

Ken Price

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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 In the Matter of: :  
 :  
 APPLICATION OF WESTINGHOUSE :  
 ELECTRIC CORPORATION FOR A : DOCKET NO. 70-2909  
 SPECIAL NUCLEAR MATERIAL :  
 LICENSE FOR THE ALABAMA :  
 NUCLEAR FUEL FABRICATION :  
 PLANT (ANFFP) TO BE LOCATED :  
 NEAR PRATTVILLE, ALABAMA :  
 :  
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United States Courthouse  
Courtroom 1  
15 Lee Street  
Montgomery, Alabama

Thursday, August 21, 1980

The above-entitled matter came on for hearing,  
pursuant to notice, at 10:00 a.m.

BEFORE:

MR. JOHN F. WOLF, CHAIRMAN  
Atomic Safety and Licensing Board

DR. MARTIN J. STEINDLER, MEMBER  
Atomic Safety and Licensing Board

DR. HARRY FOREMAN, MEMBER  
Atomic Safety and Licensing Board

APPEARANCES:

On Behalf of the Nuclear Regulatory Commission:

Mr. Sherwin Turk, Esquire  
Hearing Counsel  
Nuclear Regulatory Commission  
Washington, D. C. 20555

8009020453

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

## 1 APPEARANCES (CONTINUED):

2 Mr. Stuart Treby, Esquire  
 3 Assistant Chief Hearing Counsel  
 4 Nuclear Regulatory Commission  
 5 Washington, D. C. 20555

6 Mr. William Crow  
 7 Uranium Fuel Licensing Section  
 8 Nuclear Regulatory Commission  
 9 Washington, D. C. 20555

10 On Behalf of the Applicant, Westinghouse Corporation:

11 Mr. Barton Z. Cowan, Esquire  
 12 Eckert, Seamans, Cherin & Mellott  
 13 42nd Floor, 600 Grant Street  
 14 Pittsburgh, Pennsylvania, 15219

15 Mr. Donald R. Marcucci, Esquire  
 16 Senior Counsel  
 17 Westinghouse Electric Corporation  
 18 Post Office Box 355  
 19 Pittsburgh, Pennsylvania 15230

20 Mr. Frank Cellier  
 21 Project Manager  
 22 Westinghouse Electric Corporation  
 23 Post Office Box 355  
 24 Pittsburgh, Pennsylvania 15230

25 On Behalf of the Intervenors:

Mr. Julian McPhillips, III, Esquire  
 Mr. Edward Bell, Esquire  
 Post Office Box 64  
 Montgomery, Alabama 36101  
 Representing State Energy Alliance of  
 Central Alabama

Mr. David L. Allred, Esquire  
 231 Oak Forest Drive  
 Montgomery, Alabama 36109  
 As an individual

Mr. Aubrey V Godwin  
 Alabama State Department of Health  
 Montgomery, Alabama 36130  
 Representing the State of Alabama



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CHAIRMAN WOLF: Good morning, ladies and gentlemen.

We are meeting this morning in the matter of Westinghouse Electric Corporation's application for a Special Nuclear Material License for the Alabama Nuclear Fuel Fabrication Plant at Prattville, Alabama.

This morning we will consider in this special pre-hearing conference the motions that have been made, contentions that have been submitted, and attempt to arrange a possible schedule for future hearings.

We expect that we will have one more pre-hearing conference before we go to the merits in this matter.

The public, of course, is invited to attend all of these hearings. At the pre-hearing conferences, however, they are not permitted to participate.

Later we will have a hearing at which limited appearances may be made by members of the public and at which time they can state their views regarding the granting or the refusal of the permit that is now being sought by Westinghouse.

Further announcements will be made about the limited appearances at later hearings and in press releases.

At this time I would like to introduce the members of the Board. On my left is Dr. Martin J. Steindler. He is the Associate Director of the Chemical Engineering Division of Argonne National Laboratory in Chicago.

1           On my right is Dr. Harry Foreman, who is Director  
2 of the Center for Population Studies, Department of Obstetrics  
3 and Gynecology at the University of Minnesota, Minneapolis,  
4 Minnesoca.

5           I am John Wolf, a lawyer.

6           At this time we will ask the counsel to state their  
7 appearances for the record.

8           MR. TURK: Mr. Chairman, my name is Sherwin Turk.  
9 I am a Hearing Counsel at the Office of Executive Legal Director,  
10 Nuclear Regulatory Commission, Washington.

11           With me is Mr. Stuart Treby, who is Assistant Chief  
12 Hearing Counsel with my office, the Office of Executive Legal  
13 Director. And also at my table is Mr. William Crow, who is  
14 the Section Leader in the Uranium Fuel Licensing Office of the  
15 Nuclear Materials Safety and Safeguards with the Nuclear  
16 Regulatory Commission.

17           MR. MC PHILLIPS: Mr. Chairman, my name is Julian  
18 McPhillips. I am the attorney for the Safe Energy Alliance  
19 of Central Alabama.

20           With me at my table and assisting me is my law clerk  
21 and assistant, Ed Bell, who also serves as Executive Secretary  
22 for the Safe Energy Alliance of Central Alabama.

23           MR. ALLRED: Mr. Chairman, my name is David Allred.  
24 I have filed a petition to intervene in the licensing procedure,  
25 and I represent myself.

1 MR. GODWIN: Aubrey Godwin, Alabama Department of  
2 Public Health, Division of Radiological Health, and representing  
3 Dr. Ira Myers, State Health Office.

4 MR. COWAN: Mr. Chairman, my name is Barton Cowan.  
5 I am with the law firm of Eckert, Seamans, Cherin and Mellott  
6 in Pittsburgh, Pennsylvania.

7 On my left is Mr. Don Marcucci of the Law Department  
8 of Westinghouse Electric Corporation.

9 On my right is Mr. Frank Cellier, who is the Project  
10 Manager for the Westinghouse Alabama Fuel Fabrication Plant  
11 Project.

12 Together, Mr. Marcucci and I, along with my partner,  
13 John Kennrick, who is not present today, represent the Applicant,  
14 Westinghouse Electric Corporation.

15 CHAIRMAN WOLF: We will now ask Mr. Allred if he will  
16 comment and briefly support his petition for intervention in  
17 this matter.

18 By the way, Mr. Allred, if it is more comfortable  
19 and convenient, if you speak up, you don't have to stand. If  
20 you prefer to stand, fine.

21 MR. ALLRED: If anyone has any trouble hearing me,  
22 including the people who are here, if you would let me know  
23 I will stand up, otherwise I will accept your invitation and  
24 take a seat.

25 CHAIRMAN WOLF: Very well.

1 MR. ALLRED: Let me summarize the petition which I  
2 filed in the case, which I think sets forth my answers, and  
3 it sets forth a sufficient basis for standing for intervention.

4 First of all, I live here in Montgomery, which is  
5 located approximately within a ten-mile radius of the proposed  
6 site facility. I own property here in Montgomery, and of course  
7 I live and work in the area.

8 I also have occasion to use the Interstate and other  
9 road systems in Alabama, which my understanding of the Environ-  
10 mental Report indicates would be used for transportation of  
11 the radioactive materials for this fuel fabrication facility.

12 I also am married and have two children, and may  
13 possibly have additional children in the future; so I think  
14 that that is another factor: both my wife and I are of child-  
15 bearing age and living here within a ten-mile radius of the  
16 facility.

17 I also have occasion to use the Alabama River from  
18 time to time downstream of the plant for swimming and fishing  
19 and recreational uses.

20 I would submit to the Board that since I do live and  
21 work here in Montgomery, and since I do own property here in  
22 Montgomery, and since the Environmental Report prepared by West-  
23 ingshouse indicates that there will be a discharge of radiation  
24 into the atmosphere and a discharge of radiation into the  
25 Alabama River, and that there will be transportation of

1 radioactive materials both to and from the plant site on the  
2 same roads that I use, and possibly less than a distance of  
3 a mile of the property that I own, that I do have an interest  
4 and do have standing to intervene in this licensing procedure.

5 , I believe that summarizes the position that I have  
6 taken in my petition to intervene.

7 CHAIRMAN WOLF: Mr. Turk, do you have comment on the  
8 petition for intervention by Mr. Allred?

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

10 Back in April, April 28, 1980, we filed a response  
11 to Mr. Allred's petition for leave to intervene, and in our  
12 response we stated we felt he does meet the standing interest  
13 requirements which are set forth by the Commission's regulations,  
14 and we would be satisfied to have him allowed to intervene in  
15 this proceeding.

16 CHAIRMAN WOLF: Thank you. Mr. Cowan, do you have  
17 comment?

18 MR. COWAN: On the interest and standing, Mr. Chairman,  
19 we would not object to Mr. Allred's participation in this  
20 proceeding. Of course, he must show, in addition to interest  
21 and standing, that he has raised a valid contention, and that  
22 will be the subject, as I understand it, of a later discussion  
23 in this pre-hearing conference. But on interest and standing  
24 we do not object; we agree with the Staff.

25 CHAIRMAN WOLF: Very well. Mr. McPhillips, do you

1 care to comment on Mr. Allred's petition?

2 MR. MC PHILLIPS: Sir, I would support it a hundred  
3 percent.

4 CHAIRMAN WOLF: Mr. McPhillips, you filed a petition  
5 for intervention. Would you please support that petition  
6 briefly?

7 MR. MC PHILLIPS: Yes, sir. I'll stand up only for  
8 this initial statement, and then remain seated, probably, for  
9 the rest of this hearing.

10 I would like to state that initially on April 7th  
11 I did file on behalf of numerous individuals petitions to inter-  
12 vene. I also filed a petition on behalf of what was then the  
13 unincorporated Safe Energy Alliance of Central Alabama.

14 An extension of two months was given to us to file  
15 additional petitions, and in response to some suggestions from the  
16 NRC staff we decided to consolidate all our individual petitioners,  
17 and we filed them on behalf of one petitioner, the Safe Energy  
18 Alliance of Central Alabama, Incorporated. which became in-  
19 corporated as a nonprofit corporation on June 10, 1980 in the  
20 office of the Probate Court in Montgomery County, Alabama.

21 CHAIRMAN WOLF: Mr. McPhillips, would you state the  
22 names of the persons that you now represent in the consolidated  
23 petition?

24 MR. MC PHILLIPS: Yes, sir. In fact, I have been  
25 authorized by eighteen of the members of the Safe Energy Alliance



1 to represent them in opposing the construction operation by  
2 Westinghouse of this plant, and their names have been attached  
3 to our amended petition, which was filed on June 11th, a copy  
4 of which I presume you have before you, and which all other  
5 parties have a copy of.

6 Their names, as can be seen on Exhibit 1, are Mr.  
7 Randy Aronov of Montgomery, Alabama. His work location also  
8 is in Montgomery County, Alabama.

9 Mr. Charles O. Butler of Elmore, Alabama, and his  
10 wife, Marilyn F. Butler.

11 Mr. Robert H. Campbell, who is one of the original  
12 petitioners who has now, under Exhibit 1, authorized me to  
13 represent them in the consolidated petition.

14 He, by the way, is the President of our Safe Energy  
15 Alliance.

16 Ms. Sara Raut, Mr. Robert Ely.

17 Again, their residences and work locations are listed  
18 on Exhibit 1 to the amended petition.

19 Mr. John A Johnson, who is actually a resident of  
20 Dallas County, which is downstream on the Alabama River from  
21 where this plant will be built.

22 Ms. Linda G. Moore of Montgomery, Alabama.

23 Ms. Ann Toledo of Montgomery, and Mr. William Carroll  
24 of Auburn.

25 Now, each of these 11 individuals -- I might point

1 out that Mr. Carroll also works in Montgomery, Alabama, and  
2 he works on 246 South Port Street in Montgomery, Alabama

3 In Exhibit 2, other individuals, members of the Safe  
4 Energy Alliance of Central Alabama, have signed their names  
5 and given their addresses and work locations.

6 They are, in addition, Cathrine Donelson of Montgomery;  
7 Ms. Susan Sinberry of Montgomery; Mr. Frank Mims (sic) Jr. of  
8 Montgomery; Mr. Jack Naftell of Montgomery; Mr. Edward Struthers,  
9 III of Montgomery, Mr. Farris L. Curry of Montgomery; Mr.  
10 Edward J. Bell of Montgomery, and Ms. Regina Lee of Montgomery.

11 All eighteen of these individuals, as we set out in  
12 the petition, live and work within close proximity of the pro-  
13 posed plant site.

14 I might point out, as we spelled out in our contentions,  
15 it is really only six and a half miles -- six miles or so --  
16 from the Montgomery City Limits that this plant site will be  
17 built, and as I understand the law, anybody within a 50-mile  
18 radius meets the standing requirement, generally, as far as  
19 proximity is concerned.

20 Now, with respect to the interest that we set out  
21 in the petition, we state that any and all of us would be affected  
22 by any release of radiation into the environment. We further  
23 state that we would be affected by any accident involving  
24 transportation of uranium to the facility, or of fuel pellets  
25 from the facility.

1 We further point out we would be affected by releases  
2 of radiation from waste storage containers which are to be located  
3 at the proposed facility.

4 We further point out that we would be affected by  
5 any accident which occurred as a result of tornado, sabotage,  
6 geological upheaval, flooding, or any other natural cause.

7 Further, we state that our enjoyment of our property  
8 would be affected by this proposal.

9 Now, all of use are, of course, not only in reasonably  
10 good health, but we hope to remain in reasonably good health,  
11 and we feel our health would be jeopardized by this plant being  
12 located in this vicinity.

13 Some of us, such as myself and others, are parents  
14 and we feel that our children's health would be jeopardized  
15 now and in the future by the operation and construction of the  
16 plant.

17 In the petition also we have attached Exhibit 3, which  
18 is a resolution of the Board of Directors of the Safe Energy  
19 Alliance of Central Alabama. In that resolution the Board  
20 of Directors resolve, authorize, and direct Robert H. Campbell,  
21 as President of the Safe Energy Alliance, to sign in the name  
22 of Safe Energy Alliance a petition for leave to intervene, which  
23 is in fact what he did, if you'll look at our amended petition,  
24 and to represent the Safe Energy Alliance in this particular  
25 application before your Board.

1           The amended petition itself further points out in  
2 Exhibit 1 that I have been authorized and designated -- first,  
3 SEACA has been authorized and designated to represent the common  
4 interest of all its members in this proceeding. The second  
5 set of members, as I said, consisting of eight who had not  
6 previously filed individual petitions, but all of whom share  
7 common interest with the first set of members, have also duly  
8 authorized and designated SEACA to represent them.

9           All of the individuals named in the proceedings have  
10 also authorized me.

11           The named SEACA members would be, as we say, affected  
12 by all these things that we pointed out to you previously in  
13 our petition. And in our Articles of Incorporation we state  
14 that one general purpose of SEACA is to "promote a comprehensive  
15 educational program educating the public of Alabama as to the  
16 benefits of safe energy and as to the hazards of unsafe energy  
17 sources, including especially those which emit radioactive  
18 waste."

19           And secondly, another purpose set out in our Articles  
20 of Incorporation, is to "file a petition to intervene before  
21 the U. S. Nuclear Regulatory Commission in the application of  
22 Westinghouse Electric Corporation for a Special Nuclear Material  
23 License for the Alabama Nuclear Fuel Fabrication Plant for the  
24 purpose of opposing said license and plant as being detrimental  
25 to the health and life interests of the people of Central

1 Alabama and of other forms of animal and plant life in the  
2 vicinity."

3 So, I think that basically points out our standing,  
4 our interest, our authorization to represent the various  
5 individual members in this proceeding. Further, you might  
6 note -- and I'm sure you'll hear from the NRC staff members  
7 themselves on this -- that they have filed an answer to our  
8 amended petition in which they support us and set out the case  
9 materials backing them.

10 And so, basically that's it, and I say that pursuant  
11 to Section 2.714 we request that a hearing be conduct on all  
12 issues which we raise in our contentions, valid contentions.

13 Thank you.

14 CHAIRMAN WOLF: Mr. Allred, do you have any comment?

15 MR. ALLRED: No, sir. I support SEACA's petition  
16 to intervene.

17 CHAIRMAN WOLF: Mr. Turk, do you have a comment?

18 MR. TURK: Thank you. I would like to address several  
19 of the points which Mr. McPhillips made in his presentation.

20 The first is to note that when the organization,  
21 Safe Energy Alliance of Central Alabama, Inc. -- and for  
22 brevity I'll just refer to them by the acronym "SEACA" -- when  
23 SEACA filed its first petition we opposed them on the grounds  
24 that they had failed to meet the legal requirements of the  
25 Commission's regulations. Subsequently, Mr. McPhillips did

1 file a second petition, his amended petition, in which he  
2 corrected the deficiencies of the first petition to our  
3 satisfaction. We then supported his amended petition for that  
4 reason.

5 I would note that we did so on the basis that an organi-  
6 zation such as SEACA is really a shell. It has no interest  
7 or standing of its own; it merely can take action based upon  
8 the interests and standing of its members. And we found that  
9 the individuals who were listed as members of SEACA did have  
10 the requisite standing and interests, and for that reason we  
11 supported the amended petition.

12 One thing that I would like to get to at this point  
13 is exactly who will remain parties in this proceeding if the  
14 organization is allowed to intervene. No motion yet has been  
15 filed to withdraw the petitions of individual members of the  
16 organization, and in our telephone conference call of June 17,  
17 I believe that Mr. McPhillips stated that the individual members  
18 of SEACA who had filed individual petitions for leave to inter-  
19 vene will not participate in the proceeding. I do want to make  
20 that a point on the record today, and perhaps to even suggest  
21 that Mr. McPhillips file motions to withdraw the petitions of  
22 the individuals in the event that the organization is granted  
23 leave to intervene.

24 This would serve the purpose of clarifying exactly  
25 who would be allowed to speak in the proceedings and who the



1 parties will be for all future purposes.

2 CHAIRMAN WOLF: Would you consider that, Mr. McPhillips?

3 MR. MC PHILLIPS: Yes, sir. Certainly in light of  
4 their authorizing me in the amended petition, Exhibits 1 and  
5 2, to represent their interests, I see no further interest to  
6 be served by representing them also individually.

7 I think we can represent them adequately well under  
8 the SEACA Corporation. So, I certainly would be amenable to  
9 that.

10 CHAIRMAN WOLF: Mr. Godwin, do you have any comment?

11 MR. GODWIN: No comment.

12 MR. TURK: Mr. Chairman, if you will allow me, I do  
13 have two other comments I would like to make.

14 The first is that I am pleased that Mr. McPhillips  
15 is preparing to give very good representation to the organiza-  
16 tion and its members, but I would caution him, and all those  
17 present here today, that the facts which he alleges in his  
18 petition as to the dangers to the public are not established,  
19 and that it is the Commission's role to protect the public.  
20 So, I would urge all those present not to conclude that the  
21 facts are established by the basis of his alleging them in his  
22 petition.

23 CHAIRMAN WOLF: I think we understand that.

24 Mr. Cowan, do you have any comment?

25 MR. COWAN: Yes, Mr. Chairman. We also opposed

1 initially the filing that Mr. McPhillips had made on April 7,  
2 1980 for petition for leave to intervene. When he filed his  
3 subsequent petition, or amended petition, the Staff filed a  
4 response -- we did not -- with regard to interest and standing.  
5 Assuming that SEACA the sole party who will be represented  
6 here by Mr. McPhillips in terms of party on the record, we  
7 would not object to the interest and standing as set forth  
8 by Mr. McPhillips.

9 CHAIRMAN WOLF: So, you are saying if Mr. McPhillips  
10 files motions withdrawing the individuals, that will be  
11 acceptable?

12 MR. COWAN: Yes, that would be acceptable with regard  
13 to the interest and standing.

14 Of course, Mr. McPhillips still must establish that  
15 he has one valid contention in order to participate in the  
16 proceeding.

17 I should note, as the Staff did, that by not objecting  
18 to the interest and standing we do not by any means admit the  
19 validity of any of the claims, of course, that are set forth  
20 in the Statement of Interest that Mr. McPhillips referred to  
21 briefly.

22 What we are proposing to obtain a license to build  
23 here is an industrial facility to fabricate fuel; it is not  
24 a nuclear power plant to generate electricity. There seems  
25 to some confusion, we think, in the statements that Mr. McPhillips

1 has filed concerning that. This is not a nuclear power  
2 generating plant.

