whereupon, at 11:45 the noon recess was taken, to
14 reconvene at 1:00 o'clock p. m. this day.)

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AFTERNOON SESSION

(1:00 p. m.)

CHAIRMAN FARMAKIDES: Are we ready to proceed?

Mrs. Stebbins, we were talking as to paragraph No. 26 on page 4 of the original Petition, which you attached to the Amended Petition. And as to that one, I would like to direct your comments to subparagraphs (l), (m), (n), and (o). There are four subparagraphs: 26(l), 26(m), 26(n), and 26(o).

What exactly, ma'am, do you intend to show, for example, starting with No. "1" or (l)?

What do you intend to show on paragraph 26(l)?

MRS. STEBBINS: All right. On 26(l), due to recent studies that have been done concerning radioactivity around the shipping plant, for instance, it becomes apparent that there is much greater radioactivity released, or in some way has gotten into the environment that would have been anticipated. Now; this is the type of information that we would want to develop in this case, and bring witnesses in to support this sort of thing.

CHAIRMAN FARMAKIDES: In other words, you are saying the assumption of the Staff in the final environmental statement is incorrect because of the experience --

MRS. STEBBINS: Yes. I think there are several reasons why this is incorrect.

Some of the problems that are coming out as to what

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1 has happened with the releases of excessive radiation, this
2 would tend to support our contentions of the greater environ-
3 mental damage, so to speak.

4 CHAIRMAN FARMAKIDES: I am still trying to -- the
5 second paragraph. The assumptions by whom? I would assume
6 you mean the Staff?

7 MRS. STEBBINS: Yes. In the environmental report.

8 CHAIRMAN FARMAKIDES: The possible environmental
9 effects are, therefore, incorrect and inadequate? What do
10 you mean, ma'am, by "incorrect and inadequate" with respect to
11 this?

12 MRS. STEBBINS: With respect to being incorrect, I
13 think there has been no evaluation of the possible effects of
14 fuel rod damage; whereas, on November 20, 1972, the Atomic
15 Energy Commission wrote a letter to Toledo Edison saying they
16 could anticipate this fuel rod problem in the Davis-Besse
17 report. This has not been evaluated in the environmental
18 statements.

19 CHAIRMAN FARMAKIDES: All right. Any additional
20 comment that might be offered by the Applicant and the Staff
21 on 26(1)?

22 Mr. Charnoff?

23 MR. CHARNOFF: We don't believe that Mrs. Stebbins'
24 statement identifies which assumptions are incorrect, or in
25 what way they are incorrect or inadequate.

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1 I would point out to the Licensing Board that if there
2 was one matter that was extensively litigated at the construc-
3 tion permit hearing, it was the question of effects of low level
4 radiation. That matter was therefore litigated in that pro-
5 ceeding.

6 CHAIRMAN FARMAKIDES: Thank you. The Staff have any
7 further comment on 26(1)?

8 MR. DAVIS: In regard to Mrs. Stebbins' last couple
9 of statements regarding fuel rods, I believe fuel -- yes, fuel
10 rods, that would seem to be clearly a problem of a radiological
11 health and safety condition, not pertinent for consideration
12 here.

13 Thank you.

14 MRS. STEBBINS: Mr. Chairman?

15 CHAIRMAN FARMAKIDES: Well, I am not quite clear,
16 Mr. Davis. I see, for example in your response dated 15 of
17 February you indicated that, "Taken together, that is subpara-
18 graphs of 26, we believe that the thrust --" I am quoting, "we
19 believe that the thrust of the contention raised by paragraph
20 26 is that the environmental impact due to releases of radio-
21 active materials from the plant would be substantially greater
22 than that postulated and that the basis for such contention
23 are the reasons set forth in subparagraphs and paragraph 26
24 to the extent that the condition may raise issues appropriate
25 to the present proceeding."

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1 Well, now, in view of that comment made, Mr. Davis,
2 I am not quite sure I understand your last answer.

3 MR. DAVIS: Mr. Chairman, this statement in our
4 pleading, in other words, of the 15th, does state what we
5 thought Mrs. Stebbins might have meant by her pleading of para-
6 graph 26, and we still think that that might be one contention.
7 We don't know; she hasn't stated that.

8 However, she did draw in a couple of references to
9 fuel rods, and that to me would play no part in this contention
10 as to what she means.