3 The process that we are going to be using here, again,  
4 using only nonirradiated uranium. There is no irradiated  
5 uranium either coming into this plant, at the plant during  
6 process, or going out of this plant. The plant doesn't handle,  
7 and it is not a facility for handling, nuclear wastes generated  
8 by nuclear power plants. Some of the statements of interest  
9 that Mr. McPhillips mentioned which touch on those points,  
10 either tangentially or directly, we of course do not admit as  
11 to their validity.

12 CHAIRMAN WOLF: Well, we will get to those a little  
13 later in the hearing when we discuss the contentions that have  
14 been made by the people who have petitioned to intervene.

15 MR. COWAN: If I may take one more moment. Mr.  
16 McPhillips mentioned safety. Westinghouse, of course -- as  
17 is everyone, I would hope, in this room -- is interested in  
18 having a safe plant, a safe operation. We are interested as  
19 anybody else in the safety of this facility.

20 That concludes my comment.

21 CHAIRMAN WOLF: Mr. Godwin, would you state the  
22 basis that the State is here?

23 MR. GODWIN: Two points: 7-15(c) permits any state  
24 to become a party to the proceeding, and I think the fact the  
25 plant is located within Alabama would show an interest by the

1 State of Alabama in the proceeding.

2 The rest of my comments, I think, have been covered  
3 by filings that have already been made by the Board.

4 That would be it.

5 CHAIRMAN WOLF: Are there any objections to the  
6 State being admitted as an interested state? They, of course,  
7 do not have to file contentions, and there is no further test  
8 really to be made.

9 Mr. Cowan, do you have any objection?

10 MR. COWAN: We have no objection to the State  
11 participating as an interested state.

12 CHAIRMAN WOLF: Mr. Allred?

13 MR. ALLRED: I would have no objections.

14 CHAIRMAN WOLF: Mr. McPhillips?

15 MR. MC PHILLIPS: No, sir.

16 CHAIRMAN WOLF: Mr. Turk?

17 MR. TURK: The Commission has no objections to the  
18 State's participation.

19 CHAIRMAN WOLF: Accordingly, the State of Alabama  
20 as represented by Mr. Godwin will be admitted as an interested  
21 state to participate in accordance with the regulations in the  
22 hearings to be held in this matter.

23 At this time we will take up one of the motions that  
24 was filed some time ago, actually on June 12, 1980, by Mr.  
25 McPhillips, requesting an order that Petitioner SEACA be

1 relieved of the requirement of CFR 2.708(d) of the requirements  
2 that one original and twenty conformed copies of all pleadings  
3 be filed.

4 The Staff supported that motion, but before any action  
5 could be taken on it there was published in the Federal Register  
6 on July 25, 1980 a change in the regulations that provides  
7 that that section of the regulations relating to filing of  
8 copies was changed to require all parties, not merely inter-  
9 venors, to file three copies of their pleadings.

10 The Commission also set forth in the Federal Register  
11 of July 25, 1980 regulations regarding procedural assistance  
12 in adjudicatory licensing proceedings. I don't know if all  
13 the parties have copies of that, but if they haven't Mr. Turk  
14 most likely could furnish them to them.

15 Is that correct, Mr. Turk?

16 MR. TURK: Yes, sir. I do have extra copies and at  
17 some point in the proceedings today, when we take a break, I  
18 will distribute copies of those.

19 CHAIRMAN WOLF: Accordingly, in view of this change,  
20 the motion by the Safe Energy Alliance of Central Alabama,  
21 Incorporated entitled "Motion Requesting Order that Petitioner  
22 SEACA Be Relieved of the Requirements of CFR 2.708(d)" is  
23 denied. It appears that the necessity for that motion has  
24 been eliminated by the change in the rules.

25 We also have before us motions for continuance of

1 the pre-hearing conference. Since we are here meeting in the  
2 special pre-hearing conference, that motion is moot and is  
3 denied.

4 I want to point out that this does not mean that if  
5 there is good cause for a continuance in these hearings, all  
6 parties are, of course, entitled to file motions and they will  
7 be considered on their merits.

8 MR. MC PHILLIPS: Mr. Chairman, may I raise a point  
9 of clarification?

10 CHAIRMAN WOLF: Yes.

11 MR. MC PHILLIPS: As you noted, we did file that  
12 motion for continuance and one of the grounds set out was that  
13 we were seeking and obtaining information from certain scientists  
14 which we have not yet completely received. The NRC staff did  
15 file an answer in which they supported us receiving at least  
16 a 30-day extension, even though we were seeking a 60-day  
17 extension. In light of the fact there is not only some infor-  
18 mation from certain scientists that we need, but also the  
19 license application has been a document that we have been  
20 unaware of -- the existence of -- until late yesterday after-  
21 noon -- various parties did not know of, and had not heard  
22 of, this license application.

23 Without getting too much into the merits of that,  
24 I would simply like to say that we would like at least a  
25 30-day time period following this hearing in which we would



1 be allowed to file additional contentions without having to  
2 meet the burden of proof that it is based on newly discovered  
3 evidence. Because some might argue that the license application  
4 was available and we should have known about it; some might  
5 argue also that we've had plenty of time to get our scientists'  
6 reports by now, and we simply say that scientists don't always  
7 move as quickly as we would like, and that a 30-day extension  
8 of time to file additional contentions without being burdened  
9 by the standard of newly-discovered evidence is not unreasonable  
10 and not unduly burdensome on anyone else in this room.

11 CHAIRMAN WOLF: Very well. We will ask the others  
12 present to comment on that.

13 Mr. Turk?

14 MR. TURK: Mr. Chairman, I am not sure that I under-  
15 stand exactly what it is that the extension of time would allow  
16 Mr. McPhillips to do.

17 We did support his motion for an extension of time  
18 to the extent of a 30-day extension, based on the fact that  
19 he had not yet received all the information which he was hoping  
20 to get by this time from his consultants.

21 To the extent that he tells us today that he hasn't  
22 seen the license application yet, it is my understanding that  
23 a copy of that application is on file in Prattville at the  
24 local public document room that has been established there.

25 Now, I recognize that this proceeding is just

1 beginning and that the organization SEACA and Mr. McPhillips  
2 have not been intervenors in these types of proceedings before  
3 now, and perhaps he was not aware that this document was  
4 available to him in the local public document room, but since  
5 we support his motion for an extension of time based on the  
6 fact that he needs more information from his consultants, I  
7 would not oppose the same amount of time being offered to him  
8 to go to take a look at the license application and to frame  
9 new contentions based on that.

10 CHAIRMAN WOLF: Mr. Allred?

11 MR. ALLRED: Mr. Chairman, I have also filed a request  
12 for a continuance for time -- or an extension of time to file  
13 contentions, and I support Mr. McPhillips' motion, of course,  
14 and would ask for an additional 30-day extension of time, too.

15 I filed a motion for a continuance of this pre-hearing  
16 conference as well as a motion for a continuance -- or as well  
17 as a motion for an extension of time to file additional  
18 contentions.

19 With respect to the pre-hearing conference that we  
20 are engaged in now, if I may, I would like to summarize the  
21 basis for filing that motion. Although I realize it may be  
22 moot in part now, I don't believe it is moot completely.

23 The reason I filed the motion is because no order  
24 setting the date was sent to any of the parties involved. My  
25 understanding is that the order was sent to the docketing

1 service and the docketing service failed to send any copies  
2 to any of the Intervenor.

3 In fact, I would not have been aware of the time and  
4 location of the hearing had I not had a telephone conversation  
5 with Mr. Turk wherein he stated that it would be definitely  
6 set here in this courthouse at ten o'clock today.

7 I simply would ask that this pre-hearing conference  
8 be continued at this time because the order was not sent down.  
9 In fact, I did not receive anything in writing about the  
10 conference until last Friday.

11 CHAIRMAN WOLF: Well, as I recall, you were on the  
12 phone when we discussed this pre-hearing conference.

13 MR. ALLRED: Yes, sir, I was on the phone, but --

14 CHAIRMAN WOLF: Just a minute.

15 Also, the notice of it was filed in the Federal  
16 Register, and I'm sure in the office in which you work you get  
17 a copy of the Federal Register.

18 That is the only notice that is required, that it  
19 be listed in the Federal Register, and that was timely filed.

20 Through inadvertence, the paper copy of that which  
21 is usually served was not served until a week ago, and I'm sure  
22 you got that copy.

23 I don't think that it is well taken that you didn't  
24 get the notice because I think you had ample notice. However,  
25 we are going to consider the whole matter before we adjourn

1 here today.

2 Mr. Cowan?

3 MR. ALLRED: Mr. Chairman?

4 CHAIRMAN WOLF: Yes?

5 MR. ALLRED: Would this be the appropriate time to  
6 speak now to the issue of an extension of time to file additional  
7 contentions?

8 CHAIRMAN WOLF: Yes. You may do that, Mr. Allred.

9 MR. ALLRED: I stated earlier that I did support  
10 Mr. McPhillips' and SEACA's petition for an extension of time,  
11 and I also would ask for a 30-day extension of time based on  
12 the fact that I have not yet received from the NRC a response  
13 to a letter that I wrote on April 21st asking for a conflict  
14 of interest statement of some sort in this case. Although I  
15 have spoken to Mr. Turk several times, four months later I still  
16 don't have anything in writing about any kind of conflict of  
17 interest regarding the Environmental Impact Statement.

18 Secondly, I understand that Westinghouse has supple-  
19 mented its Environmental Report, and I presume that by now  
20 responses to the staff meeting which was held in Washington,  
21 or in Silver Springs, Maryland, are now available in the  
22 State of Alabama. If I could have that clarified?

23 I understand that the NRC staff asked for additional  
24 supplements in the form of 28 multi-part questions and that  
25 it was, I believe, on August the 6th that Mr. Page wrote to

1 Westinghouse and asked that they send copies of that supplement  
2 to the Environmental Report here to Alabama so that they  
3 are probably available now but have not been available within  
4 the time frame to file contentions.

5 Thank you, sir.

6 CHAIRMAN WOLF: We will move on, but I might comment  
7 at this time that you can refile the motion for an extension  
8 of time to file valid contentions, and if you can show good  
9 cause we will consider them and consider them on their merits  
10 and if they are acceptable they will be included as part of  
11 your case.

12 Mr. Turk, would you speak to the point raised by Mr.  
13 Allred regarding the failure to respond to the communication  
14 regarding the conflict of interest?

15 MR. TURK: Yes, sir. I have had several conversations  
16 with Mr. Allred in which I told him that a draft letter in response  
17 to his letter had been prepared and was circulating in the  
18 offices of the Commission among the staff of the Commission.  
19 And I told him the conclusions of that letter, that we had found  
20 there was no conflict of interest and that a conflict of interest  
21 statement was made a part of the agreement between the Nuclear  
22 Regulatory Commission and the Department of Energy for the use  
23 of the Oak Ridge National Laboratory in preparing the EIS.

24 Now, I recognize the time has been quite extended  
25 since Mr. Allred sent in his letter request for a statement

1 concerning the EIS. To the extent that any new contentions  
2 might be raised based upon our letter response -- which will  
3 be forthcoming very soon -- I would not oppose a new contention.

4           However, as I stated in our response to Mr. Allred's  
5 motion concerning an extension of time, he has already made  
6 a contention concerning a potential conflict of interest and  
7 I think he's covered his bases very well. I don't see that  
8 any delay would be occasioned in this proceeding by his getting  
9 our letter in the near future rather than in the past.

10           CHAIRMAN WOLF: Mr. Godwin, do you have any comments?

11           MR. GODWIN: I would like to try to see where we are.  
12 As I understand, you have denied a motion for a continuance  
13 of the pre-hearing conference, is that correct?

14           CHAIRMAN WOLF: That is correct.

15           MR. GODWIN: Mr. Chairman, have you ruled upon any  
16 motions to extend any time?

17           CHAIRMAN WOLF: Mr. Allred filed a motion for a  
18 continuance of the pre-hearing conference, as did Mr. McPhillips.  
19 We have ruled against those two motions.

20           The motions that are under discussion are motions  
21 for an extension of time to file valid contentions, and there  
22 are two of those: one by Mr. McPhillips and one by Mr. Allred.  
23 As to those motions, we have made no ruling up to this point.

24           MR. GODWIN: Thank you, Mr. Chairman. I just wanted  
25 to see where we were.



1 CHAIRMAN WOLF: Mr. Cowan, do you have any comments?

2 MR. COWAN: We will not address the motions for  
3 continuance of this pre-hearing conference on which the Chair  
4 has already ruled for fear that we might get a reversal of the  
5 ruling from the Chair.

6 On Mr. McPhillips' motion for an extension of time  
7 in which to file valid contentions, we filed a response in  
8 opposition to that motion and set forth our position in that  
9 opposition.

10 We just note that this proceeding was first noticed  
11 in the Federal Register on April 7th and it appears to us that  
12 SEACA has had ample time to obtain whatever information it needs  
13 for this stage of the proceeding in order to form contentions.

14 CHAIRMAN WOLF: I take it that generally you oppose  
15 an extension of time for filing contentions?

16 At this time.

17 MR. COWAN: Yes. Insofar as they would allow  
18 additional contentions unrestricted as to subject matter, we  
19 would oppose it.

20 CHAIRMAN WOLF: Well, I haven't assumed -- and please  
21 correct me if I'm wrong -- that it is not a request to file  
22 unrestricted contentions but only contentions that might grow  
23 out of material that you have not seen as of this date, is that  
24 correct, Mr. McPhillips?

25 MR. MC PHILLIPS: Yes, Mr. Chairman, but some of the

1 material we have not seen someone might arguably say we should  
2 have seen, and we would say therefore that we should be un-  
3 restricted as to that material.

4 I might also add, although I would like to compliment  
5 Mr. Turk for having been very helpful and cooperative with us  
6 in calling us and what not, that actually I had requested after  
7 some kind of hearing in Maryland, in which the Westinghouse  
8 people presented information and documents to the NRC staff,  
9 that we get copies of the documents that were entered at that  
10 hearing. I think I asked you, Mr. Turk about that, and some-  
11 thing must have gotten lost in communication because I've never  
12 received those documents either. I would like to take a look  
13 at those documents in addition to whatever information is in  
14 the license application that we haven't seen heretofore.

15 I do feel the 30-day extension of time would not be  
16 unduly burdensome on anyone. I would say, however, with respect  
17 to the Environmental Report itself, thick as it may be, we have  
18 no more contentions that we want to frame based on what is in  
19 there. So certainly I would be willing to consent to a  
20 restriction that no more contentions be based on material in  
21 the Environmental Report.

22 But any other material that may be available, such  
23 as those documents or such as the license application, I would  
24 like to not be restricted to frame contentions based on those  
25 materials.

1 materials.

2 MR. ALLRED: Mr. Chairman, my motion for an extension  
3 of time would refer only to material which I have not seen and  
4 which has not been available here within the time limit for  
5 filing contentions in this proceeding.

6 CHAIRMAN WOLF: Mr. Cowan?

7 MR. COWAN: I should point out that there is a  
8 difference between material which Mr. McPhillips refers to as  
9 he has not seen and material which has not been available here,  
10 because the license application, as well as the Environmental  
11 Report, have been available to the public since they were first  
12 filed, and have been available here in Prattville in the NRC's  
13 public document room, which I understand is at the Prattville  
14 Public Library, for a number of months now.

15 So, those have been available even though Mr. McPhillips  
16 may not have seen them.

17 CHAIRMAN WOLF: Does that conclude everyone's comment  
18 on this matter for now?

19 MR. MC PHILLIPS: Your Honor, just one statement about  
20 the license application which I would like to clear up, and  
21 that is, I have had numerous conversations with Mr. Turk by  
22 telephone, and I've had a few with Mr. Cowan and others  
23 associated with Westinghouse. Of course I have had conver-  
24 sations with others in the Montgomery vicinity who have had  
25 access to or have received the Environmental Report. And not

1 once in those conversations or in any other sorts of material  
2 was it made known to us that the license application was  
3 available or even existed.

4 I might further point out that the public notice in  
5 the Federal Register simply said that there would be a document  
6 room in the Prattville Public Library, but there was no  
7 specificity as to the license application itself existing there.

8 Of course, that word "specificity" seems to be one  
9 of the words that is most widely used by the NRC staff and  
10 Westinghouse, and I'd say if they're going to hold us to the  
11 standard of specificity then perhaps we should also hold them  
12 to that standard. Therefore, we do need additional time to  
13 examine that license application.

14 CHAIRMAN WOLF: Any further comments before we rule  
15 on this matter?

16 MR. COWAN: Mr. Chairman, just for the record, the  
17 application was referred to and discussed at the scoping meeting  
18 at which SEACA was represented.

19 MR. MC PHILLIPS: We were not in existence at that  
20 time, Your Honor.

21 MR. ALLRED: Mr. Chairman, I would ask if you would  
22 ask the public whether or not they can hear the conversation  
23 that is taking place since it is a public hearing. If they  
24 can't hear, then it's not really public.

25 Would you address the audience, the number of people

1 who are here, and see if they can hear what is taking place?

2 (Loud audience response of "No.")

3 MR. ALLRED: Perhaps standing up and speaking loudly  
4 would be a better practice so the people here can hear what  
5 is taking place.

6 (Audience applause.)

7 CHAIRMAN WOLF: Very well. After this I'll ask  
8 counsel to stand.

9 We will take a five-minute break and then rule on  
10 the motion.

11 MR. TURK: Mr. Chairman, may I make one last point  
12 before we break?

13 CHAIRMAN WOLF: Yes.

14 MR. TURK: There was a question of whether the license  
15 application was available and whether knowledge of that  
16 availability was held by SEACA. The Federal Register notice  
17 which came out originally in this proceeding did specify that  
18 a local public document room had been set up and that all  
19 additional filings, subsequent filings, by Westinghouse would  
20 be on file there for the public, and Mr. McPhillips and anyone  
21 else could see those.

22 Also in this regard, when Mr. McPhillips asked me  
23 for a copy of the Environmental Report I did tell him to go  
24 to the local public document room; he would find it there,  
25 and if he had gone he would have seen the other materials.

1 CHAIRMAN WOLF: Very well. We are aware of the  
2 conditions.

3 MR. TURK: We do support his motion for an extension  
4 however.

5 CHAIRMAN WOLF: We will take five minutes, please.

6 (A brief recess was taken.)

7 CHAIRMAN WOLF: We are going to discuss the two  
8 motions for extension of time in which to file valid contentions.

9 We will begin by denying those two motions that were  
10 filed, and in their place we will grant Mr. Allred and Mr.  
11 McPhillips ten days in which to file new motions and limited,  
12 as we have discussed earlier, to the material that had not  
13 previously been seen by either of the parties -- or the parties  
14 to be.

15 After those motions are filed, we will give twenty  
16 days in which to file the contentions, the additional con-  
17 tentions, as to which you wish to add to your list of con-  
18 tentions previously filed.

19 Also in that connection, it will be expected that  
20 you will support the filing of these additional contentions  
21 by a memorandum stating or showing good cause as to why you  
22 should have the right to file those additional memoranda.

23 The parties who wish to comment on the contentions  
24 and the memorandum showing good cause will have five days  
25 in which to file a response to that second motion and the



1 memorandum. That is five days in which to mail the material  
2 to the Board.

3 Mr. Cowan?

4 MR. COWAN: May I clarify? Is that five days plus  
5 the usual three days for their mailing to reach us?

6 CHAIRMAN WOLF: Yes.

7 MR. COWAN: So, in effect it is eight days from the  
8 date that they file?

9 CHAIRMAN WOLF: Yes. When the twenty days has  
10 elapsed, if they wait until the last day, then you would have  
11 eight days from that day in which to file your response to that.

12 Mr. Turk, do you have an inquiry?

13 MR. TURK: We would appreciate a somewhat longer time  
14 in being able to respond to their memoranda.

15 CHAIRMAN WOLF: Well, I think you can almost go to  
16 work on it now, Mr. Turk. You know pretty well the essential  
17 facts that are in issue. I would think that that would be  
18 sufficient.

19 Now, if the Staff wants ten days -- usually the  
20 Staff, for some reason unknown to me, gets a little additional  
21 time -- we would grant the Staff ten days from the mailing  
22 by the parties of their additional contentions and memorandum  
23 in support.

24 MR. TREBY: Mr. Chairman, our concern is not so much  
25 the memorandum; we don't know the number of contentions, and

1 our experience in mailing documents back and forth between  
2 Alabama and Washington has been that the mails take at least  
3 five days or so, and sometimes longer, and that if we are  
4 being held to a 10-day period, a 10-calendar-day period, we  
5 may well find that we have two days upon which to work on this  
6 if it falls on a weekend.