11 CHAIRMAN FARMAKIDES: Mrs. Stebbins?

12 MRS. STEBBINS: Yes. If I might respond to that, I am
13 saying that the fuel rod problem was not known in 1970 and 1971
14 when this hearing was held. It is obvious from the operation
15 of the present nuclear plants that this fuel rod problem is
16 causing extensive radiological releases.

17 Also, it was apparent to us that this has not been
18 considered by the Staff in their evaluation.

19 Now, I can't see how they can stand there and say you
20 should have talked about this back at the radiological hearings.
21 They didn't know about the problem at that time; the utilities
22 didn't know about the problem at that time; but the all-seeing
23 Coalition is supposed to have such foresight we would have known
24 enough to have discussed this.

25 We are discussing the environmental effects from this

A-31 1 problem, and it's very clear that any radiation emitted into
2 the environment, either in the air or in the water, is going
3 to have this effect on the environment. Man is a part of this
4 environment and he is dependent upon it.

5 And, so, I was using this as a specific example. And
6 it is only one of the examples of why radioactive releases
7 could be more than has been postulated, and why the consequen-
8 tial environmental harm could be much greater.

9 CHAIRMAN FARMAKIDES: Mr. Shon has a question.

10 MR. SHON: Mr, Davis, do I draw from what you said
11 a moment ago about the fuel rods being a purely safety matter,
12 that you assert that the leakage rate of fuel rods in no way
13 influences the amount of release into the environment as
14 calculated in the environmental report? Is that not a factor
15 in the calculation that was done for the final environmental
16 statement?

17 MR. DAVIS: Yes, Mr. Shon, it was. Indeed, as I
18 understood Mrs. Stebbins' statement some minutes ago, she, as
19 I understood it, again was referring to fuel rods. I did not
20 take her statement as being a basis for an assertion that the
21 radiological effluent releases was greater than we have
22 postulated or did determine. And that the effects from those
23 releases will, in turn, be greater than what we have postulated.
24 If, then, that is a factor of contention, those two contentions
25 and fuel rod assertion is her basis, one basis only, then we

ip A-32

1 would stand ready to accept that as the contention with one
2 specific issue, one factual question only. She has not
3 specified any other than I am aware of.

4 CHAIRMAN FARMAKIDES: In other words, you are saying
5 that the Staff would accept that as a contention if it were
6 limited to only the fuel rod issue?

7 MR. DAVIS: Yes, Mr. Chairman, unless she, Mrs. Stebbins
8 and the Coalition would present other bases for that assertion.

9 CHAIRMAN FARMAKIDES: Anything further, Mrs. Stebbins?

10 MRS. STEBBINS: Yes, I believe we would have other
11 bases. I didn't think that this was the time that we needed
12 to go into all of these bases since there was to be another
13 Prehearing for a full settlement of all these issues.

14 CHAIRMAN FARMAKIDES: This is the prehearing that
15 will decide which contentions, if any, will be granted to you,
16 whether or not your Petition will be granted.

17 MRS. STEBBINS: All right. With specific respect to
18 this contention, then I mentioned the fuel rod problem as one
19 of the problems. Another problem is the Atomic Energy
20 Commission's standards which will allow releases above those
21 which are, you know -- they are supposed to release this amount
22 but, yet, they can release this amount (indicating). Now --

23 CHAIRMAN FARMAKIDES: What are you talking about
24 specifically? I don't follow you.

25 MRS. STEBBINS: I don't have those figures specifically

in A-33

1 in front of me, but the standards which the Atomic Energy
2 Commission is setting for nuclear power plants are, so to speak,
3 guidelines only; and in the case of -- if a nuclear plant were
4 emitting more radiation, the Atomic Energy Commission would
5 then, in turn, evaluate this and determine whether the electri-
6 city to be received by the public, you know, sort of cost bene-
7 fit this thing, is the radiation going to harm the public, or
8 do we need the electricity more.

9 So the standards that are actually set and the manner
10 in which they have evaluated this upon set standards, there
11 really is no assurance that these standards will be met at all
12 times.

13 CHAIRMAN FARMAKIDES: Mr. Davis?

14 MR. DAVIS: Mr. Chairman, thank you. Might I respond
15 to a couple of points?

16 CHAIRMAN FARMAKIDES: Please speak into the microphone.

17 MR. DAVIS: There are a couple of points I have. I
18 am unclear as to the standards, the AEC standards which she is
19 referring to. Is she referring to the Commission's levels
20 enumerated in Part 20? This would appear to be, in our response,
21 to be an improper form as not complying with 2.578 of the
22 Commission's rules. I don't know what she was referring to.

23 CHAIRMAN FARMAKIDES: Very frankly, we don't, either.

24 Mrs. Stebbins, we don't know what you are referring to
25 and absent that, I don't see how we can evaluate the second

ip A-33

1 point you raised.

2 MRS. STEBBINS: I was specifically referring to the
3 new "as low as possible standards" that they are adopting which
4 permits the Atomic Energy Commission to allow higher radiation.

5 CHAIRMAN FARMAKIDES: Well, Mrs. Stebbins, we are
6 still not certain. The Atomic Energy Commission has come out
7 with a comprehensive list of rules and regulations going to
8 these nuclear plants, and we're certainly not sure which stand-
9 ard you are talking about.

10 Now, in any event, it appears that Mr. Davis' comment
11 has merit; that is, of which you seem to be saying that you
12 are challenging the standards, and that would come in under
13 Section 2.578.

14 Anything further on this 26(1)? Let's go to -- I'm
15 sorry.

16 MR. DAVIS: Mr. Chairman, Mrs. Stebbins again vaguely
17 referred to a cost benefit. It might allow the radiation to
18 reach such a point where they would become outweighed, the
19 benefits from the electricity and other benefits to be derived
20 from this plant.

21 Again I am referring to Part 20. If the levels of
22 radiation would exceed the levels of Part 20, there would be no
23 plant allowed. That's perfectly clear.

24 The cost benefit weighing takes place, also, but --

25 CHAIRMAN FARMAKIDES: We are not arguing with your

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1 contention. We want to be clear what the contentions are and
2 the bases for them. All right. Let's go to 26(m). Could you
3 clarify this, Mrs. Stebbins?

4 MRS. STEBBINS: Yes. What has been done is that in
5 each case there is an independent analysis of a particular
6 nuclear power plant, and nowhere has there been any overall
7 analysis of the total of the plants and the possibility of
8 accumulation of long-lived radioactive isotopes.

9 Now, we're talking about tritium, which has a 12-year
10 half cycle. The western basin of Lake Erie is going to
11 begin to be quite an area of nuclear plants, according to what
12 is presently planned and under construction.

13 The studies that they are doing have announced so
14 little in this contention, and also there is the fact that
15 Lake Erie receives the water from the three upper lakes, also.

16 CHAIRMAN FARMAKIDES: Thank you. The Applicant,
17 Mr. Charnoff, is there anything further on this?

18 MR. CHARNOFF: The only thing we would add is that
19 this specific matter was taken up in last summer's hearing on
20 this particular plant, and the same allegation was made. No
21 testimony was presented, notwithstanding, to be a statement on
22 the record in the way of testimony on this matter.

23 CHAIRMAN FARMAKIDES: Last summer's hearing you are
24 referring to as the one on continued construction; is that
25 correct?

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MR. CHARNOFF: Yes.

2 CHAIRMAN FARMAKIDES: Staff? Is there any comment on
3 26 (m)?

4 MR. DAVIS: I would say that one February 15th
5 response to paragraph 26 does refer to subparagraph (m) as
6 appearing without basis.

7 I still don't see what Mrs. Stebbins has furnished
8 on this basis.

9 CHAIRMAN FARMAKIDES: Here, Mrs. Stebbins, Mr. Davis,
10 is saying that there is your failure to consider the total
11 impact value of nuclear plants on Lake Erie which renders your
12 final environmental statement inadequate. Is that correct,
13 Mrs. Stebbins?

14 MRS. STEBBINS: Yes.

15 MR. DAVIS: Might I have a minute?

16 CHAIRMAN FARMAKIDES: All right. Go ahead.

17 (Pause.)

18 CHAIRMAN FARMAKIDES: Mr. Davis, are you ready?

19 MR. DAVIS: Thank you, Mr. Chairman.

20 The Staff feels that under the requirements of NEPA,
21 we have a duty to look at the environmental action of this
22 plant in Lake Erie amongst other portions of the environment,
23 and precluded in that review is not a review of the accumulative
24 environmental effects from all nuclear power plants in the lakes
25 that drain into Lake Erie, and also Lake Erie.

ip A-36

1 In addition, Mrs. Stebbins did not -- at least in my
2 view -- furnish a basis for this contention.

3 CHAIRMAN FARMAKIDES: That would be the next question
4 raised. What is it you are going to show to substantiate the
5 contention? Is there a continuing fact? And how would you show
6 that?