7 CHAIRMAN WOLF: I was thinking, Mr. Treby, that you  
8 would go to work tonight on it.

9 MR. TREBY: We don't know what the contentions are,  
10 sir.

11 We would certainly go to work tonight on the  
12 memorandum, but we don't know what contentions are going to  
13 be filed.

14 MR. COWAN: We had assumed there would not be very  
15 many contentions. Obviously, if there are a number of con-  
16 tentions we may ask for more time at that time.

17 CHAIRMAN WOLF: If it becomes impossible, if you will  
18 call in we'll discuss the possibility of adding a few days  
19 to take care of it.

20 Let's set that schedule now. The Staff will have  
21 ten days; Westinghouse will have eight days.

22 Mr. Godwin, if you want to comment --

23 MR. GODWIN: No, sir.

24 MR. ALLRED: Mr. Chairman?

25 CHAIRMAN WOLF: Yes, Mr. Allred?

1 MR. ALLRED: The time limits that you set are based  
2 on the assumption that the materials are available today? If  
3 they are available to the as a supplement to the Environmental  
4 Report?

5 Maybe if you could address that question to the  
6 Westinghouse representative?

7 MR. COWAN: Let me clarify, there is no supplement  
8 to the Environmental Report. There are answers that we provided  
9 to the Staff in response to Staff questions. Those answers  
10 are not a supplement to the Environmental Report and are not  
11 being filed as a supplement to the Environmental Report. They  
12 are the normal answers in response to the normal Staff questions  
13 the Staff raises when the Staff does their intensive review  
14 of an application.

15 MR. ALLRED: In that case, would it be possible to  
16 ask if Westinghouse has those answers then to the Staff questions  
17 available today. The reading room in Prattville, which I  
18 noticed on the list of places to send it, was not included.

19 MR. COWAN: We do not provide material like that  
20 to the reading room in Prattville. We provide the material  
21 to the NRC staff. If they choose to put it in the reading  
22 room in Prattville, or any of the other public document rooms,  
23 they are free to do so, but we don't provide it to the reading  
24 room.

25 MR. ALLRED: I'm simply asking if I can see it before

1 I get cut off on a time limit.

2 CHAIRMAN WOLF: Mr. Turk, would you respond to that,  
3 please?

4 MR. TURK: As far as I know there is nothing in the  
5 Prattville Public Library containing these responses. So far  
6 we have received only the initial mailing from Westinghouse;  
7 it has not been reproduced yet. We just have the one copy of  
8 it.

9 CHAIRMAN WOLF: Do you intend to file it there  
10 eventually?

11 MR. TURK: Yes, we do.

12 CHAIRMAN WOLF: That is, the Westinghouse responses?

13 MR. TURK: Yes. The Westinghouse responses.

14 CHAIRMAN WOLF: Could you move so that the material  
15 would be made available to Mr. Allred and Mr. McPhillips within  
16 the next few days since we have these limits on the time in  
17 which they have to respond here?

18 MR. TURK: I am not aware at this time how long it  
19 will take our Washington office to reproduce a copy and make  
20 it available to Alabama. It's possible that Westinghouse has  
21 additional copies and they may be able to make it available  
22 quicker than we could from Washington.

23 MR. COWAN: We do not have a copy with us, but we  
24 would be willing to mail a copy, one copy each, to Mr. McPhillips  
25 and Mr. Allred.

1 CHAIRMAN WOLF: And Mr. Godwin. He would like to  
2 receive it.

3 MR. COWAN: Yes. Mr. Godwin. And we will do that  
4 as soon as we get back home, which would be tomorrow.

5 MR. MC PHILLIPS: Could you mail to us also a set  
6 of the NRC questions as well as your answers?

7 MR. COWAN: The response includes the question.

8 MR. MC PHILLIPS: Fine.

9 MR. ALLRED: Mr. Chairman, in view of Westinghouse's  
10 response, we would have ten days from the postmark on the  
11 responses that he sends?

12 CHAIRMAN WOLF: I don't see why that's necessary.  
13 That material you are going to use to determine whether or not  
14 there are contentions and that has nothing to do with the  
15 10-day period.

16 The 10-day period you have to file a motion here;  
17 a motion asking for an extension. You don't have to look at  
18 anything else. You could write it out this afternoon and mail  
19 it in and serve it.

20 It seems to me it has nothing to do with the problem  
21 of your getting that material.

22 MR. ALLRED: In that case, a memorandum for good  
23 cause showing would not have to include any specificity as  
24 to proposed contentions or what they might include or what  
25 the new material is?

1 CHAIRMAN WOLF: We are asking you to file a motion.  
2 Since we have denied the two motions that you have made, we  
3 are asking you to file a new motion asking for an extension  
4 and stating generally what the situation is.

5 Then, when you get the material in hand and determine  
6 what contentions you can make, if any, from that material, we  
7 ask you to state what those contentions are and then support  
8 the right to file those contentions late by making a showing  
9 of good cause and also by showing the basis for the contentions;  
10 that they are relevant to the hearing here that we are having.

11 MR. ALLRED: I see. Thank you.

12 CHAIRMAN WOLF: I don't see any reason for changing  
13 the time schedule.

14 I think that takes care of all the motions that we  
15 have before us. I think we should now proceed to have Mr.  
16 McPhillips discuss contentions which he has filed and support  
17 the basis for those contentions.

18 MR. MC PHILLIPS: As I understand it, talking to you  
19 initially, you were going to give me the opportunity to make  
20 a brief opening statement in which I just touch on generally  
21 the framework of all our contentions, but as to getting into  
22 any depth as to each contention, are we going to take them  
23 one by one with each party having an opportunity to go over  
24 each of the contentions?

25 I mean, you don't want me to run through all 20 of



1 my contentions right now.

2 CHAIRMAN WOLF: No. You go ahead and make a short,  
3 terse, opening statement, and then we'll take up one-by-one  
4 the contentions and see what the parties' reaction is to each  
5 contention.

6 MR. MC PHILLIPS: Mr. Chairman and members of the  
7 Board and other parties here today, we have filed a set of  
8 22 contentions, all of which I'm sure you've had a chance to  
9 observe at least in cursory fashion, and the parties here have  
10 had an opportunity to review and respond to somewhat.

11 I might add, we just received a response last night,  
12 however, from Westinghouse and we have not really had ample  
13 opportunity to go through their response yet.

14 But basically, as we stated in our headings, we tried  
15 to make it simple as far as the headings go. Our first  
16 contention deals with the problem of waste safety. We feel  
17 that Westinghouse will not be governed by a license in disposing  
18 of much of its radioactive waste materials. They set this out  
19 in their own report. We cite the page numbers and paragraphs  
20 numbers.

21 We say that this is a very important process and  
22 we go into particularly the fact that the cement matrix of a  
23 lot of the waste materials will have a very short life as  
24 opposed to the waste materials themselves, which will have a  
25 much longer life.

1           The next problem, of course, is quality control and  
2 quality assurance. We also set out in fairly much detail, and  
3 without going into that detail, suffice it to say, we do not  
4 believe either the building itself or the plant machinery will  
5 meet sufficient quality control standards to protect the public.

6           With respect to security, our third contention, we  
7 state that the report itself is very inadequate in terms of  
8 dealing with security problems. There is nothing there about  
9 how guards will be trained; how they would foil a sabotage  
10 attempt; whether such guards could secure the plant from un-  
11 authorized admittance, and many other problems.

12           The fourth contention has to do with accidents. We  
13 believe here again the report is very deficient. It does not --  
14 there is no explanation of their system for rating the  
15 probabilities of accidents. They just simply say an accident  
16 may be credible, incredible, or remotely possible, and yet there  
17 is absolutely no specificity as to how they reach that.

18           The fifth contention dealing with HEPA filters, we  
19 just simply say the report does not treat adequately the matter  
20 of HEPA filters. Particularly, as we have point out in some  
21 of our subcatagories, there is no explanation as to the 99.9  
22 percent rated efficiency level and how 0.1 percent could  
23 become 0.2 and 0.3, and that this would double and triple  
24 the amount of radioactive fallout that could come from the  
25 plant.

1           Now, with respect to the sixth contention dealing  
2 with plutonium, suffice it to say briefly that the present  
3 supply of uranium is thirty years and the plant itself is  
4 supposed to be forty years, we feel that before this plant is  
5 over that they're going to have to use plutonium. They may  
6 deny it now, but we believe that the simple economics are that  
7 they will have to use plutonium to make the plant function.

8           Plutonium, of course, is highly toxic and highly  
9 dangerous.

10           The seventh contention dealing with the Alabama River,  
11 again, is self-explanatory, but suffice it to say that the  
12 21,000 gallons of water which will be dumped daily into the  
13 Alabama River we believe, based on our scientific evidence,  
14 will contain considerable quantities of radionuclides which  
15 will concentrate themselves many thousands of times in the plant  
16 and animal life.

17           The eighth contention, dealing with the dispersion  
18 model, which has been set out in Appendix C, we say it's  
19 inadequate for determining radionuclide dispersion. We say  
20 the rectangular model just simply will not meet the needs of  
21 the Alabama River and therefore is highly inadequate.

22           The ninth contention dealing with decommissioning  
23 was that there just simply was nothing in the report, and when  
24 the plant is phased out, or if Westinghouse should go the route  
25 of Chrysler and go bankrupt, or almost bankrupt, what's going

1 to happen to that plant?

2 We just say there is nothing there. The taxpayers  
3 will be left with a great burden.

4 The tenth contention, the need for the plant, we just  
5 simply say that based on the need for nuclear energy it simply  
6 will not be an adequate need for this plant, especially when  
7 compared to other plants that are available.

8 The eleventh, the nonindustrial nature of the plant  
9 site -- our eleventh contention -- we quote Westinghouse  
10 itself in its report as to the pristine nature and the myriad  
11 of wildlife species which exists in this area, and we simply  
12 say that it is not an industrial site locality as they, quote,  
13 claim that it is, and that it will be highly dangerous to the  
14 environment and wildlife in that area.

15 The twelfth contention dealing with radiation dose  
16 models, we say that they come from extremely outdated sources  
17 in view of the tremendous view made in health physics, and all  
18 of this is pre-Three Mile Island. None of the reports that  
19 we have are post-Three Mile Island. We think a lot of advances  
20 and knowledge have come since that time that we need to have  
21 access to and be made aware of.

22 The thirteenth contention dealing with wells, we  
23 simply say that the wells that they site for testing groundwater  
24 are useless because they are located upstream from the plant  
25 and therefore cannot adequately monitor the plant's effects

1 on the environment.

2           The fourteenth contention dealing with slag, we say  
3 that the report in no way addresses the problem of slag developing  
4 in the interior of pipes and fittings used in the fabrication  
5 process and the public would be very much endangered, especially  
6 when Westinghouse tried to remove this low-level waste created  
7 by the slag.

8           The fifteenth contention dealing with population  
9 projections, we just simply say that their population projections  
10 are inaccurate and that there will be much more population in  
11 this Greater Montgomery-Prattville area in the future than they  
12 set out in the report, and that this would be a danger to the  
13 population.

14           The sixteenth contention dealing with alternative  
15 sites is simply that there are many other sites, especially  
16 in Ohio and Pennsylvania, that are far better than the site  
17 here in Alabama. Furthermore, that the plant, the Westinghouse  
18 plant in Columbia, South Carolina, could meet the needs just  
19 as adequately as this plant, and we just think that ~~these~~ are  
20 simply not adequate reasons for building the plant in this  
21 area.

22           The seventeenth contention deals with erroneous  
23 information. I won't quote any of it; it's quoted in my  
24 proposed contentions. But there are a number of errors in  
25 the report itself which we say makes the report highly suspect.

1           The eighteenth contention deals with inadequate  
2 information. We say that we have not received a great deal  
3 of information that we need in order to respond to and challenge  
4 this plant. We say that the list of interrogatories, of course  
5 we haven't gotten answers to those. That we have attempted  
6 to get other information from Westinghouse which has not been  
7 presented to us. We have not received the Environmental Impact  
8 Statement and a number of other things that we need.

9           The nineteenth contention deals with a lack of  
10 evacuation procedures. We say that there is just not any  
11 addressing of this issue at all in the report.

12           Evacuation procedures are very important in the event  
13 of any accident or sabotage or anything else that might cause  
14 that plant to emit great quantities of radiation into the  
15 environment.

16           The twentieth contention deals with the economic  
17 impact, and we just say that it will create an undue economic  
18 impact on the community. That over the period of years,  
19 especially after it shuts down, there will be a sudden shortage  
20 of employment and cash flow due to the puffed up economy and  
21 that this will ultimately have a deleterious effect on the  
22 economy.

23           The twenty-first contention just briefly is the  
24 fact that a taxpayer suit against the industrial bond issue  
25 which could well be used to finance this thing could have



1 the ultimate effect of really stopping the financing, and  
2 that this is a very real possibility in light of the great public  
3 sentiment against this plant. Without this tax-free money  
4 available it might be a serious deterrent to Westinghouse  
5 building the plant here in the first place.

6 Finally, twenty-two, we say that the prototype  
7 considerations, that there simply are no prototypes or other  
8 plants like this that we can study, and that without these  
9 plants, without these models, we're really at a loss and we  
10 need these plants in order to effectively study, analyze, and  
11 compare.

12 Although we have heard there are two plants like this  
13 in other parts of the world, attempts to get such information  
14 have been unavailing so far, even though Mr. Bell has requested  
15 it from Westinghouse.

16 So, that basically is the framework, briefly, of our  
17 contentions, and we're willing to address the first contention  
18 whenever you see fit.

19 (Audience applause.)

20 CHAIRMAN WOLF: We will not have applause at this  
21 hearing. It is not that kind of an affair. It is a very  
22 serious matter.

23 Mr. McPhillips, when you address the individual  
24 contentions, will you, if you can, relate them to the require-  
25 ments for approval of applications, or are you prepared to do

1 that at this time?

2 If not, we can defer it until a later time.

3 You know, the requirements as set forth in 10 CFR 70.23?

4 MR. MC PHILLIPS: Section 70 what?

5 CHAIRMAN WOLF: Section 70.23.

6 MR. MC PHILLIPS: Your Honor, we will certainly attempt  
7 to frame ours within that context. However --

8 CHAIRMAN WOLF: I realize you were not asked to do  
9 this earlier, but if you can, very well; if you can't, we will  
10 postpone it to another time.

11 MR. MC PHILLIPS: I think we would be better prepared  
12 at a later date to do that. I think initially our contentions,  
13 since we weren't asked to do this, ought to be simply based  
14 on what we have already stated.

15 If you show an inclination to allow us to do that  
16 at a later date, I think we'd be better prepared at that time.

17 CHAIRMAN WOLF: I do want to emphasize that the  
18 regulations regarding the requirements for the approval of  
19 applications are very important and should be focused upon by  
20 all the parties. It will make a better presentation of the  
21 facts and will help in making the decision if you will do that.

22 MR. MC PHILLIPS: Your Honor, just in looking at these  
23 I can see that most of our contentions would fit into what is  
24 set forth as the standards. So, I don't think there is any  
25 big problem with that.

1 CHAIRMAN WOLF: Very well.

2 MR. COWAN: Mr. Chairman?

3 CHAIRMAN WOLF: Yes, Mr. Cowan?

4 MR. COWAN: May we make a suggestion?

5 CHAIRMAN WOLF: Surely.

6 MR. COWAN: We received the contentions from Mr.  
7 McPhillips about 15 days or so ago, and we filed yesterday --  
8 and all parties have been given a copy -- our responses to the  
9 proposed contentions.

10 As you will note from our filing, while we think  
11 perhaps half of the contentions should be rejected as contentions  
12 because they do not state justiciable issues in this proceeding.  
13 With respect to about half of Mr. McPhillips' contentions,  
14 we think that with some modification they could present a matter  
15 that the Board could hear as a contention here.

16 That doesn't mean that we agree with the merits of  
17 what is in there, but merely it would be something for the  
18 Board to consider Mr. McPhillips' position and whatever evidence  
19 he puts forth, and our position, and the Staff's position,  
20 as well as the other parties.

21 We suggested yesterday when I met with Mr. McPhillips  
22 that one possible way of going about this would be for us to  
23 sit down with Mr. McPhillips and the representatives from the  
24 Staff and see if over the next x-number of days -- I don't  
25 know how many that should be -- we could reach agreement on

1 the language of those contentions where fundamentally we think  
2 they would state a justiciable issue. If we could, then we  
3 would propose to present to the Board a stipulation under which  
4 we would agree that if the Board admits this contention this  
5 contention would be framed in the following way. And with  
6 regard to those where we think there would be a valid just-  
7 ciable issue we would also agree in the stipulation that this  
8 contention could be admitted. With regard to the others we  
9 would reserve the right, as I think the Staff would want to,  
10 to hold off and argue to the Board whether it ought to be  
11 admitted.

12 We might still reach agreement on the language even  
13 with regard to those where there is disagree over whether it  
14 ought to be admitted.

15 We think we could save a substantial amount of time  
16 both at this pre-hearing conference and down the road if we  
17 could have that opportunity. And so I would like to propose  
18 to the Board and to the other parties -- and I must say that  
19 Mr. McPhillips yesterday did not appear too receptive to this  
20 suggestion, but he was hearing it, I think, for the first time  
21 cold, and we had just met for the first time yesterday so it  
22 wasn't unexpected -- but I would like to propose that rather  
23 than go through each of the contentions in the kind of detail  
24 that will be necessary to pound out wording and other things  
25 at this pre-hearing conference that the Board afford us the

1 opportunity to try to work out the contentions.

2 We would also make the same offer with regard to  
3 Mr. Allred's contentions, but I must admit there we do have  
4 problems in finding any that we think, at least, are admissible  
5 even if they were reworked, but we would attempt to do so.

6 CHAIRMAN WOLF: Mr. McPhillips, can you respond to  
7 that?

8 MR. MC PHILLIPS: Yes, sir, Your Honor.

9 I have no objection to meeting with Cowan and the  
10 NRC staff but would like to do so after we've had an opportunity  
11 at least one time to air these things. We don't have to go  
12 into great depth and detail, nor do we need to put you on the  
13 burden of deciding on the moment whether our contentions are  
14 valid. But I just think that a certain airing will serve a  
15 beneficial purpose in several respects.

16 One, that when we meet later and see if we can iron  
17 out or hammer or maybe bargain or exchange, or whatever, cer-  
18 tain contentions that we think are valid and certain which may  
19 not be that we will be much better armed and will be much more  
20 knowledgeable for having aired them out somewhat.

21 I don't think we need to get into any big argument  
22 today because you won't necessarily have to decide today,  
23 especially if we have these meetings afterwards. But I  
24 think this is a public hearing; of course there are a lot of  
25 public here today in the community, including people that we

1 represent as individuals who have filed with SEACA, and I think  
2 they would like to have an opportunity to hear and have discussed  
3 these various contentions.

4 But after doing so, I would be happy to meet with  
5 the NRC staff and the Westinghouse people.

6 CHAIRMAN WOLF: Would you be willing to meet, Mr.  
7 Allred?

8 MR. ALLRED: Yes, sir.

9 CHAIRMAN WOLF: Mr. Turk, would you be willing to  
10 meet?

11 MR. TURK: We would definitely be willing to meet  
12 with the other parties to discuss contentions.

13 CHAIRMAN WOLF: It is not an unusual thing. In  
14 practically all the hearings I've had we've had stipulations  
15 of the contentions where the parties have gotten together and  
16 worked out an agreeable language to express the contention  
17 so that it's understood by all. It seems to me it moves the  
18 process along if that can be done.

19 We are not insisting that it be done, but we would  
20 look with favor upon it if it can be done. If you can meet  
21 we will appreciate that help in making up the record.

22 In the meantime, I'm sure the Board has no objection.

23 MR. TURK: If I may respond to something else Mr.  
24 McPhillips said before you rule on whether we will hear  
25 contentions expressed today?



1 CHAIRMAN WOLF: Yes.

2 MR. TURK: There is a statement of consideration which  
3 was issued in 1978 when the Commission's rules were revised  
4 for the conduct of licensing proceedings such as these, and  
5 if I may just read from that it will help illuminate to the  
6 parties and to the public that this is very much a very regular  
7 procedure.

8 CHAIRMAN WOLF: Would you stand up, Mr. Turk? They  
9 seem to hear you better.

10 MR. TURK: Yes. I thought my voice would carry  
11 better. I apologize to you, sir.

12 In the statement of consideration, which is made a  
13 part of 43 Federal Register 17798, dated April 26, 1978, the  
14 following statement is made concerning the way that these kinds  
15 of proceedings are conducted and are useful in being conducted.