7 MRS. STEBBINS: There is an accumulative effect.

8 CHAIRMAN FARMAKIDES: How are you planning to show
9 this?

10 MRS. STEBBINS: It is a well-known fact of the
11 accumulation of DDT in the environment. Now, there is much
12 comparison between DDT and radioactive substances.

13 You have an environmental poison, let's call it,
14 which has a comparatively long half life, and you let it
15 enter the environment and it simply isn't going away.

16 You have some very strange currents and swirling
17 around of currents in the western basin of the lake. You have,
18 for instance, coming into Lake Erie not one river from the
19 Detroit River, but you have three rivers from the Detroit River.

20 You have the relatively clean and practically the
21 same water quality of Lake Huron and the stream coming down the
22 center which can be detected and picked up by sampling.

23 You have the dirty polluted side on the American
24 side, and you have the dirty polluted side on the Canadian side.

25 If you look at studies of currents in the western

ip A-37
1 basins, you will find you have currents that are swirling
2 around in here.

3 We hope, and we think that this is something that the
4 Atomic Energy Commission should have looked into with four
5 nuclear reactors planned for. As we know, Davis-Besse is under
6 construction at the present time.

7 Going into Sandusky, what are we going to do? Put
8 four reactors there? They have 2400 acres, and they are doing
9 studies now.

10 So when you begin to look at this total picture, and
11 when you look at the types of currents that you have in the
12 western basin, we felt that this was something that needed to
13 be evaluated.

14 CHAIRMAN FARMAKIDES: Thank you. Any further
15 comment on this?

16 (No response.)

17 CHAIRMAN FARMAKIDES: All right, let's go to 26(n).

18 MRS. STEBBINS: I guess I really covered (m) and (n)
19 together because that was talking about the --

20 CHAIRMAN FARMAKIDES: In other words, we can consider
21 (m) and (n) as being one contention?

22 MRS. STEBBINS: Really, I put them together because
23 it is what's coming into the lake from up above. And I have
24 no further explanation other than what I have offered you now.

25 CHAIRMAN FARMAKIDES: Anything further on 26(n)?

ip A-38

1 MR. CHARNOFF: We think that insofar as the conten-
2 tions here, the Licensing Board and the AEC should consider
3 future plans, or prospective plans, that there is sufficient
4 case law to make it clear that one does not have to consider
5 things that do not exist.

6 CHAIRMAN FARMAKIDES: Anything further from the Staff?

7 MR. DAVIS: No, thank you.

8 CHAIRMAN FARMAKIDES: All right, how about 26(o)?

9 MRS. STEBBINS: Yes. We would plan to show how radio-
10 active releases from plants as they get older do go out. This
11 has been proven in various reports. We would bring witnesses
12 in to show this, and the fact that in an evaluation that has
13 been made upon a postulated release, doesn't mean that 5 or 10
14 years from now we would be able to meet that release.

15 Let's take 5 or 10 years from now. We need the
16 electricity, and somebody will have to put more radioactivity
17 in because we need the electricity.

18 This is the basis for that contention: as the present
19 experience of reactors that are now operating and what they
20 have shown.

21 MR. SHON: Mrs. Stebbins, I take it that what you
22 are saying is that the radiological impact figures in this
23 report in the final environmental statement are based upon
24 projections that you think have proven where similar projections
25 in it have proven inaccurate; is that right?

1 MRS. STEBBINS: Yes, this is primarily what we are
2 saying, and in the safety -- preliminary safety analysis, in
3 comments on this -- oh, I am trying to think of the federal
4 agency which made this comment -- but the fact that there was
5 no operating experience which would show that the postulated
6 release would be as low as they were talking about; that
7 operating experience at present plants would indicate it was
8 higher than what they were talking about.

9 MR. SHON: Therefore, the environmental effect would
10 be underestimated, is that what you are referring to?

11 MRS. STEBBINS: That is right.

12 MR. SHON: I would like to hear what the Staff has
13 to say about that.

14 CHAIRMAN FARMAKIDES: Yes, sir. Mr. Davis?

15 MR. DAVIS: One comment that I do have is the fact
16 that -- or just an observation --

17 CHAIRMAN FARMAKIDES: If you want to consult with
18 your technical people, you may, sir.

19 MR. DAVIS: Thank you.

20 CHAIRMAN FARMAKIDES: All right.

21 MR. DAVIS: -- is that postulating -- and granted we
22 are not conceding --

23 CHAIRMAN FARMAKIDES: I am sorry. We are having
24 difficulty reading you, sir. Can you talk into it?

25 MR. DAVIS: Postulating the statement of the

i A-40 1 Coalition, without conceding the truth of it, that in fact
2 releases will go up as the plant ages; nevertheless, the plant's
3 effluents, radioactive emissions, will still have to be within
4 the limits specified in Part 20 and whatever other standards
5 are adopted by the Commission, that one interpretation of her
6 contention would be that it could be an attack upon the rules
7 of the Commission and improper in form in 2.758.