16 The statement of consideration states as follows:  
17 "It has become a common practice for parties and petitioners  
18 in the nuclear power plant licensing proceedings to discuss  
19 informally the framing of contentions until just before the  
20 special pre-hearing conference which is held some months or  
21 more after the expiration of the 30-day period."

22 It continues by stating: "During this period the  
23 contentions are frequently revised, based upon the discussions  
24 among the parties and petitioners. Often the petitioners and  
25 parties will be able to present to the presiding Atomic Safety

1 and Licensing Board with an agreed upon set of contentions at  
2 the special pre-hearing conference. This practice reduces un-  
3 necessary controversy and litigation and should be encouraged."

4 In our view it would be very useful at this time  
5 if we would just get together and talk about each of the con-  
6 tentions individually and see if we can arrive at an understanding  
7 of exactly what it is you wish to raise in the proceeding.

8 The Staff considers that Mr. McPhillips in particular  
9 has done a very thorough job in reading the Environmental  
10 Report submitted by Westinghouse and that the participation  
11 of his organization would be useful in this proceeding to all  
12 parties.

13 At this time it is hard for us to understand exactly  
14 what your different contentions are getting at, and at this  
15 date we really could not take a firm position as to whether  
16 we would support you or not on each of the individual con-  
17 tentions. We do, however, support your participation and would  
18 hope that through meeting together we could develop that more  
19 thoroughly.

20 MR. MC PHILLIPS: Your Honor?

21 CHAIRMAN WOLF: Mr. McPhillips?

22 MR. MC PHILLIPS: I would say, you know, much like  
23 taking an exam, when you finally get ready to take it you are much  
24 better prepared if you've gone through a study group session,  
25 and that's why I could see today's special pre-hearing

1 conference serving something of a study group session in which  
2 we go through and air out what the different positions are.

3 I will be taking notes; they will be taking notes,  
4 and then when we get together afterwards we might be able to  
5 say, well, you're right on these contentions, you know, and  
6 you're not on these. Or, we've got an argument here.

7 I also feel an obligation to a lot of people who have  
8 come here today and who do have a vital and critical interest  
9 in what's being said and done, and that a lot of it be done  
10 in open doors, and, you know, we could meet later, afterwards.  
11 But I think they are all here today and they want to hear,  
12 as we do, what the others have to say.

13 CHAIRMAN WOLF: You may proceed, Mr. McPhillips, to  
14 discuss briefly and succinctly and clearly the various con-  
15 tentions you have.

16 MR. MC PHILLIPS: Your Honor --

17 CHAIRMAN WOLF: Pardon me. Mr. Cowan?

18 MR. COWAN: Do I understand the procedure that Mr.  
19 McPhillips will discuss, let's say, Contention 1 and then the  
20 other parties will discuss it, and then we'll move to Contention  
21 2?

22 CHAIRMAN WOLF: I think that would be easier if we  
23 did it that way, unless you object? Do you, Mr. Cowan?

24 MR. COWAN: No, no, sir. I'm very much in favor  
25 of that procedure. I just wanted to make certain that was

1 the procedure.

2 CHAIRMAN WOLF: Very well. Mr. McPhillips, are you  
3 ready?

4 MR. MC PHILLIPS: Yes, sir.

5 CHAIRMAN WOLF: Will you stand up?

6 MR. MC PHILLIPS: Yes, sir.

7 With respect to our first contention, those of you  
8 who have our proposed valid contentions might read along with  
9 me. I'm going to divert from it at a couple of points, but  
10 I am going to also try to follow it somewhat.

11 As you see, we say that Westinghouse will not be  
12 governed by a license in disposing of its radioactive waste  
13 and effluence, and we base this on a statement in their report  
14 on Pages 714 and 713, Paragraphs 3 and 4, that its stablized  
15 wastes may be, or some of it will be, buried in a non-NRC  
16 licensed burial site.

17 I am quoting from Page 713 where it says "The  
18 decision to bury on site or at another controlled burial site  
19 or at an NRC licensed burial site will depend on a combination  
20 of economic and regulatory considerations." Our simple response  
21 to that is that this indicates that Westinghouse has consider-  
22 able leeway perhaps to bury some of their waste at a non-NR'  
23 licensed burial site.

24 We are concerned about that because we think that  
25 especially if an economic consideration in the future evolved

1 so that Westinghouse decided it is much cheaper -- we can save  
2 a lot more money if we bury it over here, which is not NRC --  
3 that they may do it for simple economic considerations.

4           Anyway, so this concerns us, especially because there  
5 are an awful lot of people in this area and others who are un-  
6 aware of the hazards of radioactive waste materials at low levels.

7           There might be some children out playing some day,  
8 get on a pile of waste material and not know about it, and later  
9 on something happens to them.

10           Now, we say that the safety -- we say in light of  
11 this fact that Westinghouse has not proven the safety of this  
12 type of waste burial. We say the safety of the process by which  
13 the waste will be also degraded to a natural isotopic content  
14 prior to being stablized by either the sodium silicate process  
15 or the the calcium flouride process is not adequately addressed.

16           That's safety. And we are certainly concerned about  
17 that safety, and we think it very much fits into the requirements  
18 of 70.23.

19           Now, further, we are concerned about the effects,  
20 both long-term and short-term, which this buried waste that  
21 we talk about will have on the total environment; I mean plant  
22 and animal life as well as human life. At no place in the  
23 report, we say, is there any discussion of the great harmful  
24 potential of these buried wastes.

25           Now, finally, we claim that the fact that there will

1 be radionuclides in the waste material, and as I'm sure the  
2 Board understands the nature of radionuclides, the way they  
3 emit and can emit for hundreds of thousands of years, means  
4 that they very well may outlive, and probably will outlive,  
5 the cement matrix that will be encapsulating them. We say that  
6 this runs a serious threat to contaminating the environment  
7 eventually. Maybe not today for our children, but maybe for  
8 our grandchildren.

9           There is no consideration given to the fact that  
10 these radionuclides will emit that radiation for hundreds of  
11 thousands of years, while no life span is given to the encap-  
12 sulating matrix of cement.

13           So, briefly, and basically, that is it. And I might  
14 also point out that under the United States Code 2114 it says  
15 that since the -- we're saying that since the waste will be  
16 degraded to natural isotopic content that Westinghouse may  
17 argue that that's no more dangerous than natural uranium,  
18 and that it could therefore be buried on site.

19           But we say that natural uranium itself is dangerous,  
20 and certainly that's a natural isotopic content. And that it  
21 poses serious problems.

22           Certainly the mill tailings, which are less radio-  
23 active than uranium, have posed a lot of problems out West --  
24 tremendous problems out West.

25           We also say that under 7-13, it says that burial



1 can take place either on-site or at a controlled site for  
2 burial of hazardous chemical waste, and the safety of the  
3 on-site burial needs to be addressed in much more detail.

4 The perpetual care of hazardous burial sites needs  
5 to be addressed; that there's just no assurance that it will  
6 be.

7 We've spoken to some people in local concrete com-  
8 panies here and they assured us that cement will begin to break  
9 down after 50 years, and therefore, ten years after the plant  
10 is left its wastes will begin contaminating the environment.

11 Certainly with respect to the short-term effect the  
12 increased incidence has been proven in cancer caused by the  
13 constant emission of low-level waste will be a problem that  
14 we will be concerned with.

15 As far as the long-term effects, various other orders  
16 of life which may have a greater resistance to radioactivity  
17 may begin to be affected over a longer term period.

18 Further, we concerned -- and this is the final  
19 statement -- that the only conceivable way to degrade the waste  
20 to natural isotopic percentage is to add more Uranium 238. If  
21 they don't do that we're saying that they're not doing what  
22 they propose to do. And what Westinghouse would be doing is  
23 diluting but not degrading their radioactive waste. Unless  
24 they add Uranium 238 to the waste it will not be degraded to  
25 its natural isotopic content.

1 Thank you.

2 CHAIRMAN WOLF: Mr. Cowan?

3 MR. COWAN: Mr. Chairman, I think my voice is loud  
4 enough that everybody probably can hear me; if it's not, I'll  
5 stand. But I've never been accused of having a soft voice,  
6 so if somebody can't hear me, I'll stand. Otherwise, I would  
7 prefer to sit because I have a lot of material here in front  
8 of me.

9 As the Board is undoubtedly aware, generally speaking  
10 there are three types of wastes in terms of radioactive wastes  
11 in the world. There is high-level radioactive waste; there  
12 is low-level radioactive waste, and there is waste that is  
13 neither high-level nor low-level radioactive waste, such as  
14 this pencil or this paper, because every substance in the world  
15 is radioactive even though at very, very low levels. And this  
16 material which is neither high-level nor low-level radioactive  
17 waste I'll call "below level" radioactive waste.

18 This plant will not -- I repeat, will not -- have  
19 any high-level radioactive waste associated with it. This is  
20 a fuel fabrication facility; it is dealing with nonirradiated  
21 material; it obtains nonirradiated material; it does a  
22 fabrication process, and it ships out material in the form  
23 of fuel rods and fuel assemblies that are nonirradiated. So,  
24 there is no high-level radioactive waste associated with this  
25 facility.

1           With regard to low-level radioactive waste, contrary  
2 to Mr. McPhillips' reading of the Environmental Statement, low-  
3 level radioactive waste generated by this plant's operations  
4 will be buried in sites licensed by the NRC in accordance with  
5 applicable NRC regulations. So that any low-level radioactive  
6 waste, as that term is defined in the NRC regulations, will  
7 be sent to or buried at sites licensed by the NRC in accordance  
8 with their regulations.

9           It is the non-low-level radioactive plant wastes  
10 that will be disposed of as appropriate and referred to in the  
11 section of the Environmental Report from which Mr. McPhillips  
12 quotes. That non-low-level radioactive waste is not subject  
13 to NRC regulation, and is disposed of in accordance with whatever  
14 other government regulations it is subject to. In some cases  
15 it might be subject to EPA regulations, for example.

16           Now, since their proposed Contention 1 relates to  
17 the disposal of that non-low-level radioactive waste, that is  
18 waste which is not subject to NRC regulation, we don't think  
19 proposed Contention 1 states a contention that is properly within  
20 the jurisdiction of this Board, and therefore we think that  
21 contention should be denied.

22           CHAIRMAN WOLF: Mr. Turk?

23           MR. TURK: Mr. Chairman, we received our copy of the  
24 contentions from the organization SEACA only on August 8th and  
25 we have not had time to really do a detailed analysis of the

1 contention as it compares to the Environmental Report. So, we  
2 are not prepared to comment on the merits to any degree of each  
3 of these contentions today.

4 At this point, referring to the regulations concerning  
5 basis and specificity which is required for contentions, I would  
6 have to say that I do not understand this contention to be  
7 specific enough to tell me what it is that SEACA wishes to  
8 litigate here.

9 Burial off-site is not covered by this license  
10 application; it's not a matter before this tribunal. Burial  
11 on-site, from what I hear today, is going to be of nonradioactive  
12 material, or what Mr. Cowan has described as being below-level  
13 radioactive materials, and therefore I don't see that any of  
14 the regulations concerning the health and safety of the public  
15 would be affected.

16 But until I better understand what this contention  
17 means to get at, I can't say for sure if it is admissible or  
18 inadmissible.

19 CHAIRMAN WOLF: Perhaps when you have this meeting  
20 with Mr. McPhillips and Mr. Cowan you can have that explained  
21 to you.

22 MR. TURK: At that time I will be much more prepared  
23 to state whether I feel the contention should be admitted or  
24 not.

25 Thank you.

1 CHAIRMAN WOLF: Mr. Allred, I won't call on you for  
2 comments unless you specifically want to state something since  
3 it's going to be a long enough process anyway. I think that  
4 we could forebear until you have your turn with your contentions,  
5 if that's agreeable.

6 MR. ALLRED: That is agreeable, Mr. Chairman.

7 CHAIRMAN WOLF: Mr. Godwin, do you want to participate?

8 MR. GODWIN: In general, no, because I think without  
9 the evidentiary portion of the hearing in progress I don't  
10 believe that I can offer much. However, I should make one  
11 comment regarding the Westinghouse statement, if I may, Mr.  
12 Chairman.

13 CHAIRMAN WOLF: Yes, you may.

14 MR. GODWIN: The licensing that they are referring  
15 to for these low-level waste sites may, in fact, be under the  
16 agreement state provisions of the Nuclear Regulatory Commission  
17 regulations, so we understand that license may not be issued  
18 by the Nuclear Regulatory Commission but under a delegation  
19 from the Nuclear Regulatory Commission.

20 Thank you, Mr. Chairman.

21 CHAIRMAN WOLF: Mr. McPhillips, will you proceed  
22 with Number 2, then, quality assurance?

23 MR. MC PHILLIPS: Yes, sir, I certainly will.

24 As far as the Commission and the other members are  
25 concerned, I would like them to make a note of Page 713 of the

1 report with respect to the first contention, that paragraph  
2 dealing with sodium silicate stabilized waste process, where  
3 it takes about that type of liquid waste will be degraded to  
4 a natural isotopic uranium content of approximately 0.7 percent  
5 U-235.

6 So, I think contrary to their contention, we are  
7 dealing with a very radioactive substance in the waste material.

8 But moving on to the second contention.

9 Mr. Chairman and members of the Board, in this con-  
10 tention we're basically talking about the problem of quality  
11 control or quality assurance of the building structure and the  
12 equipment in the building.

13 We state that the report fails to address the issue  
14 of this quality assurance or control at any phase of production  
15 of the fuel assemblies at the Alabama Nuclear Fuel Plant. We  
16 are especially concerned that nothing is in the report concerning  
17 the quality of the equipment itself, either new or used, after  
18 the plant has begun operation.

19 We are also very concerned that nothing is said in  
20 the report concerning quality control of the building structure.  
21 We say that it is necessary that the building be perfectly air-  
22 tight to secure against radiation leaks and insure the 99.9  
23 percent efficiency that they claim that the high efficiency  
24 particulate air filters, or the HEPA filters as we call them,  
25 will have.



1 We say further that it must be proven that the plant  
2 buildings can withstand any fire, explosion, earthquake, tornado,  
3 other geological upheaval. Otherwise, every postulated release  
4 in Section 5-4.7 we state is grossly underestimated. Because  
5 if any of those things happened -- and I might point out to  
6 you that when they discuss probabilities of some of these things  
7 happening -- I think they said the likelihood of a tornado  
8 hitting the plant was something like 1 in 930 and the prob-  
9 ability of an accident occurring in which somebody lost their  
10 life was 1 over 4000. So, taking that comparison then it's  
11 approximately four times more likely that a tornado will hit  
12 the plant than that any one of us would be killed in an  
13 automobile accident. So, we think given that probability we  
14 think very well that a tornado could hit the plant.

15 I mean, those are their own probabilities from their  
16 own reports; not my figures.

17 Now, we say nothing is in the report concerning the  
18 amount of heat the building structure can withstand, and that  
19 concerns us.

20 We say that the plant building needs to be really  
21 a hundred percent watertight to insure against leaks to the  
22 environment, especially in the case of a spill such as that which  
23 would involve uranyl nitrate, which has been considered in  
24 Section 5-4.4 of the report. We say if that were to happen  
25 we could really have some trouble.

1 Now, according to Section 5-4.1 of the report the  
2 building structure is not airtight. The illustration given  
3 in that section of the report concerning gas seeping from the  
4 building indicates that the emission calculations are based  
5 on a 99.9 percent efficient HEPA filters, and that really we  
6 don't believe these percentages are entirely accurate. They  
7 certainly don't consider the seepage, or adequately consider  
8 the seepage, from the building that can occur under different  
9 circumstances.

10 Thank you, Your Honor.

11 CHAIRMAN WOLF: Thank you. Mr. Godwin, did you want  
12 to make any comment?

13 MR. GODWIN: I think with this one, as the last one,  
14 I'll wait until the evidentiary hearing.

15 CHAIRMAN WOLF: Very well. Mr. Cowan?

16 MR. COWAN: Let me say preliminarily that this pro-  
17 posed contention is vague and we don't think as it is presently  
18 worded it meets the specificity requirements of Section 2.714(b)  
19 of the Commission's regulations. However, we think that certain  
20 portions of this contention, and in particular Paragraphs 2(b)(1)  
21 and 2(d), might, with appropriate clarification and definition,  
22 raise matters that are justiciable before the Board. And we  
23 would propose, in accordance with our prior suggestion, to  
24 attempt to work with Mr. McPhillips and with the Staff counsel  
25 to see if we could arrive at an acceptable clarification and

1 definition of this contention so that it could have a justiciable  
2 aspect to it.

3 I might note that this is one of the contentions that  
4 seems to us to indicate an underlying thought that we are building  
5 a nuclear power generating plant. We are not, and the provisions  
6 of 10 CFR, Part 50 that relate to quality control for nuclear  
7 power plants do not in their terms relate to this particular  
8 plant.

9 Nevertheless, we are of course interested in quality  
10 assurance and quality control and in meeting the quality assurance  
11 aspects that we will be required to meet by the NRC, and of  
12 course the plant is going to be operated in strict compliance  
13 with all Commission regulations, including 10 CFR, Part 21 on  
14 reporting of any defects.

15 But we think a contention could be worked out of this  
16 if we were given the opportunity.

17 CHAIRMAN WOLF: Part 50, Appendix (b) does relate  
18 to quality assurance criteria for nuclear power plants and  
19 fuel reprocessing plants.

20 MR. COWAN: That is correct. This is not a fuel  
21 reprocessing plant. A fuel reprocessing plant is a plant that  
22 receives irradiated uranium from a nuclear power plant and  
23 reprocesses the irradiated uranium.

24 This is a fuel fabrication plant. It receives  
25 uranium hexafluoride in gaseous form from some place like

1 Oak Ridge National Laboratory and makes that hexafluoride in  
2 a fabrication process eventually into fuel pellets, which are  
3 nonirradiated; puts the fuel pellets in long tubes; makes the  
4 tubes into a series of assemblies, and ships out fuel assemblies,  
5 still nonirradiated.

6 So, 10 CFR, Part 50, Appendix (b) on quality assurance  
7 is not applicable with regard to this plant in the terms that  
8 it appears in the regulations.

9 That does not mean that we're not interested in  
10 quality assurance. We obviously are and obviously have to have  
11 quality assurance, and will have quality assurance, and will  
12 meet whatever the regulatory requirements are with regard to  
13 this plant on that.

14 But this is not a plant such as is referred to in  
15 that appendix.

16 CHAIRMAN WOLF: Well, look at 70.22(f), which is  
17 referred to in 70.23(b), and explain -- there is a footnote  
18 to that (f) that states that Appendix (b) of this chapter will  
19 be met. How do we differentiate that from the statement in  
20 (b)?

21 MR. COWAN: Paragraph 70.22(f) of the Commission's  
22 regulations refers to plutonium processing and fabrication  
23 plants; this is not a plant for the processing of plutonium  
24 fuel. There is no application here for a license for plutonium.  
25 This plant will not have plutonium.

1 We understand this portion of this regulation to refer  
2 to plutonium processing and fuel fabrication plant to be in  
3 the context of plutonium. We do not understand the regulation,  
4 and we believe the Staff agrees with us on this, that the  
5 regulations of 10 CFR, Part 50, Appendix (b) on quality assurance  
6 are applicable by their terms to this plant.

7 CHAIRMAN WOLF: Dr. Steindler?

8 DR. STEINDLER: Mr. Cowan, you are not, by your  
9 comments, saying that Westinghouse in the construct of a plant  
10 of this kind would not be governed by some applicable regula-  
11 tions by the NRC dealing with quality assurance, are you?

12 MR. COWAN: No. We are governed in the application  
13 of this plant by the regulations found in 10 CFR, Part 70.  
14 To the extent those regulations will require certain aspects  
15 of quality assurance to be considered, we would be governed  
16 by those appropriate aspects.

17 All I am differentiating is that the quality assurance  
18 aspects that apply to a power generation station, a nuclear  
19 power generation station, are not applicable to this plant.

20 DR. STEINDLER: I'm not sure what it's worth at this  
21 point to belabor the issue. Let me simply address to you two  
22 points. Not being a lawyer, I do so with some trepidation.

23 Section 72.3, Part (b) says the Commission will  
24 approve construction, et cetera, et cetera, when it has  
25 determined that the design bases of the principal structure,

1 systems, and components and the quality assurance program provide  
2 reasonable assurance of protection, and there's a footnote there,  
3 Footnote 3.