8 MR. SHON: Mr. Davis, you say emissions might rise
9 but would still stay within Part 20. Was the final environ-
10 mental statement based only on Part 20, or on something else to
11 make its estimate of impact.

12 MR. DAVIS: One minute.

13 Mr. Chairman, our environmental review was based upon
14 a projection of the effluents from this plant as planned,
15 considering -- and the fact remains -- that the sources
16 determine -- that the assumption that the effluents would in
17 fact rise as the plant aged, they then are not based upon the
18 limits of Part 20, the maximum allowance over the life of the
19 plant.

20 CHAIRMAN FARMAKIDES: Any further comments on that
21 point?

22 Let's go to paragraph 28. There are two paragraphs
23 28 on page 6. Mrs. Stebbins, which of those paragraphs did
24 you state earlier was incorporated in paragraph 3 of the
25 Amended Petition, the first 28 or the second 28?

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1 MRS. STEBBINS: The first 28.

2 CHAIRMAN FARMAKIDES: The first 28. All right.

3 Now, how about the second 28, as to the Staff?— In
4 your response of February 15, page 8, you say, "Paragraphs 28
5 and 29 appear to set forth specific contentions related to the
6 issues of this proceeding and their basis."

7 Now which paragraph 28 did you have in mind there, six?

8 MR. DAVIS: On page 4 of the same pleading, in a
9 series of enumerated paragraphs we referred to the first
10 numbered paragraph 28 as being inclusional without basis. That
11 was our total comment upon -- our only comment upon the first
12 No. 28.

13 When on page 8 we refer to paragraph 28, we
14 mistakenly did not spell it out. We were implying the second
15 No. 28.

16 CHAIRMAN FARMAKIDES: The second paragraph 28. I see.

17 All right. Mrs. Stebbins, can you please address
18 yourself to the second 28 and give us your basis for that,
19 please, that you are going to show, ma'am, that would put a
20 genuine issue of fact into dispute?

21 MRS. STEBBINS: Okay. With respect to population
22 growth in the area, one of the major factors of population
23 growth is, of course, industry. One of the things that attracts
24 industry is: is there adequate power to supply the industry?

25 Now, while this is only one of the reasons why

i A-42

1 industry develops, a second reason that industry develops is
2 because of the availability of water supply.

3 With the water supply of Lake Erie thereis, of
4 course, adequate water supply. With the construction of the
5 Davis-Besse plant, there is adequate power, according to the
6 advertisements that are being placed in national magazines by
7 Cleveland Electric Illuminating saying, "Locate your industry
8 here. We have adequate power," and so forth.

9 So that the total impact of this is the promotion
10 of industry and the factors that will stimulate the growth
11 most are power and water. Of course, transportation, too.
12 I-90 is going throughthat area. It's partially complete.
13 This will help also to bring industry into the area: the
14 transportation system which is being developed.

15 So when you put these factors together, we see this
16 as a possibility of bringing in a much larger population into
17 the area.

18 CHAIRMAN FARMAKIDES: Thank you. Mr. Applicant?

19 MR. CHARNOFF: We have no comment other than to say
20 that we think the contention lacks any basis. It completely
21 lacks any detail and it is simply a speculative assertion.

22 CHAIRMAN FARMAKIDES: Staff?

23 MR. DAVIS: As we said in our February 15th response,
24 we stick with what we said in that pleading, but we think 28 is
25 not the contention and, as has been elaborated today, has more

in A-43

1 bases than it had at that time.

2 CHAIRMAN FARMAKIDES: Let's go to 29.

3 I'm sorry, Mrs. Stebbins; anything further on 28?

4 MRS. STEBBINS: No.

5 CHAIRMAN FARMAKIDES: Let's go to 29.

6 I wish you would, in addressing your bases for 29,
7 please also give us what it is, in your opinion, that you think
8 causes this violation of the nondegradation clause of the
9 Water Quality Standards of Ohio, and what it is specifically
10 that you are referring to? We would like to know.