4 Footnote 3 says the criteria in Appendix (b) of Part  
5 50, which is the one we've just been discussing, that in fact  
6 deals with reactors explicitly, but that the criteria in  
7 Appendix (b), Part 50 of this chapter will be used by the  
8 Commission in determining the adequacy of the quality assurance  
9 program.

10 MR. COWAN: Could you give me the reference again?

11 DR. STEINDLER: If you have the same document I do,  
12 I'm on Page 436. I'm looking at 10 CFR 70.24, Item -- .23,  
13 Item (b).

14 The point that I guess that I would like to make --  
15 and I think we can maybe rest it at that -- is that there are  
16 criteria in Appendix (b), Part 50 which the Commission and the  
17 Staff will use to determine whether or not any applicant has  
18 determined, or has provided, adequate quality assurance programs.  
19 The specific wordings in (b) deal with reactors. I think we  
20 all recognize this is not a reactor. But the concepts that  
21 underlie Part (b) of 10 CFR, Part 50 will nonetheless, I think,  
22 appear as applicable to what Westinghouse proposes to do.

23 Is that not a reasonable statement, Mr. Turk?

24 MR. TURK: It does appear very reasonable.

25 If I may supplement it somewhat, the license which



1 Westinghouse seeks here is not to build a facility, but to  
2 possess and use the special nuclear material. And therefore  
3 quality assurance relating to a building structure is not directly  
4 at issue.

5           However, before a license will be granted for the  
6 possession and use of that special nuclear material, the building  
7 will be qualified by the Commission and found to be safe, and  
8 the regulations will be applied to make sure that there is  
9 quality assurance and the safety of the public will be protected.

10           MR. COWAN: I agree with what Mr. Turk said. I might  
11 note that Section 70.23 (b), in our view also, is relating to  
12 plutonium processing and fuel fabrication plants, rather than  
13 this plant, which will be a uranium processing and fuel  
14 fabrication plant, and the criteria applicable for our plant  
15 are 70.23 (a).

16           But I'm not sure that this discussion needs to go  
17 any further because we think we can work out a contention with  
18 Mr. McPhillips based upon what he has filed here that would  
19 be justiciable by this Board.

20           CHAIRMAN WOLF: Mr. Turk, do you have any comment?

21           MR. TURK: Yes. With your permission I'd like to  
22 respond to Mr. McPhillips' contention Number 2.

23           With this contention, as with his first contention,  
24 we are not sure exactly what issue he wants to litigate in the  
25 proceeding. He does not expressly state that the regulations

1 will fail to protect the public. He does not expressly state  
2 that Westinghouse will fail to comply with Commission regulations.

3 We don't know exactly what it is that he is getting  
4 at.

5 If I may cite a case to Mr. McPhillips which discusses  
6 the different kinds of contentions which are admissible, I  
7 would do so at this time.

8 CHAIRMAN WOLF: Mr. Turk, you'll have to speak up.

9 MR. TURK: With your permission I'll retain my seat  
10 but I will raise my voice so that the public can hear me more  
11 clearly.

12 Previously I made available to Mr. McPhillips copies  
13 of the Commission's decision in Houston Lighting and Power,  
14 which was ALAB 590. I also made available to him the  
15 Commission's June 20, 1980 decision declining to review ALAB  
16 590. And I also made available to him a case which is cited  
17 in ALAB 590, the Graham-Gulf proceedings in 1973.

18 I would also cite at this time a case entitled  
19 Philidelphia Electric Company (Peachbottom Atomic Power Station,  
20 Units 2 and 3), which is ALAB 216, and which may be found at  
21 8 Atomic Energy Commission Reporter 13, Pages 20 and 21. That's  
22 a 1974 case.

23 And with your permission I'd like to merely summarize  
24 what was stated by the Commission in that decision -- excuse  
25 me, by the Appeal Board.

1 CHAIRMAN WOLF: If you will do it quickly.

2 MR. TURK: The Appeal Board there stated that con-  
3 tentions cannot be accepted where the parties do not know what  
4 it is that they must oppose. Simply a litigation issue: what  
5 is it that we are facing here.

6 Let me just summarize the summary statement by --  
7 in fact, I'll read it directly so that I don't misquote the  
8 Appeal Board.

9 At Pages 20 and 21 of that decision the Appeal Board  
10 states: "A purpose for the basis for contention requirement  
11 in Section 2.714 is to help assure at the pleading stage that  
12 the hearing process is not improperly invoked.

13 "For example, a licensing proceeding before this  
14 agency is plainly not the proper forum for an attack on appli-  
15 cable statutory requirements or challenges to the basic  
16 structure of the Commission's regulatory process." And a  
17 footnote is appended there.

18 "Another purpose is to help assure that other parties  
19 are sufficiently put on notice so that they will know at least  
20 generally what they will have to defend against or oppose.

21 "Still another purpose is to assure that the proposed  
22 issues are proper for adjudication in the particular proceeding."

23 My last quotation here is as follows: "In the final  
24 analysis there must ultimately be strict observance of the  
25 requirements governing intervention in order that the adjudicatory

1 process is invoked only by those persons who have real interests  
2 at stake and who seek resolution of concrete issues."

3 Now, my objection to Contention Number 2 is based  
4 on the decision in Peachbottom, which I just cited, and that  
5 is we do not know exactly what this contention wants to get  
6 at. It's too vague for us to know what issues you wish to raise.  
7 For that reason, as it is presently worded, I must oppose it,  
8 although I certainly would be willing to get together and talk  
9 and try to reframe the contention so that it can be litigated  
10 in the proceeding.

11 I apologize for the length of my last quotations.

12 CHAIRMAN WOLF: Mr. McPhillips?

13 MR. MC PHILLIPS: I'd just simply say that contrary  
14 to some of the language in that Peachbottom case we're not  
15 trying to attack any regulations or statutes or anything of  
16 that sort.

17 With regard to specificity, I am, of course, happy  
18 to try to work out language that they will understand better,  
19 but I think some of the language that I quoted and discussed  
20 already is language that many people, even laymen here, do  
21 understand.

22 I will, of course, be happy to try to reach specific  
23 language that will be properly framed so that they can respond.

24 CHAIRMAN WOLF: Are you prepared to go with 3 now?

25 MR. MC PHILLIPS: Yes, sir, Your Honor.

1           In the third contention we address and discuss the  
2 problem of security at this plant, which we say the report just  
3 simply fails to adequately discuss security arrangements at  
4 the plant.

5           We are especially concerned that security is given  
6 at best only cursory treatments in such sections of the report  
7 as 3-1.1 and 3-3.1.

8           And we further state -- and I believe this to strongly  
9 be the case -- that this discussion is only implicit.

10           Now, for instance, we're concerned that pedestrian  
11 access to a fenced area will be through a security building  
12 located at the fence line, and vehicular traffic will be through  
13 a security gate. No mention is made of security within the  
14 S&M building, particularly from uncontrolled areas to con-  
15 trolled areas to confinement. What is the difference in these  
16 areas.

17           Of course, no mention is being made of actual guards,  
18 what their function will be; how they will be qualified, or  
19 how they intend to secure the plant; you know, with guns or  
20 whatever.

21           How would they foil a sabotage attempt? Which is  
22 certainly not an unrealistic consideration in the future given  
23 present political trends, you might say. Particularly from  
24 abroad.

25           We are also concerned about problems of security

1 at the nearest plant that we have for any type of prototype,  
2 which is the Westinghouse, Columbia, South Carolina plant.  
3 We have been given some information and we are presently in  
4 the process of receiving other information which tends to high-  
5 light the potential at that plant for security problems. And  
6 if that plant has security problems in Columbia, South Carolina,  
7 which is Westinghouse's closest thing to what they're going  
8 to build in Prattville, then certainly we could have similar  
9 security problems here in Prattville.

10 I think this is a valid contention. The evidentiary  
11 meat of a skeleton, of course, would come later, but nonethe-  
12 less, we think there is much more treatment of the whole range  
13 of security problems at the plant that needs to be treated and  
14 discussed.

15 CHAIRMAN WOLF: Mr. Cowan?

16 MR. COWAN: Mr. Chairman, security arrangements are  
17 not normally discussed in environmental reports. Security  
18 arrangements are discussed in the license application, and if  
19 I understood earlier, Mr. McPhillips has not yet seen the license  
20 application.

21 Section 8 of the license application for this plant  
22 discusses in general terms security arrangements, and it is  
23 noted in that section of the application that prior to initiating  
24 operation with special nuclear material at this plant an  
25 approved -- that means approved by the NRC -- comprehensive



1 physical security plan must be prepared, and will be prepared,  
2 in accordance with applicable NRC regulations.

3 So, with regard to that aspect of this contention  
4 that says that we failed to adequately discuss security arrange-  
5 ments at the plant, that's inaccurate in that they are discussed  
6 now in the application and will be discussed in much more detail,  
7 of course, in the comprehensive physical security plan, which  
8 under Commission regulations and practices is not required to  
9 be prepared at this early stage in the proceeding.

10 Now, with regard to the allegation concerning the  
11 Westinghouse, Columbia, South Carolina plant, and allegations  
12 of security problems there, Westinghouse is not aware of any  
13 problem -- of any problem -- with security at the Columbia,  
14 South Carolina plant.

15 If Mr. McPhillips comes up with some specific with  
16 regard to that plant -- and we don't know how he can do that --  
17 but if he does come up with some specifics, that might be able  
18 to present a justiciable issue here. But as currently framed,  
19 a general, vague allegation with security at the Westinghouse,  
20 Columbia plant, when we're not aware of such problems, and  
21 they are not otherwise described, just fails to meet any  
22 definition of specificity.

23 So, while this contention, if we were supplied with  
24 some specificity, might be justiciable, in its present form it  
25 should be rejected by the Board.

1           Here again we are willing to talk with Mr. McPhillips  
2 to see if he has something that can be developed into a con-  
3 tention that the Board can consider.

4           CHAIRMAN WOLF: Mr. Turk?

5           MR. TURK: As Mr. Cowan stated, the contention reflects  
6 that the license application had not been seen by Mr. McPhillips.  
7 Part 73 of the Commission's regulations concerns security  
8 arrangements. Part 70, under which this license would be  
9 granted, if it is granted, incorporates Part 73's security  
10 provisions. We are not sure from reading this contention whether  
11 Mr. McPhillips claims the regulations will not be complied  
12 with or whether the regulations are inadequate, or exactly what  
13 the focus is of his contention. And based on the wording of  
14 the contention, we presently oppose it.

15           We would be willing to get together with Mr. McPhillips  
16 and see if an acceptable contention can be formulated.

17           CHAIRMAN WOLF: Mr. McPhillips, Number 4.

18           MR. MC PHILLIPS: Moving on to the fourth contention  
19 dealing with accidents.

20           It is our position, that of SEACA, that the report  
21 simply does not adequately treat the subject of accidents  
22 which could occur at the plant, either in transportation of  
23 materials to the plant or in transportation of materials from  
24 the plant or accidents at the plant itself -- any one of those  
25 three categories.

1           We say the report's discussion, of course, as earlier  
2 stated, on security is implicit and subjective and it does not  
3 either explain the basis of their system for rating the  
4 probabilities of accidents.

5           More pointedly, how does Westinghouse justify rating  
6 accidents as "credible" as one category? You know, one category  
7 of accidents is "credible." And another category is "incredible"  
8 and a third category is "remotely possible."

9           They keep throwing lack of specificity at us; well,  
10 I'm throwing it back at them. I say, you know, let's have some  
11 specificity. How do you reach these terms that I've just  
12 quoted? What is "credible"? What is "incredible"? What  
13 is "remotely possible"? How do you reach them?

14           I think that's a very valid contention concerning  
15 accidents.

16           See, these descriptive terms appear to be grounded  
17 on calculations either unfounded or based on fuel fabrication  
18 plants perhaps using an entirely different process other than  
19 the one proposed. Which ties us in a little bit to our  
20 prototype contention, but we won't get into that right now.

21           We also say the report fails to address the possibility  
22 of a leak of hydrofluoric acid in the tank farm area. Again,  
23 this is based on the assumption that the tank farm area is  
24 where the hydrofluoric acid will be stored, since there is  
25 no information to the contrary and one would assume that it

1 will be stored there.

2           Anyway, in the event of a leak of hydrofluoric acid  
3 into an outside area, it could quickly reach a sandy soil on  
4 site and would then provide a direct path to the ground water.

5           Now, we also say, of course, the report does not  
6 consider the extremely corrosive properties of hydrofluoric  
7 acid, and particularly that the acid is so corrosive that it  
8 will start eating into the materials and it will cause leaks  
9 and equipment failures eventually throughout the fabrication  
10 process.

11           We point out to you that on Page 515 of this report  
12 it states that the UF-6 leaks are possible outside the special  
13 nuclear materials building. If this is so, then it must be,  
14 we would argue, a release of radionuclides or some radioactive  
15 materials contrary to what is stated on Table 5.1 of Page 5-2  
16 of the report here.

17           I won't read it; it's there and it can be seen. We  
18 have got it marked.

19           Page 5-4.1 of the report further states that upon  
20 discovering a leak in the UF-6 tank outside this special  
21 nuclear materials building that the tank would immediately be  
22 brought inside. Now, there is no consideration given to what  
23 happens to the UF-6 release before the tank is brought inside.  
24 Presumably this leak could be significant and dangerous -- a  
25 dangerous release of UF-6, in the absence of any proof to the

1 contrary.

2           And we say finally that the report does not address  
3 the issue of worker safety during an accident at the plant,  
4 even though plant workers would be those most affected by any  
5 in-plant accident.

6           Nothing is stated in the report as to what will happen  
7 to a worker once he has received the maximum dose allowable.  
8 That's assuming, of course, that he will receive such a doseage.

9           Further, we say there is no mention, or adequate  
10 mention, of whether the workers will wear dosimeters and under  
11 what precautions and regulations they will wear dosimeters.

12           We are very concerned that a lot of these workers  
13 presumably will be people who live and work now in the vicinity,  
14 and many of them, of course, would have jobs -- and this is  
15 one of the great things that the business community is talking  
16 about -- but jobs at what price? Do they realize how they're  
17 going to be affected by not only in-plant accidents but day-  
18 to-day exposure to radiation.

19           CHAIRMAN WOLF: Mr. Cowan?

20           MR. COWAN: Mr. Chairman, here again we think that  
21 this contention fails to satisfy the specificity requirements  
22 for the drafting of contentions; that there are some aspects  
23 of it which might, with clarity, pose a valid contention,  
24 and might not, depending upon what Mr. McPhillips is trying  
25 to get at. Let me note a number of points.

1           One, with regard to his comment in the contention  
2 which he has stated orally that we do not define and are vague  
3 on the terms "credible", "remotely possible", or "incredible",  
4 the Environmental Report on Page 5-13 defines a credible  
5 occurrence as one likely to occur within the 40-year period,  
6 a remotely possible occurrence as one likely to occur once  
7 within that 40-year period, and an incredible occurrence as one  
8 not likely to occur within the 40-year period. The definitions  
9 are very specific on Page 5-13 of what we mean when we use  
10 those generalized terms in accident probability in this par-  
11 ticular application.

12           Now, with regard to that portion of the contention  
13 relating to transportation of the materials to and from the  
14 site, Commission regulations currently in effect in 10 CFR,  
15 Part 71 cover transportation of all licensed materials to and  
16 from all nuclear facilities, and insofar as we understand this  
17 contention, and it relates to transportation accidents, we  
18 think the contention is challenging the Commission regulations  
19 without any appropriate basis or special circumstances as would  
20 be required.

21           Contrary to the allegation, the Environmental Report  
22 does address the possibility of a leak of hydrofluoric gases  
23 in the tank farm area, and does consider -- contrary to the  
24 allegation, it does consider -- the corrosive properties of  
25 hydrofluoric acid. Which is, of course, an acid used not



1 only in this type of plant but in many other industrial plants  
2 and applications having nothing at all to do with the nuclear  
3 business.

4 Further, contrary to the allegation in Subparagraph  
5 4(c), Westinghouse did in the Environmental Report evaluate  
6 the consequences of a uranium hexafluoride leak outside the  
7 manufacturing building. That evaluation determined there would  
8 be no dose-equivalent effect resulting from such a leak.

9 And finally, with regard to the SEACA allegation  
10 in Subparagraph 4(d) on worker safety, again, Mr. McPhillips  
11 is correct, worker safety is not addressed in this report,  
12 it is addressed in the license application document in Sections  
13 5 and 11. Discussion in Section 5 specifically addresses the  
14 actions to be taken such a worker receive a maximum dose  
15 exposure and discusses matters of personnel dosimetry.

16 So, again here we have a contention where some aspects,  
17 if we understood them, and if they were brought up with  
18 specificity, might make a valid justiciable contention;  
19 certainly not all aspects would.

20 DR. STEINDLER: In my reading of Item 4, which deals  
21 with accidents, it doesn't seem to address the transportation  
22 question. I'm wondering what prompted your comment that Mr.  
23 McPhillips may be challenging the Commission's regulations?

24 Did I miss something?

25 MR. MC PHILLIPS: Yes. In the very opening of

1 Section 4 -- and I quote -- "The report is deficient for its  
2 failure to adequately address the subject of accidents occurring  
3 at the plant or occurring in transportation to and from the  
4 plant."

5 Now, to the extent that this contention says that  
6 the Environmental Report is deficient because it doesn't  
7 address the subject of accidents occurring in transportation  
8 of materials to and from the plant, those are covered by other  
9 Commission regulations.

10 It's that sentence in the leadin. That sentence is  
11 not further amplified later on and so we are not sure whether  
12 that was a throw-in here or whether it was meant to encompass  
13 something that would later attempt to be brought out.

14 CHAIRMAN WOLF: Mr. Turk?

15 MR. TURK: We believe that parts of this contention,  
16 if reworded with more specificity so we know what issue is  
17 at focus, those parts of the contention might be admissible  
18 for litigation. At this time, however, based on the present  
19 wording, we must oppose for lack of specificity.

20 If I may add, when we say that the contention may  
21 be admissible, I'm not commenting on the comments; I'm merely  
22 stating that the formulation of the contention might be  
23 acceptable for litigation as to whether or not the truth of  
24 the contention is present.

25 CHAIRMAN WOLF: Mr. McPhillips, will you take up

1 Number 5?

2 MR. MC PHILLIPS: Yes, sir, Your Honor. My natural  
3 tendency sometimes, when I hear them say things, is to want  
4 to want to say a little bit more on the preceding contention  
5 and I try to curtail that natural desire. But I do want to  
6 point out that we have received information about other plants  
7 where workers have been exposed and there has been a significant  
8 increase in incidence of cancer among those workers. So, we  
9 are especially concerned about this worker safety.

10 And Mr. Cowan said something about Section 8 of the  
11 license application, said prior to such and such a date  
12 a security plan would have to come up. I think that we ought  
13 to be able to see this security plan; ought to be able to  
14 analyze it, go over it, dissect it, and discuss it before  
15 you approve the license, especially for the plant itself.  
16 Because this is just a very important area and I think if we  
17 can make it a valid contention yet because the information is  
18 not available, then once it becomes available then we should  
19 have the right to make it a valid contention. That plan,  
20 the comprehensive security plan, he's talking about.

21 MR. COWAN: We don't disagree with the point there  
22 needs to be in place before the plant is licensed an appro-  
23 priate security plan, and that once it comes out Mr. McPhillips  
24 can have the opportunity to review it, and if he finds what  
25 he thinks is a deficiency there to propose a contention, which

1 we could then argue about.

2 MR. TURK: I would hope that no security plan would  
3 be disclosed without the proper protective provisions for  
4 preventing any breach of security.

5 CHAIRMAN WOLF: I'm sure Mr. McPhillips understands  
6 that.

7 MR. MC PHILLIPS: Absolutely.

8 Your Honor, turning to the fifth contention, then,  
9 that which deals with the high efficiency particulate air  
10 filters, which we call the HEPA filters, we say the report  
11 just simply does not adequately treat the problems which can  
12 arise with HEPA filters.

13 We believe the Section 5 estimates that are given  
14 in Section 5 of the report are too conservative; that many of  
15 these estimates in reality appear to be the contrary.

16 For example, the report does not consider that the  
17 HEPA filters when used will become clogged and less efficient.  
18 It just happens with any type of filter; over a period of time  
19 they will become clogged and less efficient. So, there will  
20 be -- I mean, at their maximum efficiency they will be 99.9  
21 percent, but unless they are going to be somehow changed every  
22 day -- and then even if they're changed there will be a period,  
23 you know, between when you're changing them that something  
24 can leak over. And I don't think they will be changed every  
25 day.

1 But anyway, there's not any kind of discussion or  
2 treatment of what will happen once the HEPA filters become  
3 clogged and less efficient.

4 The report on Page 5-11 says the HEPA filters will  
5 operate at this very high 99.9 percent level. That means,  
6 of course, that normally there will be a level of effluents  
7 equal of 0.1 percent, the radionuclide level, inside the S&M  
8 building.

9 Now, if they only become slightly clogged so that  
10 the efficiency level decreases to 0.2 percent, that means  
11 that the damage potential would double. And 0.3 it's going  
12 to triple, you see?

13 So, we think that their estimates therefore of the  
14 damage potential are very conservative and haven't adequately  
15 considered what could happen.

16 We also say that there is no assurance in the report  
17 that the HEPA filters will not become less efficient during  
18 normal plant operations, and no way to determine whether or  
19 not the HEPA filters will become less efficient.

20 I hope I'm not sounding repetitious but we're just  
21 very much concerned about the way these HEPA filters are going  
22 to operate.

23 We say the report does not indicate whether any  
24 check will be made to determine whether or not the seals  
25 around the filters are going to be airtight.

1           A normal part of the plant's operations would require  
2 the changing of these HEPA filter banks. We say an accident  
3 occurring simultaneously with such a change, an in-plant accident,  
4 would release massive amounts of radiation into the atmosphere,  
5 we believe. If you just had the bad luck to have an accident  
6 at the time the HEPA filters were being changed.

7           Now, the HEPA filters were supposed to be operating  
8 24 hours a day, seven days a week, and said filters are so  
9 important for the safety of the plant the plant should never  
10 operate without them.

11           Now, we're also in the process of getting some more  
12 information from a certain scientist about HEPA filters, but  
13 I think we're in a position now anyway where we can approach  
14 this as a justiciable issue.

15           Thank you.

16           CHAIRMAN WOLF: Mr. Cowan?

17           MR. COWAN: With a little bit of clarification and  
18 definition, which I think we could discuss when we meet with  
19 Mr. McPhillips, we think this proposed contention does state  
20 something that does raise a justiciable issue in this pro-  
21 ceeding.

22           That doesn't mean we agree with the merits of the  
23 contention, but it means that we think that it raises something  
24 that the Board can then hear on the merits.

25           There is a need for a little bit of clarification



1 and definition. I don't think it's necessary on this particular  
2 contention for me to go through those points. We'll try to  
3 iron them out with Mr. McPhillips.

4 CHAIRMAN WOLF: Mr. Turk?

5 MR. TURK: At this point, based on the present wording  
6 of the contention, we would have to oppose it as being very  
7 speculative. It doesn't state with any assurance that HEPA  
8 filters have to be changed, or that the plant will not be in  
9 operation at that time.

10 It doesn't state whether it is addressing the  
11 sufficiency of the Commission's regulations, or whether the  
12 applicant will not comply with regulations.

13 So, in sum, we would oppose it at this time but we  
14 would be more than willing to discuss it with them and see  
15 if an acceptable contention can be formulated.

16 CHAIRMAN WOLF: Mr. Cowan?

17 MR. COWAN: I should note, we don't read the con-  
18 tention as presently drafted as challenging or attempting to  
19 challenge Commission regulations. If that is in fact, after  
20 we discuss it with Mr. McPhillips, his intention, or that is  
21 what happens with this contention, then of course we would  
22 oppose the contention, if it challenges NRC regulations.

23 CHAIRMAN WOLF: Thank you.

24 It is now twelve thirty-five. Let's adjourn for  
25 and hour for lunch. We will be back here than at one thirty-

1 five this afternoon.

2 (Whereupon at 12:35 o'clock, p.m., the hearing  
3 in the above-entitled matter was adjourned, to  
4 reconvene at 1:35 o'clock, p.m., the same day.)  
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AFTERNOON SESSION

1:35 p.m.

CHAIRMAN WOLF: Mr. McPhillips, you had completed 5,  
is that correct?

MR. MC PHILLIPS: Yes, sir.

CHAIRMAN WOLF: Contention 5. We are running a little  
behind schedule, so that if you can state the proposition a little  
more tersely I think it will help us to gain the ground we have  
to gain in order to finish this afternoon.

I think that is rather important, since, as you know,  
you are going to have other opportunities to go into this and it  
is not as though this is the only chance you are going to have.

MR. MC PHILLIPS: I am certain we can finish this in  
the afternoon.

CHAIRMAN WOLF: I beg your pardon?

MR. MC PHILLIPS: I feel certain that this can be finish-  
ed in this afternoon.

CHAIRMAN WOLF: Oh, yes. Well, we also have Mr. Allred,  
too, to hear from, you know.

MR. MC PHILLIPS: Sure; I'll go right ahead.

CHAIRMAN WOLF: And anything that you can do to state  
it clearly but shortly, I would appreciate it.

MR. MC PHILLIPS: Surely. I would like to say, however,  
in response to some things that Westinghouse has said that we are  
under no illusion that this is anything but a nuclear fuel

1 fabrication plant. I mean, there have been some statements that  
2 perhaps we think this is a nuclear power plant.

3 CHAIRMAN WOLF: Well, we understand that. This  
4 abundance of caution trips lawyers up at times, you know.

5 MR. MC PHILLIPS: Right. Now, with respect to the  
6 6th contention in which we addressed plutonium, we said that the  
7 Report just simply does not address the role plutonium will play  
8 in the future of the plant.

9 And, particularly, we are concerned that the present  
10 supply of uranium is likely to last for no more than 30 years.  
11 This is the most optimistic estimate that we have heard. This  
12 is a shorter period of time than the projected life of the plant.

13 Since the projected life of the plant is 40 years,  
14 there will be a 10-year period in which the plant cannot operate  
15 without plutonium.

16 Now, we say that simple economics for Westinghouse will  
17 be such that they will want to eventually use plutonium oxide, and  
18 that exposing the public to anything that toxic would be an act of  
19 aggravated negligence.

20 So unless they are willing to sign an oath in blood or  
21 something that they will never use plutonium, we just can be  
22 satisfied that they won't at some point in the future, and maybe  
23 at too late a date in the future, you see; nobody can stop it at  
24 that point.

25 And, further, as I understand from speaking with some

1 scientists, the combination of U-235 and U-238 has such an  
2 effect on each other the way the neutrons operate that sometimes  
3 plutonium can be an offshoot of those two types of uranium, the  
4 combination of the two.

5 So we are concerned about some by-product or offshoot  
6 of plutonium just from the combination of these two different  
7 types of uranium: 235 and 238, their interaction with each other.

8 And, of course, you know, we are just very, very con-  
9 cerned about this possibility of plutonium in any phase of the  
10 proceedings, either as a main type of fuel that they may use  
11 down the road or as an offshoot of the combination of these two  
12 types of uranium, which I understand will be together in some  
13 of the unenriched uranium that they bring into the plant.

14 That's it.

15 CHAIRMAN WOLF: Mr. Cowan?

16 MR. COWAN: Our position is pretty simple on this, Mr.  
17 Chairman. The license application which is before this Board  
18 does not request possession of any plutonium in any amount at  
19 any time, and the plutonium will not play any role in this plant.

20 Accordingly, a contention that addresses plutonium is  
21 totally irrelevant to anything which is the subject of this  
22 application.

23 And I should note in connection with the comment on  
24 U-235-U-238, that again we are getting a confusion with a nuclear  
25 power reactor.

1 In a nuclear power reactor in connection with the  
2 nuclear reaction in a power reactor you generate some plutonium  
3 as part of the fission process.

4 That is not true with regard to any of the material  
5 that will be at this plant. This is a material license application  
6 for uranium, not the plutonium, and, therefore, this contention  
7 by definition is irrelevant.

8 CHAIRMAN WOLF: Mr. Turk?

9 MR. TURK: As the contention is presently phrased, we  
10 see no way for this to be resolved through conference. It seems  
11 to me to be totally beyond the scope of this proceeding, since  
12 plutonium is not one of the requested materials for the granting  
13 of this license.

14 As to the point made by Mr. McPhillips concerning a  
15 possible offshoot whereby plutonium results from interaction  
16 between U-235 and U-238, that is something which we have not seen  
17 in his contentions previously.

18 If he files an amended contention, we will be able to  
19 consider whether that is at all applicable to this proceeding. At  
20 this point I would say we oppose it altogether.

21 CHAIRMAN WOLF: Mr. McPhillips?

22 MR. MC PHILLIPS: Your Honor, I would just ask if we  
23 could possibly get some statement from Westinghouse -- it doesn't  
24 have to be in blood -- but some kind of statement that they will  
25 not use plutonium, ever, in this plant.



1 MR. COWAN: We will state that the license application  
2 does not request possession of any plutonium, and plutonium will  
3 play no role in this plant.

4 MR. MC PHILLIPS: Ever?

5 MR. COWAN: Well, I don't know how you interpret the  
6 word, "ever." We have said it as clearly as we can. This Board  
7 can only deal with the application that we make.

8 We are not required in connection with this application  
9 to say, for example, that we will never convert this plant for  
10 some other purpose -- having nothing to do with plutonium, but  
11 for some other purpose. We are not required to do that.

12 The Board can only deal -- and the only requirement  
13 that we have is to meet Commission regulations -- and the Board,  
14 as we understand it, can only deal with the application in front  
15 of it. The application does not include plutonium.

16 I can't say it anymore clearly. Plutonium will play  
17 no role in this plant.

18 CHAIRMAN WOLF: Mr. McPhillips, will you take No. 7,  
19 please?

20 MR. MC PHILLIPS: Yes, sir, Your Honor.

21 This contention, as you can see, we have denominated  
22 "Alabama River," because it primarily addresses concerns we have  
23 about the relationship of the plant to the Alabama River.

24 We point out that the Report, especially -- and it of  
25 all documents should address and discuss the impact of the plant

1 on the river, the Environmental Report -- and it points out in  
2 Section -- the section that we cite in our contention -- and  
3 states that 21,000 gallons of water will be dumped into the river  
4 every day.

5 We say that all 21,000 gallons of water in greater or  
6 lesser degrees will contain some radionuclides which will concen-  
7 trate themselves thousands of times into tissues of plant and  
8 animal life in and around the Alabama River.

9 This is something you can't underestimate, can't under-  
10 emphasize, that is, the concentration effect of these radio-  
11 nuclides.

12 I think anybody that tries, you know, to deny that  
13 there are radionuclides is just not fully aware of what the radio-  
14 active waste processes will be coming out of this plant. Accord-  
15 ing to what our scientists tell us, there will be ample radio-  
16 nuclides contained in this water.

17 Now, one of the main forms, of course, of animal life  
18 in any river generally is fish, and these fish are fished for and  
19 are caught downriver, and they are eaten frequently.

20 Once they are eaten, of course, we fear that the radio-  
21 nuclides that these fish contain in them will implant themselves  
22 into the human being with, of course, the lethal results that that  
23 could produce. There is no discussion of this at all in the  
24 Report.

25 We further say that the Report does not discuss the

1 temperature of the water coming out of the plant, its impact  
2 on the river.

3 We say that the temperature level of the water on the  
4 river will be such that it will cause adverse effects on the  
5 environment and, particularly, may cause increased nitrate levels,  
6 which will cause excessive and undesirable vegetation growth.

7 I further wanted to point out to you that unwanted  
8 aquatic plants are nourished by these plant nutrients, or nitrates,  
9 which come from industrial wastes, and these nitrates in ground  
10 water can poison human beings and livestock, which, of course,  
11 come to the river also to water.

12 And so this is not only common knowledge, but right out  
13 of the Encyclopedia Britanica.

14 CHAIRMAN WOLF: Mr. Cowan?

15 MR. COWAN: Well, again we have a specificity problem  
16 with this contention, and again it is possible that with some  
17 discussion with Mr. McPhillips we might be able to work out a  
18 justiciable contention.

19 We ought to note that we are talking about 21,000 gallons  
20 of water per day being discharged into the river. This is after  
21 treatment. It is going to be diluted by a factor of between  
22 600,000 and 700,000 before becoming available for concentration  
23 in the fish or plant or animal tissue, and the daily water flow  
24 of the Alabama River is 14 billion gallons past this plant.

25 CHAIRMAN WOLF: Would you say that figure again?

1 MR. COWAN: That is 14 billion, with a "b", gallons,  
2 and we are talking about putting in 21,000 gallons of water per  
3 day, which is less than the amount in the swimming pool at the  
4 motel that I stayed at last night into the river.

5 And of that 21,000 gallons per day, only about a fourth  
6 of it, or only about 5,000 gallons, actually comes from the  
7 scrubber portion of the process here; the rest of it is water  
8 for drinking and sanitary purposes and has nothing to do with the  
9 operation as such of the plant process.

10 So to put it into context, we are talking about putting  
11 21,000 gallons of treated water per day into a river with a flow  
12 of 14 billion gallons.

13 The uranium released to the river in the plant discharge  
14 is going to be a very, very small fraction -- and this is dis-  
15 cussed -- of the naturally occurring uranium concentration in  
16 the Environmental Report.

17 We do discuss in the Environmental Report fish ingestion  
18 by individuals and some of the other things that were mentioned  
19 by Mr. McPhillips.

20 But, as I say, in context we think we could work out  
21 with him at least the definition of a justiciable issue. We are  
22 not entirely sure. It depends on this particular one and where he  
23 wants to go with his contention.

24 CHAIRMAN WOLF: Mr. Turk?

25 MR. TURK: Based on the present wording of the contention,

1 we oppose it at this time, but we feel that through negotiations  
2 we may be able to arrive at an agreeable formulation of the  
3 contention which could be admitted for litigation in the proceeding

4 CHAIRMAN WOLF: Mr. McPhillips?

5 MR. MC PHILLIPS: Yes, sir. "Dispersion Model" is what  
6 we call our 8th contention, and we say that the liquid dispersion  
7 model set out in Appendix C of the Report is just simply  
8 inadequate, due to its rectangular chape, for determining the  
9 correct radionuclide dispersion.

10 We say that that shape does not account for the  
11 irregularities found in the Alabama River, that uranium, as a  
12 heavy metal, tends to settle in sediment pools along the bottom  
13 of the river, and we have got information from scientists that  
14 says that along the bottom of the river it can sometimes concen-  
15 trate up to 72,000 times normal levels.

16 These high radionuclide concentrations will eventually  
17 enter the food chain where they become more densely concentrated  
18 in animal and plant tissues.

19 We say that these concentrations, when transferred up  
20 the food chain, of course, reach human beings at many thousands  
21 of times the levels coming out of the plant, and that this model  
22 just simply is inadequate to stop -- I mean this dispersion model  
23 -- is inadequate to stop the radionuclides from getting into the  
24 plant and animal life as they otherwise would.

25 CHAIRMAN WOLF: Mr. Cowan?

1 MR. COWAN: Mr. Chairman, again we have a contention  
2 that we think could be amended to provide some reasonable speci-  
3 ficity, and we are willing to sit down and talk to Mr. McPhillips  
4 concerning that.

5 We think the contention as we understand it now -- and  
6 we are not sure of the meaning of some of it -- but as we under-  
7 stand it, we think it exhibits a lack of understanding of the  
8 nature of dispersion models and their use in making projections.

9 But that would be something that we would discuss with  
10 Mr. McPhillips as part of an effort to come to a viable content-  
11 ion.

12 I ought to note that we are not aware of any information  
13 that would supply any support for the claim that the uranium from  
14 this plant will concentrate up to 72,000 times in sediment, as  
15 is charged here.

16 I don't know how that works into this contention, quite,  
17 but, again, here is a case where we need some clarification and  
18 some specificity before we have an admissible contention.

19 CHAIRMAN WOLF: Mr. Turk?

20 MR. TURK: As to this contention as with the previous  
21 contention, we are not satisfied that it is specific enough to  
22 give us an issue that we can litigate.

23 We are not sure if it challenges the regulations or  
24 whether it challenges compliance with regulations. We are willing  
25 to sit down and try to arrive at an acceptable formulation of the



1 contention, but based on the present wording we must oppose it.

2 CHAIRMAN WOLF: Mr. McPhillips?

3 MR. MC PHILLIPS: Yes, sir; moving on to the 9th con-  
4 tention regarding decommissioning, we say that the Report is  
5 flawed fatally by its lack of information on this subject.

6 We say that after the 40-year lifespan that is projected  
7 for the plant, and perhaps at a sooner time, a process of decom-  
8 missioning will begin. It will have to begin. And it is a multi-  
9 million dollar process involving tremendous amounts of low-level  
10 waste materials of the years that everything in the plant has  
11 accumulated and been exposed and has become and will become  
12 radioactive.

13 And let me say this process presents enormous costs and  
14 dangers, yet nothing is said in the Report concerning decommis-  
15 sioning.

16 We say that Westinghouse needs to supply us with an in-  
17 depth study of every aspect of decommissioning. That is, who  
18 will pay for it, how it will be achieved, the long and short-term  
19 effects, what will happen if there is no decommissioning or if  
20 it is incomplete.

21 And we even throw out a possibility which I am sure  
22 Westinghouse considers extremely remote, but after Chrysler I  
23 don't see how anybody can consider it too remote, as to what  
24 happens if Westinghouse runs into troubled financial waters and  
25 can't afford to move this plant at sometime in the future.

1           None of us can predict how the economy will go, and if  
2 we hit a major depression or let's say we anticipate that the  
3 need for nuclear energy or other areas that Westinghouse is  
4 heavily involved in decreases so that their markets decrease and  
5 they hit financially troubled waters, what happens then? Who  
6 picks up the bill?

7           And so we need to consider and discuss these alterna-  
8 tives.

9           CHAIRMAN WOLF: Mr. Cowan?

10          MR. COWAN: Well, the subject of decommissioning is not  
11 addressed in the Environmental Report. It is addressed in the  
12 license application in Section 21.

13          As described in that section, arrangements for the  
14 decommissioning of this plant will be contained in a decommission-  
15 ing plan prepared in accordance with and meeting NRC requirements.

16          And a summary of that plan, but not the plan itself, was  
17 recently provided to the NRC staff.

18          So insofar as this contention claims that the decommis-  
19 sioning not appearing in the Environmental Report is a flaw  
20 somehow, we think the contention should be rejected.

21          This is a normal industrial plant, and decommissioning  
22 here will be similar to decommissioning of other industrial  
23 facilities that have low-level radioactive materials utilized  
24 in the manufacturing or in the process, and the decommissioning  
25 plan will address that when it finally comes out.

13 1 So that unless the contention is amended to specify  
2 some specific regarding the decommissioning insofar as it is  
3 described in the license application, we think it should be  
4 rejected.

5 With regard to speculation on whether Westinghouse or  
6 any other company would become bankrupt in the event of a  
7 depression and so forth, we think subjects like that -- and have  
8 been ruled by other Boards -- are totally speculative.

9 Westinghouse obviously has to meet the NRC requirements  
10 for financial responsibility. We expect to demonstrate that.

11 CHAIRMAN WOLF: Mr. Turk?

12 MR. TURK: The staff has required the applicant to  
13 come up with an acceptable decommissioning plan. I am informed  
14 that that plan has been provided to us, at least in part, in  
15 recent submission to -- given to us by Westinghouse in response  
16 to our questions.

17 I realize that Mr. McPhillips has not seen that yet.  
18 I personally have not seen it myself.

19 CHAIRMAN WOLF: Will you make it available to Mr.  
20 McPhillips?

21 MR. TURK: As I understand it, it will be sent to the  
22 local public document room. But I will have to check. If it  
23 is not, I will make it available to Mr. McPhillips and to Mr.  
24 Allred.

25 CHAIRMAN WOLF: Yes, Mr. Allred?

1 MR. ALLRED: Mr. Chairman, I believe that that  
2 decommissioning plan is a portion of the questions, is it not,  
3 a portion of the questions that were addressed to Westinghouse  
4 to which they have responded or are in the process of responding,  
5 and will be included with the material that Mr. Cowan said he  
6 would send to Mr. McPhillips and myself.

7 MR. COWAN: Mr. Allred is correct.

8 MR. TURK: I stand corrected on that.

9 To the extent that the contention argues that Westing-  
10 house may go bankrupt, that is totally speculative and not something  
11 we can litigate here.

12 At this point, then, until we see whether the intervenor  
13 wishes to challenge whether Westinghouse complies with our  
14 regulations, I don't know what the contention will address, so  
15 I oppose it.

16 CHAIRMAN WOLF: Mr. McPhillips? No. 10.

17 MR. MC PHILLIPS: In this particular contention we are  
18 simply addressing the need for the plant, and we say that that  
19 need is based on an underlying erroneous assumption that the  
20 number of nuclear reactors will increase throughout the next 40  
21 years.