11 MRS. STEBBINS: Okay.

12 With respect to the nondegradation clause of the
13 Water Quality Standards of Ohio, this is a clause which was
14 developed in order to protect the high quality of our water
15 with the fact that we have had increasing pollution. Many areas
16 have become extremely polluted but other areas were still, so
17 to speak, relatively good water. And the purpose and intent
18 behind this was not to allow further degradation of those
19 waters in which the quality was already good.

20 Now, specifically we do not have large amounts of
21 radioactivity in our waters now. If we add this as a new
22 pollutant, it is in our estimation a vital issue of this non-
23 degradation clause of the Water Quality Standards.

24 CHAIRMAN FARMAKIDES: And you say these have been
25 approved by the Environmental Protection Agency, and I assume

i A-44

1 you are talking --

2 MRS. STEBBINS: Well, it is my --

3 CHAIRMAN FARMAKIDES: Excuse me.

4 I assume you are talking to the Federal Water Pollu-
5 tion Control Act amendments; is that what your point is?

6 MRS. STEBBINS: The standards were set by the State
7 of Ohio, the Water Pollution Control Board at that time. Ohio
8 now has an Environmental Protection Agency. The standards
9 were approved by the Federal Government -- now the Environmental
10 Protection Agency -- but I think at the time of the approval
11 had a different name, like Federal Water Quality Administration,
12 something like that, at the time of approval.

13 CHAIRMAN FARMAKIDES: How does this clause relate to
14 the Federal Water Pollution Control Act amendments of 1972,
15 do you know, ma'am?

16 MRS. STEBBINS: 1972? I'm sorry. I have not fully
17 evaluated all of the 1972 amendments to the Act.

18 CHAIRMAN FARMAKIDES: So then what you are talking
19 about here is the Water Quality Standards in existence prior?

20 MRS. STEBBINS: Which were already approved.

21 CHAIRMAN FARMAKIDES: I see. All right.

22 MRS. STEBBINS: And the adoption of a nondegradation
23 clause was something which the Federal Government asked the
24 States to do. Most of the States in the United States did
25 adopt such a nondegradation clause; a few of them did not.

in A-45

1 CHAIRMAN FARMAKIDES: I am just curious as to what
2 you meant, ma'am, by this phrase.

3 All right. The Applicant?

4 MR. CHARNOFF: The only matter mentioned by
5 Mrs. Stebbins relates to so-called radiological or radioactivity
6 in the water. I would point out that under the Federal Water
7 Pollution Control Act amendments of 1972, and to the best of
8 my knowledge under the Federal Water Control Act legislation
9 which preceded that, the provisions of those statutes do not
10 apply to radioactivity; those were specifically excepted.

11 The other point I would mention is that we do have a
12 Section 21(b) Water Quality Certification from the State of
13 Ohio, certifying that we met the Ohio Water Quality Standards
14 as approved by the Environmental Protection Agency.

15 CHAIRMAN FARMAKIDES: Mr. Charnoff, first, as to your
16 first point in that paragraph 29, Mrs. Stebbins talks as to
17 effluents which includes heat, chemicals as well as dissolved
18 solids, suspended solids, and B.O.D. in addition to the
19 radioactivity.

20 MR. CHARNOFF: That is correct. And I understand that
21 in clarifying that, that in terms of nondegradation provision,
22 the Chairman asked Mrs. Stebbins, "What do you have in mind?"

23 And Mrs. Stebbins replied by referring to radio-
24 activity, sir. I was addressing my remarks to Mrs. Stebbins'
25 clarification of her contention.

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CHAIRMAN FARMAKIDES: I see.

Staff, anything further on paragraph 29?

MR. DAVIS: No, Mr. Chairman.

CHAIRMAN FARMAKIDES: Mrs. Stebbins, anything further on paragraph 29?

MRS. STEBBINS: The approval of the State of Ohio giving them their water certification was something that was done by the State of Ohio under the gun. They have not fully gotten an evaluation from Batelle Memorial, who was doing a study for them.

CHAIRMAN FARMAKIDES: We don't have to go into the merits.

MRS. STEBBINS: Okay.

CHAIRMAN FARMAKIDES: We don't have to go into the merits, whatever they might be.

MRS. STEBBINS: Fine.

CHAIRMAN FARMAKIDES: At this time we just want to clarify what you meant in paragraph 29. I think we have enough clarification now.