22 Of course, the projected life of the plant is 40 years,  
23 yet the Report itself only substantiates the future need of the  
24 plant to the year 1990 and not beyond.

25 I think given the trend of the nuclear energy industry

1 as a whole, especially since Three Mile Island -- and I might  
2 point out to you even in yesterday's newspaper, the Alabama Journal,  
3 it talked about a TVA plant up at Chattanooga that Westinghouse  
4 itself designed was shut down.

5 And, you know, with all these shutdowns and all the  
6 problems and what not that we are having with the nuclear energy  
7 field, I think it is highly questionable whether this plant really  
8 will be needed, I mean economically needed, by Westinghouse or  
9 anyone else.

10 I am talking about the Sequoia nuclear reactor at TVA  
11 in yesterday's Journal.

12 I would just question that need. We say that the need  
13 for the plant, even in the Report, is unsubstantiated during the  
14 majority of the years, during the last 30 years of its so-called  
15 projected life.

16 And the Report states on Page 7-2 that the energy needs  
17 of this country will increase linearly -- I think after 1984 is  
18 what it says, to be more specific -- and that it will increase  
19 between now and 1984 -- and we checked this out last night -- that  
20 the need will -- the demand will exceed the supply by 32 percent,  
21 and at that point it advances linearly.

22 Well, that's assuming that demand will increase by  
23 eight percent on the average between now and 1984, or at least  
24 that the demand will outstrip the supply by eight percent per year.

25 And I just think that this is based on a very untrue

1 premise. There are a number of articles pointing out, too, how  
2 people are getting much more efficient in their use of energy due  
3 to the high cost of it.

4 So even assuming a population increase, the demand for  
5 energy may very well decrease as the cost continues to accelerate.

6 So for a number of reasons, we really question the need  
7 for this plant, and we feel that in the long run we may be doing  
8 Westinghouse Corporation and its stockholders a big favor by  
9 opposing this plant, because we think it in the end might become  
10 a white elephant for them.

11 CHAIRMAN WOLF: Mr. Cowan?

12 MR. COWAN: Well, Mr. Chairman, the contention, we think,  
13 should be rejected because it is based upon an erroneous premise.  
14 Westinghouse has not decided -- has not decided -- to build this  
15 plant based on any assumption that the number of nuclear reactors  
16 would increase over the next 40 years.

17 Westinghouse wants to build this plant because the demand  
18 for fuel fabrication plant output, the output from fuel fabri-  
19 cation plants, will exceed the available plant capacity in this  
20 country by the mid-1980's, and that's the reason we want to build  
21 the plant, and that is the basis upon which the need for the plant  
22 is established, and not any basis that there will be an increase  
23 in the number of nuclear reactors.

24 And, further, there is another erroneous premise in  
25 Mr. McPhillips -- that underlies Mr. McPhillips' purported



17

1 contention.

2 We do not state in the Environmental Report that the  
3 energy needs of this country have increased linearly to this point  
4 and will continue to do so.

5 What the Report does say is that a conservative analysis  
6 of nuclear power plant orders and completions shows that in 1984  
7 demand for fuel fabrication capacity is exceeded by 32 percent,  
8 and this increase -- that is, the increase in demand for fuel  
9 fabrication capacity -- will be increased linearly throughout the  
10 1980's and 1990's.

11 It is totally different to say that the demand for fuel  
12 fabrication capacity will increase linearly through the 80's and  
13 90's, which is what we say, than to say, as Mr. McPhillips claim  
14 we say, that the demand for energy in this country will increase  
15 linearly.

16 So that the underlying premise behind this contention,  
17 as we see it, is erroneous, and, therefore, we think the con-  
18 tention should be denied.

19 MR. ALLRED: Mr. Chairman, may I comment on this  
20 particular contention, please, sir?

21 CHAIRMAN WOLF: Yes, you may, Mr. Allred.

22 MR. ALLRED: I am not sure that I understand. Well,  
23 let me ask this question. If we are talking about the 1984 demand  
24 for fuel fabrication capacity increasing, does that mean fuel  
25 fabrication, the demand for fuel fabrication capacity, throughout

1 the world?

2 And how would that compare with saying that the demand  
3 for energy in the United States will not increase?

4 MR. COWAN: It is international demand for fuel fabri-  
5 cation capacity that we are talking about. We are not premising  
6 this plant on an increase in the number of reactors in the United  
7 States.

8 MR. ALLRED: But, in fact, it is being based substantially  
9 on an increase in the number of nuclear reactors in other  
10 countries?

11 MR. COWAN: No, that is not correct, Mr. Chairman; it  
12 is not.

13 MR. ALLRED: Well, really, I am not -- I think that I  
14 would like to assist Mr. McPhillips in preserving the issue for  
15 further clarification, if I am in a position to do that, about  
16 where the product produced here, where all the costs are, will  
17 be used.

18 As the cost benefit analysis is described in the Environ-  
19 mental Report, as that has been done, I believe that most of the  
20 costs are going to be localized here in Prattville, here in the  
21 United States, whereas the benefits may be international.

22 I would suggest to the Board and to the Chairman that  
23 that may not be an appropriate consideration when all the costs  
24 are going to be localized here.

25 But, again, I simply want to assist Mr. McPhillips in

1 preserving this issue for further clarification based on addi-  
2 tional information from Westinghouse.

3 CHAIRMAN WOLF: I am sure he will attempt to do that,  
4 Mr. Allred.

5 MR. ALLRED: Thank you.

6 CHAIRMAN: Mr. McPhillips?

7 MR. MC PHILLIPS: Yes; are you going to give the NRC  
8 staff a chance to speak?

9 CHAIRMAN WOLF: Yes; I had forgotten that you had not  
10 spoken. Will you comment, please?

11 MR. TURK: We believe that the contention raises an  
12 issue concerning the need for this facility, and that issue should  
13 be addressed in this proceeding.

14 Now, my reaction to this contention as stated is that  
15 the basis is not set forth with enough specificity, and, also,  
16 some of the statements there appear to be on their face wrong.

17 We would support your giving us an opportunity to meet  
18 with the intervenors and to try to work out an acceptable need  
19 for the facility contention, but we feel that the issue should be  
20 addressed in the proceeding.

21 The bottom line is I oppose the wording of the contention  
22 but I support its admission after reformulation as an issue to  
23 be addressed.

24 CHAIRMAN WOLF: Mr. McPhillips?

25 MR. MC PHILLIPS: Yes, sir. Just one other sentence or

1 thought on that need contention, and that is that we believe the  
2 plant at Columbia, South Carolina could more economically be  
3 expanded to meet an increased demand or need than to build a  
4 whole new facility down here in Prattville.

5 We will probably amplify or modify our contention  
6 somewhat when we get together with them to include that aspect  
7 of the need.

8 Now moving on to the 11th contention, "Non-Industrial  
9 Nature of the Plant Site," the Report we say inaccurately states  
10 on Page 7-7 that the plant site is already in "an industrial  
11 site locality."

12 We state that the Report is just simply misleading in  
13 stating that, because even though it may be zoned industrial, it  
14 is not anywhere near it.

15 Quite the contrary to the Report itself, it is a very  
16 pristine sort of place out there. The Report itself itemizes a  
17 myriad of wildlife out there, wildlife species in the area.

18 We believe all these species would be endangered and  
19 many exterminated, at least in the area of the construction and  
20 operation of the plant.

21 Now, you know, we are not anti-industry or anti-business;  
22 far from it. On the contrary, you know, we welcome industry and  
23 business locating in places that are either industrial or, if they  
24 are nuclear-related, in places perhaps that are not anywhere near  
25 population areas such as ours.

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1 But we are also concerned about plant and animal life  
2 in this particular. A lot of Alabamians are hunters or fishers,  
3 and they are upset when a plant comes in and just puts itself down  
4 into a wilderness area.

5 So we are concerned about that, and we think that that  
6 is a valid contention, that if they are going to choose a site at  
7 all, that it ought to be in an area where wildlife will not be  
8 affected, such as it will in this area.

9 CHAIRMAN WOLF: Mr. Cowan, do you have a comment?

10 MR. COWAN: Yes, sir. Mr. Chairman, this site, which  
11 is some 800 acres in area, is located and has on one of its  
12 boundaries an operating paper mill of the Union Camp Corporation,  
13 and on the other side on the other boundary an operating sanitary  
14 landfill.

15 The site, at one corner of the site, the City of  
16 Prattville is currently putting in a sanitary sewage treatment  
17 plant.

18 So that the site is not only zoned industrial, but has a  
19 major industrial facility on one of its borders and has a sanitary  
20 landfill on its other border, and has a sewage treatment plant  
21 going in at one edge of the site.

22 Now, to say that that is a pristine site is somewhat  
23 a stretch of the imagination.

24 Located at the riverfront is the water intake structure,  
25 which I saw yesterday, for the Union Camp paper plant, which is a

1 facility stretching out into the river of concrete and steel  
2 for the tremendous amount of water that they draw out of the  
3 Alabama River to run through as you would in a paper plant  
4 installation.

5           The land has been zoned industrial for a considerable  
6 period of time. It has been owned -- the land proposed for the  
7 plant has been owned by DuPont Corporation who originally had  
8 plans, apparently now negated, to put a chemical facility on this  
9 land.

10           Now, so that portion of the contention that the site  
11 is not industrial we think ought to be rejected.

12           Now, with regard to that portion of the contention that  
13 relates to the wildlife species claim, we think the rules of  
14 practice for specificity are not met.

15           The contention makes the naked assertion that wildlife  
16 species are to be endangered or exterminated, but doesn't provide  
17 any explanation as to why it believes this would occur, since any  
18 wildlife species which may be found in the area of the proposed  
19 plant would also be found in the much larger area outside the  
20 proposed plant.

21           There is no allegation that we see in this contention,  
22 for example, that there is a snail darter sitting on the proposed  
23 site which is only found on the proposed site and nowhere else,  
24 or that any other animal species on the endangered species list  
25 would be endangered as a species because of the building of this



1 plant.

2 Accordingly, without specifics of that type -- and we  
3 don't think that they can come forth with any -- without specifics  
4 of that type we think the contention does not have reasonable  
5 specificity and should be denied.

6 CHAIRMAN WOLF: Mr. Turk?

7 MR. TURK: The staff opposes the admission of this  
8 contention as it is presently worded. I am not sure that it  
9 could be worded in any way to make it admissible, an admissible  
10 contention.

11 If the site is, indeed, an industrial area, then, on  
12 its face it appears to be inadmissible. There is no obligation  
13 on the Licensing Board to accept a patently wrong type of con-  
14 tention.

15 As to specificity, we don't find any particular kinds  
16 of wildlife mentioned, or any effects mentioned, or any statement  
17 that the regulations of the Commission which protect the environ-  
18 ment will not be adhered to, so we oppose it on that ground as  
19 well.

20 CHAIRMAN WOLF: Thank you. Mr. McPhillips?

21 MR. MC PHILLIPS: Your Honor, I am just informed by  
22 Mr. Bell that the sewage treatment place that they refer to is  
23 not quite in yet, and one of the purposes for it is to supply  
24 Westinghouse, so that Westinghouse can use it, so I suppose that  
25 was one of the inducements perhaps maybe to get Westinghouse to

1 come is that, "You know, we are going to have a sewage treatment  
2 place that you can use."

3 But I would invite the Commission, if it ever has the  
4 opportunity, if there is any doubt about whether this is an  
5 industrial site or wildlife type of place, to go take a look at  
6 the site yourself, and I don't think there will then be any doubt  
7 in your mind as to just how much of a wildlife area it is.

8 MR. COWAN: Mr. Chairman?

9 CHAIRMAN WOLF: Yes?

10 MR. COWAN: May I respond just to that point?

11 CHAIRMAN WOLF: Yes.

12 MR. COWAN: My understanding is that the sewage treatment  
13 plant was planned long before Westinghouse ever decided to put a  
14 plant, the fuel fabrication plant, at the location near Prattville,  
15 and that the sewage treatment plant's presence was not justified  
16 on the grounds that Westinghouse might be putting a plant there.

17 MR. MC PHILLIPS: All right, moving on to the 12th  
18 contention dealing with radiation dose models, we point out in  
19 this contention that the dose models which are used in the Report  
20 come from what we believe to be outdated sources, in view of the  
21 tremendous advances made in health-physics.

22 Now, yesterday afternoon we did meet with Mr. Cowan  
23 and Mr. Cellier. I think Mr. Cowan pointed out to us that there  
24 were some sources that were not beyond four years of age. Some  
25 of them were less than four years of age. And I believe this is

25 1 so, and I stand corrected on that.

2           However, it does appear that everything to which they  
3 refer is pre-Three Mile Island, and I am sure that I don't need  
4 to point out to this Commission, or this Board, the advances and  
5 changes in thinking that have come about since Three Mile Island.

6           I think in light of that we need some newer source  
7 studies, particularly as to radiation dosages that occur and how  
8 they affect human beings and plant and animal life in the area.

9           We point out that Westinghouse -- that it is necessary  
10 that Westinghouse consider some of these Heidelberg reports by  
11 Franke and Teufel, who very recently have come up with some  
12 studies that point out that radiation dose amounts that people  
13 can receive are far more lethal, far more dangerous, than was  
14 previously thought.

15           And we say that many of the attitudes and practices of  
16 Metropolitan Edison, which were criticized in that report, we  
17 believe are exemplified by Westinghouse towards this plant.

18           For example, we say that Westinghouse fails to include  
19 in its Report certain radionuclides and gases which are neces-  
20 sarily present with uranium.

21           Now, we discussed yesterday -- they said there is no  
22 plutonium or strontium or cesium or other daughter elements of  
23 uranium, although I think there was perhaps some concession about  
24 radon gases.

25           But it is my understanding that when you get certain

26  
1 elements of uranium together that the interaction between them  
2 can be such, especially 235 and 238, that it can give off some  
3 such daughter product.

4 In any case, thorium will be there. And I just don't  
5 think that there has been an accurate study made of what some of  
6 these daughter products will be, highly dangerous daughter products  
7 will be, and how they will affect plant, animal and human life  
8 in the vicinity.

9 And, of course, we say that these dose models that were  
10 used should come into question especially because a lot of them  
11 were based on the nuclear fallout error and were formulated under  
12 prejudiced conditions at a time, you know, when the nuclear bomb  
13 fallout was considered to be far less dangerous than now it  
14 appears to be.

15 In order to determine dosage through the food chain,  
16 only those soils which retain the least radioactivity were used,  
17 we contend, and we say that these soils were then baked to  
18 destroy radionuclide-bearing germs, and, therefore, the dose  
19 transferred to man in the food chain was low.

20 Now, we say perhaps Westinghouse's dose estimates  
21 correspond with Table 2 of Appendix B, but they were arrived at  
22 using dose models formulated in 1959. I refer you to Page 338,  
23 No. 2, of the Report.

24 There is also an interesting article that we have been  
25 influenced by in the November 11, 1979 Washington Post. It talks

1 about the new German study challenging the NRC assurances.

2 Perhaps we may be accused now of needing to bring this to  
3 some kind of a rule-making proceeding or something. I certainly  
4 don't want to do that. I am not here to challenge the rules.

5 But I do think that the dose models are outdated,  
6 especially in light of a lot of newly-accumulated evidence, and  
7 I would offer if anyone here wants to take a look at this we will  
8 be happy to make a copy of it available for anyone.

9 Thank you.

10 CHAIRMAN WOLF: Mr. Cowan?

11 MR. COWAN: Let me start off by saying that six of the  
12 seven referenced dose models in our Environmental Report that we  
13 used are less than four years old. Two of them were published  
14 in 1979.

15 I am not aware of any relationship between the accident  
16 at Three Mile Island and the validity or invalidity of various  
17 radiation dose models.

18 That accident involved a lot of things, and there was  
19 a lot of learning by the NRC and others as a result of that, but  
20 the area of radiation dose models was not one of them, at least  
21 as far as I know.

22 The broad general allegation in this contention that we  
23 ought to consider other reports pertaining to dose models without  
24 specifying why or what we might gain from those other reports, or  
25 where those other reports show that the seven dose models that we

1 used are improper in some way wholly fails in our judgment to  
2 provide the kind of reasonable specificity that is required.

3 SEATA provides no explanation whatever as to how those  
4 other reports might impact on the analysis which we performed and  
5 which is described in the Environmental Report at some length.

6 Their allegation in this contention that we failed to  
7 include certain radionuclides and gases again demonstrates in our  
8 judgment a confusion between a nuclear fuel fabrication plant,  
9 which is what this is, and a nuclear power plant.

10 Since this will not have any irradiated uranium, there  
11 will be no plutonium, strontium or cesium involved in the fabri-  
12 cation process.

13 So when they say in their contention, when they refer  
14 to the plutonium, strontium and cesium as being necessarily  
15 present, that just is not so in this kind of a plant.

16 Now, with regard to radon and other daughter elements,  
17 I think maybe Mr. McPhillips, especially in the "other daughter  
18 elements", may have misunderstood me yesterday.

19 There are other daughter elements of uranium, and they  
20 are included in the Environmental Report, and I call the Board's  
21 attention specifically to Page D-7, Section D-5, of the Environ-  
22 mental Report, entitled, "Daughter Products of Uranium."

23 We do not understand from the contention what the  
24 problem is with regard to our writeup here on the daughter products  
25 of uranium, and it is not a specific enough contention to say that



29 1 we failed to include in the Report other daughter elements of  
2 uranium, because we do include them in here. And they don't  
3 tell us why that is wrong.

4 Finally, we ought to note that there are a couple of  
5 other problems with regard to the wording of the contention.  
6 For example, there is a claim that we were selective in choosing  
7 soils. We were not selective, and we did not use soils which  
8 retain the least radioactivity.

9 This is a flat-out error in the contention, and there  
10 are a couple of other problems with it, but we think that because  
11 of the specificity problem this is not a contention that properly  
12 frames an issue that can be litigated before this Board.

13 CHAIRMAN WOLF: Mr. Turk?

14 MR. TURK: The staff feels that the contention is not  
15 specific enough to let us know what it is that they wish to  
16 litigate under this contention.

17 Commission regulations provide that before the license  
18 may be granted the staff must be satisfied that the health of the  
19 public will be protected and that the facility will not endanger  
20 life or property.

21 If the contention is challenging whether the applicants  
22 will comply with the regulation, then we would be willing to sit  
23 down and see if it can be reformulated into an acceptable con-  
24 tention.

25 But at this point, based on the present wording, we must

1 oppose it for lack of specificity.

2 CHAIRMAN WOLF: Thank you. Mr. McPhillips?

3 MR. MC PHILLIPS: Yes, sir, and just one more comment  
4 on this. Our scientist behind us here keeps supplying us with  
5 notes occasionally.

6 One of the things he has pointed out to me is that there  
7 will be, of course -- and he has been pointing this out all along  
8 -- irradiated fuel and irradiated products, as opposed to the  
9 non-irradiated that they keep talking about.

10 And he also points out that raw materials from Oak  
11 Ridge are judged to be uranium hexafluoride, but fission products  
12 and daughters are found within the uranium. They may not start  
13 off that way, but it becomes that way.

14 Isn't that correct? In transportation. And so I think  
15 at the very least it is a justiciable issue that ought to be  
16 litigated here between us.

17 I mean, they may be ultimately proven right; we may be.  
18 But we ought not to get into a contest now about whose scientists  
19 are more right. It is something that ought to be heard at a full  
20 hearing.

21 Anyway, that's that on that contention.

22 MR. COWAN: Could I interrupt, Mr. Chairman, if you are  
23 going to the next contention?

24 CHAIRMAN WOLF: Yes.

25 MR. COWAN: Mr. Chairman, it is a matter of fact as to

31 1 whether or not the plant site will have irradiated fuel. It's  
2 like whether two and two is four; either it is four or it isn't  
3 four.

4 Now, this plant is a fuel fabrication plant. It will not  
5 have irradiated fuel. There is no license application for  
6 irradiated fuel. We could not under this nuclear materials  
7 license put irradiated fuel at this plant. That would be a  
8 violation of NRC regulations to do so.

9 This is a license application for a plant that will not  
10 contain irradiated fuel, and we do not want to face contentions  
11 that are based on the premise that it will contain irradiated  
12 fuel.

13 MR. MC PHILLIPS: We just say that while it may not  
14 start off that way, it becomes that way eventually.

15 CHAIRMAN WOLF: Well, that is something that we can't  
16 decide by saying yes or no to.

17 MR. TURK: May I respond very briefly to this last point?

18 CHAIRMAN WOLF: Yes.

19 MR. TURK: As I said previously, we would be willing  
20 to sit down to see if the contention can be reformulated in a  
21 manner that raises an issue for litigation here. But as it  
22 presently stands this contention does not meet the specificity  
23 requirements.