MRS. STEBBINS: I specifically used the radioactivity because this was a new pollutant which was being added.

CHAIRMAN FARMAKIDES: Well, we are not going to limit you to that, Mrs. Stebbins. We will also include the heat, chemicals, and other materials that you have included here in 29.

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1 This concludes the questions the Board has. And I
2 would like to project schedules, assuming that there is at least
3 one contention -- and I am making no ruling, of course; but I
4 am just getting to look at the schedule here. If there is at
5 least one more, Mrs. Stebbins, how many days of discovery will
6 you need before we can get into another Prehearing Conference
7 and go into the evidentiary session?

8 The reason I ask, as I understood you, most of the
9 contentions that you have clarified further for us you indicate
10 you will put on in your direct case with regard to witnesses.
11 So I don't know how much more time you will need for discovery.
12 Could you give us an estimate?

13 MRS. STEBBINS: Well, I would think we would need
14 about four weeks for discovery.

15 CHAIRMAN FARMAKIDES: Well, we -- the Board has a
16 little bit of a problem with time here because, frankly, we gave
17 you an additional approximately three weeks to revise your
18 Petition and following that we used up additional time. And
19 we do not -- we, the Board, do not wish to delay this hearing.
20 So we feel that in view of what you said earlier, perhaps a
21 shorter time period will be necessary for discovery, and we
22 wondered what type of discovery you would be interested in.

23 MRS. STEBBINS: Well, the types of discovery that will
24 enable us to help support our contentions here.

25 CHAIRMAN FARMAKIDES: Yes. But what kind, ma'am?

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1 On some things I won't ask you as to detail; other things I
2 want detail. Here I want detail. What type of discovery are
3 you looking at?

4 MRS. STEBBINS: Well, now, when you ask me that
5 question, it is going to take me a few minutes to answer that
6 as I go back through this.

7 CHAIRMAN FARMAKIDES: Well, look, let me say this,
8 then: We probably will have a conference call following the
9 Order, if there is a decision to grant the contention. And we
10 are telling you at this time that we are predisposed to having
11 a very short time for discovery. We already think there has
12 been enough time, and we are thinking in terms of 20 days.
13 Following that we probably will have a Prehearing Conference
14 again to proceed further, if we go that route.

15 How does that sound to the other two parties?

16 Mr. Applicant?

17 MR. CHARNOFF: It would be acceptable to the Applicant
18 here.

19 CHAIRMAN FARMAKIDES: Mr. Staff?

20 MR. DAVIS: Yes, that is fine with us, too,
21 Mr. Chairman.

22 CHAIRMAN FARMAKIDES: Mrs. Stebbins, would that cause
23 you a hardship?

24 MRS. STEBBINS: Well, I had indicated the possibility
25 of about four weeks' discovery.

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1 Now, I also have another problem here which I would
2 like to make a motion to this Board at this time, and I think
3 it might be appropriate for me to do so with respect to it.

4 CHAIRMAN FARMAKIDES: Let us first decide whether or
5 not these contentions will be admitted, and then after that
6 we'll entertain further activities of the parties.

7 At this point in time I don't see why you need more
8 time than that, in view of what you said earlier with respect
9 to the bases of some of your contentions. So let's plan on
10 that kind of a schedule. So we are talking about, then -- we
11 should rule by sometime next week, and we should then be in a
12 position of a second Prehearing Conference sometime in the
13 middle of June, and then we will probably go to evidentiary
14 hearing sometime in the first part of July. That would be the
15 kind of schedule we are talking about.

16 MR. DAVIS: Mr. Chairman?

17 CHAIRMAN FARMAKIDES: Mr. Davis.

18 MR. DAVIS: Excuse me. Pardon me. When did you give
19 for a second Prehearing Conference? About what date?

20 CHAIRMAN FARMAKIDES: After discovery is completed.
21 I think we said sometime in the middle to the end of June.

22 MR. DAVIS: Thank you.

23 CHAIRMAN FARMAKIDES: We have nothing further at this
24 time. Off the record.

(Discussion off the record.)

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1 CHAIRMAN FARMAKIDES: Okay. Back on the record.

2 This completes this Prehearing Conference. The Board
3 will take the material submitted today.

4 I'm sorry. Mrs. Stebbins?

5 MRS. STEBBINS: Mr. Chairman, I did have a question
6 here, if you wouldn't mind. I wanted to bring this up at the
7 beginning of the hearing, and I mentioned how I have resubmitted
8 our original petition.

9 We felt that we were resubmitting this. I didn't
10 have additional information with respect to the specific number
11 of -- the first Section 28 which talked about this benefit
12 analysis which I am still heaving in the contentions, by the
13 way that I have resubmitted my Petition.

14 CHAIRMAN FARMAKIDES: You discussed that, Mrs. Stebbins,
15 that as to our paragraph 3, as I understood you; that's the way
16 I took it.

17 MRS. STEBBINS: I did want to clarify that that was,
18 for instance, being considered as a resubmission here when I
19 was talking on this cost analysis.

20 CHAIRMAN FARMAKIDES: The Board will consider that,
21 yes.

22 MRS. STEBBINS: There is one other thing: this has
23 been a well-known fact through all of these hearings, and this
24 is the reason why we were not able to present a case at the
25 second hearing last July to bring out our points, and this was

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1 because of a lack of finance.

2 Now, the Atomic Energy Commission has been charged
3 to protect the public by setting standards and also to regulate
4 the industry. If there is no public participation in a hearing
5 by Intervenors, then there really is no way for the public to
6 participate.

7 Unless the Coalition receives better financing, we
8 are going to be very pressed to have the money to try and bring
9 these witnesses in; therefore, we would like to make a motion
10 that the Atomic Energy Commission support us by bringing the
11 witnesses in to bring this about, this side of the case. We
12 think that this really is a part of the Atomic Energy
13 Commission's charge to protect the public.

14 CHAIRMAN FARMAKIDES: Mrs. Stebbins, let me make
15 myself very clear. Number one, this Board has no authority
16 to authorize the kind of request you just made.

17 Number two, I don't think, ma'am, that you represent
18 the public interest. I think the public interest is repre-
19 sented by the Atomic Energy Commission. You do represent a
20 segment of the public for whom you speak: that's the Coalition.
21 In that sense we have allowed you to represent them.

22 Let's be very clear that the public interest is not
23 necessarily in your corner.

24 I think, as the Supreme Court has announced, that
25 the public interest is with the agency.

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1 Now, let's get back to the financial problem that
2 you voiced. Here the Board is very sympathetic, but whatever
3 you can work out with the Staff with respect to their ability
4 to help you, for example, with the transcript, is something
5 you have to work out with them.

6 This Board has no authority to make funds or
7 financial assistance available.

8 Now, again, this completes the Prehearing Conference,
9 and I think the record is clarified enough to sufficiently
10 allow the Board to reach a decision on the contentions.

11 We will close the hearing. Before we close, I see a
12 hand and I will entertain a question.

13 MR. GERDY: While the Board doesn't have any funds to
14 make available to this group, is it possible that the Board
15 could recommend to the Atomic Energy Commission to make funds
16 available? And, if so, would the Board so recommend?

17 CHAIRMAN FARMAKIDES: I don't know if we have this
18 authority to "recommend." We're not a part of the Agency
19 except in the sense that we are under the statutory panel.

20 I can't recommend to the AEC to do this, or that, or
21 what have you. The only thing I can do is make a decision,
22 which would then bind this Board, and then, in essence, it
23 binds the parties. Once those parties are bound, they have an
24 appeal through the AEC.

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Let me think about this further. I think my initial

ip A-53 1 answer is the final one. I don't think we have that authority.
2 We'll think about it, and if we come up with a different
3 decision, we'll include it in our report.

4 Thank you very much.

5 MR. CHARNOFF: Simply for the benefit of the public
6 present, I would call to the attention of the Board that in
7 at least one or possibly two cases involving the cases of the
8 Three Mile Island and the Peach Bottom, Intervenors made a
9 request similar to that of Mrs. Stebbins. The Commission
10 denied that request.

11 CHAIRMAN FARMAKIDES: How did they get up to the
12 Commission level?

13 MR. CHARNOFF: It was part of a Petition to be filed
14 at that time with the Atomic Energy Commission.

15 CHAIRMAN FARMAKIDES: In other words, what you are
16 saying is it did not come through the Board?

17 MR. CHARNOFF: No, sir.

18 CHAIRMAN FARMAKIDES: We're going to think about this
19 and if we reach a different decision than the one I just told
20 you, then I'll put it in the Order. Thank you very much.

21 This concludes the Prehearing Conference.

22 (Whereupon, at 1:50 p.m. the Prehearing Conference
23 was concluded.)

24