24 CHAIRMAN WOLF: Well, we are assuming, Mr. Turk, that  
25 you are going to attempt that as to all of the contentions that

1 you object to in their present form, isn't that right?

2 MR. TURK: We will meet to see if new formulations  
3 can be arrived at.

4 CHAIRMAN WOLF: Yes.

5 MR. TURK: There are certain contentions which today in  
6 no way can be reformulated to be acceptable.

7 CHAIRMAN WOLF: Very well.

8 MR. TURK: This is one that we feel might be  
9 reformulated in an acceptable manner.

10 CHAIRMAN WOLF: Mr. McPhillips?

11 MR. MC PHILLIPS: Just as a point of clarification of  
12 what he is saying, we are not saying that the fuel is irradiated  
13 when it comes out of the plant, but we are saying that the raw  
14 materials that come from Oak Ridge become irradiated in transport  
15 and not that the fuel rods themselves are irradiated once they  
16 come out of the plant.

17 CHAIRMAN WOLF: No. 13?

18 MR. MC PHILLIPS: All right, turning to the 13th  
19 contention dealing with wells, we say that on Page 2-34 of the  
20 Report by Westinghouse that the wells used for testing ground  
21 water are useless in that they are located upstream from the  
22 plant and, therefore, cannot accurately monitor the plant's  
23 effects on the environment.

24 We say that the artesian flow, as indicated by the  
25 U. S. Geological Survey, shows that the wells would not correctly

33 1 monitor any effect from the plant on the ground water.

2 We have looked at these wells, and as far as we can tell  
3 on the maps that they have and the regional directions that they  
4 appear to be headed in, that the wells just simply will not be  
5 flowing in the right direction.

6 I have since learned in looking at the answer that  
7 Westinghouse has prepared, that perhaps they will be drilling  
8 some wells, but I would like to see some assurance -- although  
9 the Report indicates they may drill some wells, I would like to  
10 see some assurance that these wells would be drilled in the right  
11 direction so that they can, in fact, monitor accurately the  
12 plant's effects on the water environment.

13 Also, we say that Westinghouse needs to show that  
14 once a noticeable effect on the water supply has been discovered,  
15 that there is some way for them to remedy that contamination,  
16 leaving Prattville with a safe and potable source of water  
17 supply.

18 CHAIRMAN WOLF: Mr. Cowan, do you wish to comment?

19 MR. COWAN: Well, there are two aspects of this, Mr.  
20 Chairman. The wells portion of the contention apparently was  
21 based upon an erroneous understanding by SEACA, now corrected, as  
22 to what the situation was with regard to the wells on the site.

23 We do propose to drill two wells in addition to the one  
24 well that is on the site. Obviously, those have to be drilled  
25 appropriately to measure what it is that needs to be measured, and



1 if they contend that at some point down the road we are proposing  
2 not to put them in the right place, that is a different matter.

3 But the contention as currently drafted we think should  
4 be rejected on wells because it is based on apparently a lack of  
5 knowledge that we were going to have some additional well-drilling  
6 at the site.

7 With regard to the contention on contamination of the  
8 water supply, we think the Environmental Report shows that the  
9 planned safeguards will exist to prevent plant operation from  
10 affecting even the on-site ground water.

11 We also go on to note in there that in the extremely  
12 unlikely event that all the safeguards fail, then our application  
13 notes that we will be required and will be prepared to act in  
14 accordance with the regulations of the NRC and the Regulatory  
15 Compliance Manual emergency plans that the NRC requires of a  
16 license applicant to take corrective action well in advance of any  
17 potential offsite effects.

18 Their contention doesn't show how -- doesn't specify  
19 how offsite ground water can be affected or how actions referred  
20 to just now will not be effective, and, accordingly, because of  
21 that lack of specificity, it ought to be denied.

22 CHAIRMAN WOLF: Mr. Turk?

23 MR. TURK: As we see this contention, the two parts  
24 are the wells and the monitoring.

25 As to positioning of wells, we find that apparently the



1 contention is wrong on its face and should not be admitted.

2 As to the monitoring program which will be in effect,  
3 I understand that in the Environmental Impact Statement, which  
4 the Commission staff will prepare, a monitoring program will be  
5 specified, which the applicant, Westinghouse, will be required  
6 to comply with in order to protect the public.

7 In its present form I would oppose the admission of  
8 this contention for lack of specificity.

9 DR. STEINDLER: Mr. Turk?

10 MR. TURK: Yes, sir?

11 DR. STEINDLER: You did not address I guess what is  
12 this Item C of Mr. McPhillips' comment, to wit, Westinghouse  
13 must show, once a noticeable effect on the water supply has been  
14 discovered, that there is some way to remedy the contamination,  
15 leaving Prattville with a safe and potable source of drinking water.  
16 Do you have any comments on that particular portion?

17 MR. TURK: At this time I am not aware of particular  
18 requirements which will be imposed by the staff for remedying any  
19 contamination, but it will be evaluated, and I believe that a  
20 remedy will be discussed and possibly specified. I will have to  
21 check on that to be sure.

22 DR. STENDLER: I would like to have you address this  
23 issue in context of qualifying or not qualifying this as a  
24 viable contention.

25 MR. TURK: I will do that, with your permission, in our

1 written response to the contention.

2 CHAIRMAN WOLF: Mr. McPhillips?

3 MR. MC PHILLIPS: I would like to ask Mr. Turk also,  
4 when do you expect to have your written response? Are you going  
5 to do that before or after we get together on the stipulated  
6 contentions?

7 MR. TURK: If I may address that issue at the end of  
8 our conference today, perhaps we could arrive at a time for our  
9 filing that paper.

10 CHAIRMAN WOLF: Yes. I didn't understand that you were  
11 going to wait to get together with Mr. McPhillips until some later  
12 period. I thought you were getting together with him currently.

13 Isn't that your understanding, Mr. Cowan?

14 MR. COWAN: It depends on what the Chairman means by  
15 currently. We would hope to get together with Mr. McPhillips,  
16 and with Mr. Allred also, within the next several weeks.

17 However, Mr. Allred and I were discussing at the inter-  
18 mission the possibility of waiting until the additional conten-  
19 tions are framed and then doing it all at one time so as to  
20 avoid multiple trips back and forth.

21 So, among ourselves we have not yet come to a satis-  
22 factory solution, but if by "currently," you mean today or  
23 tomorrow, it is not our intention to meet today or tomorrow.

24 CHAIRMAN WOLF: No, I didn't mean today or tomorrow.

25 MR. COWAN: We had envisioned perhaps shortly after

1 Labor Day, which is now only a little over a week away, getting  
2 together, but if we do it all at once with new contentions, then  
3 obviously they have I think until late September, or mid-September,  
4 at least, to file those. And once we see those, we can then  
5 get together I think on the whole thing.

6 MR. MC PHILL 3: Well, we can discuss that perhaps  
7 more at the next break.

8 Going on to the next contention, the 14th contention,  
9 we state that the Report does not address the problem of slag  
10 developing on the interior of pipes and fittings used in the  
11 fabrication process at the plant, nor does it address the danger  
12 to the public presented by removing the low-level waste created  
13 by the slag.

14 We say that the slag on the pipes and fittings will have  
15 to be removed by acidic slurry, and this process is not mentioned  
16 in the Report, but, nonetheless, it will produce large quantities  
17 of unmanageable low-level waste that will surely confront the  
18 public with dangers and possible accidents not considered by  
19 Westinghouse.

20 We say that Westinghouse needs to tell us precise  
21 information on, first of all, how the plant will be maintained  
22 during its 40-year life span, especially with respect to the  
23 problem of slag.

24 Two, how frequently will the slag removal process, or  
25 one similar to it, be required?

1 Three, what are the dangers? Have they considered the  
2 dangers in the slag removal process?

3 And, fourthly, what is the basis of a projected life  
4 span of 40 years at the plant as it relates to the accumulation  
5 of slag? Won't slag possibly cause the plant maybe to have a  
6 lessening of its 40-year life span? We would want to know how  
7 the problem of slag relates to the 40-year life span, so that  
8 is our contention.

9 CHAIRMAN WOLF: Mr. Cowan?

10 MR. COWAN: We think with some minimal clarification,  
11 Mr. Chairman, and a definition or two, that this contention could  
12 raise a justiciable issue, and we will be meeting with Mr.  
13 McPhillips to work that out.

14 CHAIRMAN WOLF: Thank you. Mr. Turk?

15 MR. TURK: We believe that it is a fairly speculative  
16 contention. I am not aware that any slag will accumulate. I am  
17 not aware of what this slag is or what kind of definition of slag  
18 was in the minds of SEACA when they formulated this contention.

19 At this point we would oppose it for being vague and  
20 speculative, and, also, it is lacking specificity, but we would  
21 be willing to see if we can reformulate it. It is unacceptable  
22 now.

23 CHAIRMAN WOLF: Mr. McPhillips?

24 MR. MC PHILLIPS: Yes, sir. Moving on to the 15th  
25 contention, it deals with population projections.

1 In this contention we claim that the -- are you ready  
2 for me to deal with this one, or do you want me to go back to  
3 slag?

4 CHAIRMAN WOLF: No; I am ready for you to go ahead with  
5 No. 15.

6 MR. MC PHILLIPS: Okay. Well, anyway, on population  
7 projections we claim that the projections they make on Page 2-9  
8 of the Report are inaccurate.

9 We, in fact, have consulted with a population -- something  
10 of a population expert, a professor at the University of Alabama,  
11 and he thinks that these population projections are way out of  
12 line.

13 It is not this professor here, who is also from the  
14 University of Alabama, but another, and he assures us that these  
15 really are way out of line.

16 We say the Report projects that the population within  
17 a five-mile radius of the plant will only grow by 5,949 in the  
18 ten-year period between 1980 and 1990, even though the population  
19 within the same radius grew by 1,02<sup>2</sup> between 1978 and 1980.

20 Now, that may not seem to be too much off at first  
21 glance, but we claim that it is illogical when you consider that  
22 the plant itself will add thousands of people in the Prattville  
23 area.

24 And if the logic of this population projection is  
25 followed, and even assuming, as we say, that the sun-belt

1 migration will not increase population -- which I think is an  
2 erroneous assumption considering how many people are moving South --  
3 between '80 and '90, and even assuming that the plant will add no  
4 secondary population increase -- which again is an erroneous  
5 assumption, because, certainly, it will have a lot of fallout  
6 effects on the economy -- then the plant will add no more, we  
7 say, than 834 people, which is about 200 employees plus dependents,  
8 to the population.

9 But we don't believe that this is the case, and that  
10 these population figures are unwarranted, and this gets back to  
11 one of our major concerns.

12 One of our major concerns is that this plant is just  
13 simply too close, you know, to a population area. If you put it  
14 outside, you know, in the middle of a desert someplace, or some-  
15 place where there is water and not too many people, then, you  
16 know, we wouldn't be nearly as concerned about it as we are now.  
17 Too many people are going to be around it.

18 CHAIRMAN WOLF: Mr. Cowan, on 15?

19 MR. COWAN: We have again problems with this contention.  
20 We find this one, frankly, to be a little confusing and certainly  
21 not to satisfy the specificity requirements. We think it might  
22 with discussion develop into a contention.

23 For example, they challenge our population growth, the  
24 area of the plant which we project to be between five and six  
25 thousand over a ten-year period, and they cite the fact that we



1 show that there was a thousand population increase in the two-  
2 year period, which sounds to us like a projected increase in  
3 population that we projected of five to ten thousand over ten  
4 years is a pretty good extrapolation.

5 They don't say why that is not a good extrapolation.  
6 They just say it is not any good.

7 We think that with some specificity that a question on  
8 population projections and the validity of population projections  
9 and what the population projection ought to be could become a  
10 justiciable issue, and we will try to work that out.

11 CHAIRMAN WOLF: Mr. Turk, will you comment?

12 MR. TURK: In its present form we cannot find that this  
13 contention is specific enough to give us an issue to litigate.  
14 Given that the population center is greater than stated in the  
15 Environmental Report, that does not present an issue for litigation  
16 here.

17 If upon sitting down with Mr. McPhillips we can arrive  
18 at a different formulation of the contention whereby they may be  
19 contending, in fact, that the regulations of the Commission will  
20 not be complied with, then perhaps we can reformulate a more  
21 acceptable contention, but at this point I would have to oppose  
22 it for lack of specificity, not presenting an issue justiciable  
23 in this proceeding.

24 CHAIRMAN WOLF: Thank you. Mr. McPhillips, No. 16?

25 MR. MC PHILLIPS: Alternative sites. In the contention

1 dealing with alternative sites we say that the criteria listed  
2 on Pages 7-5 through 7-7 of the Report by Westinghouse for  
3 choosing the Prattville site for its plant location are surpassed  
4 by many other alternative sites.

5           Therefore, we think that there must be a reason other  
6 than the criteria stated for the choice of Prattville by Westing-  
7 house, a criteria or a motive which we do not think is a proper  
8 one.

9           First of all, on the basis of proximity to nuclear  
10 reactors, the point most centrally located would be the middle  
11 of Ohio, hundreds of miles from Prattville.

12           And we point out, too, that an Ohio site, for instance,  
13 would be closer to the home office in Pittsburgh, closer to the  
14 users, closer to transportation, labor market, zircaloy products  
15 in Pennsylvania and the gasification plant in Portsmouth, Ohio.

16           An Ohio site would be nearly as close to a licensed  
17 burial ground as at Prattville, and just as close to Westinghouse's  
18 Columbia plant.

19           We also say that Prattville, of course, is just way on  
20 the southern extremity of a likely site and is just a marginally  
21 acceptable site, that there are many better sites if not in Ohio  
22 and Pennsylvania, then in Kentucky and Tennessee and West Virginia  
23 and Maryland, et cetera, et cetera.

24           I guess it gets down to the point that a lot of people  
25 in our group, at least, feel, you know, why did Westinghouse want

1 to pick on us? We believe that perhaps, you know, there could  
2 even be some political reasons involved in that they don't antici-  
3 pate that the public reaction to a nuclear fuel facility would be  
4 as great here as it would be in one of the other sites that we  
5 have mentioned.

6 And, further, we think that the Columbia, South Carolina  
7 plant would be a better alternative to expand that one. Why not  
8 expand that one rather than to come down here, again, and pick  
9 on us?

10 CHAIRMAN WOLF: Mr. Cowan?

11 MR. COWAN: Mr. Chairman, we oppose this contention,  
12 and the reason that we oppose it is because the contention,  
13 which might be a valid contention if we were dealing with a  
14 nuclear power plant, has nothing at all to do with the issues  
15 that are properly before this Board in connection with the license  
16 we are here seeking for a fuel fabrication plant.

17 We are not seeking -- and 10 CFR Part 70 is not a  
18 regulatory provision -- a construction permit for this plant.  
19 What we are seeking is a license to handle special nuclear material  
20 which would be the product going through this plant.

21 And in that connection we have to show that we can meet  
22 the appropriate NRC regulations for the handling of that material.

23 At issue here is whether the operation of the plant,  
24 if it is built, satisfies the applicable Commission statutes and  
25 regulations, and we submit that when we show that we satisfy the

1 applicable Commission statutes and regulations we will be entitled  
2 to the license.

3           The Prattville site is one of many, many possible --  
4 in the abstract possible -- sites. It was chosen for a whole  
5 variety of reasons having to do with such factors as -- and this  
6 is by no means an exclusive list -- such factors as taxes, such  
7 factors as access to water, such factors as not being prone to  
8 flooding, such factors as the weather for bringing in trucks  
9 during the winter, such factors as the proximity of the site to  
10 other facilities and so forth.

11           It was not chosen for the purely political reasons that  
12 Mr. McPhillips suggests in his contention.

13           But even if it were -- even assuming arguendo that that  
14 were the case -- that would be totally irrelevant to any issue  
15 before this Board.

16           So that we don't think the contention as it is currently  
17 stated -- and we frankly don't see any way to cure this content-  
18 ion -- provides a contention to be litigated before this Board.

19           Again, this is not a nuclear power facility. It does  
20 not have irradiated fuel. It is a fabricating plant, fabricating  
21 uranium fuel rods and uranium fuel assemblies. It is different,  
22 therefore, and governed by different regulations, and our burden  
23 is to meet the regulations that it is governed by.

24           We recognize that under NEPA there has to be a consider-  
25 ation of alternatives to the proposed action, but that does not

1 include a determination of whether or not a site in Central Ohio  
2 would or would not be better than a site here.

3 We do not have to show that this is the best of all  
4 possible sites. All we have to show is that it is an acceptable  
5 site to meet Commission regulations.

6 CHAIRMAN WOLF: Mr. Turk?

7 MR. TURK: The staff considers that the National  
8 Environmental Policy Act of 1969, commonly known as NEPA, applies  
9 to this proceeding.

10 Part 70, under which this license will be granted,  
11 incorporates Part 51, which applies to the NEPA requirements.  
12 Alternatives are a required consideration in our Environmental  
13 Impact Statement, and we believe that an issue as to alternative  
14 sites is an admissible issue in this proceeding to be litigated.

15 Now, in terms of this contention, we do not feel that  
16 the contention raises in an acceptable manner the alternatives  
17 issue.

18 We would be willing to get together on this contention  
19 as with other contentions to see if it could be reformulated in  
20 an acceptable manner, and at that point we would possibly support  
21 the admission of an alternatives issue.

22 At this point we must oppose the contention, however, as  
23 not framing a justiciable issue.

24 CHAIRMAN WOLF: Thank you. No. 17, Mr. McPhillips?

25 MR. MC PHILLIPS: Yes, sir. Just one comment on 16 before

1 I move on to 17, and that is, I am sure the Board is aware of  
2 the decision in the Houston Light and Power Company case in  
3 which the alternative, the biomass alternative, the marine biomass  
4 alternative, was considered a valid contention when it went up  
5 to the Appeals Board and came back down.

6 I mean, it is just full of language which I think would  
7 help us on that Contention 16 about the alternatives.

8 Now, in 17 we say that there is erroneous information,  
9 enough of it in the Report to make the Report suspect as a whole.

10 We quote one of the examples as saying that they state  
11 on Page S-5 -- that is a typo where it says Page 5-5; it should  
12 be S-5 -- of the Report that the Alabama River is not prone to  
13 flooding.

14 That is the third line from the bottom of Page S-5, if  
15 you have the Environmental Report with you, which says -- the  
16 line reads:

17 "...by a perennially flowing stream and the Alabama  
18 River, not prone to flooding...."

19 And we think it is just common knowledge to anyone in  
20 this area of Central Alabama that the Alabama River does flood  
21 frequently, and anybody that lives along the river knows that,  
22 and it is a risk that they bear.

23 Secondly, they state on Page 1-1 of the Report that  
24 the plant site is 12 1/2 miles from Montgomery. We say that in  
25 actuality the plant site is only six and a half miles from



1 Montgomery.

2 I think their response on that was, "Well, we were talk-  
3 ing about from the center of Montgomery." But as anybody knows,  
4 especially in modern cities today, and especially in the South and  
5 the West, the difference between the center of a town and the  
6 city limits of a town may be considerable, and it is at least  
7 six miles to Montgomery, and so it is only going to be six miles  
8 from the Montgomery city limits, and it is going to be very, very  
9 close to population areas.

10 So 12 1/2 miles sounds a little bit safer than six miles,  
11 but it sounds very uncomfortably unsafe.

12 Now, they also state on Page 2-55 of the Report that:  
13 "Spring is a relatively dry season." Well, it is well-known by  
14 anybody that lives here in Central Alabama that we just get a lot  
15 of rain, we just get rained on like crazy, in the spring. And  
16 this just struck us as being hard to believe that they said it in  
17 the Report.

18 And then the fourth thing is Page 2-91 of the Report  
19 where it states that there was a sudden increase in gross beta  
20 activity during the months of November and December, 1976, and  
21 Table 2-29 is cited.

22 And this is the type of thing that -- it is a typo on  
23 our part. We make mistakes ourselves. That should be Page 2-34.  
24 No, it should be Table 2-34; excuse me. My assistant is checking  
25 on that.

48 1 But, anyway, turning to that table -- it is 2-34 -- it  
2 can be seen that beta activity actually decreased from a peak in  
3 October of 1976 of 1.9 pCi/M<sup>3</sup> to 1.2 pCi/M<sup>3</sup> in November, and it  
4 was 5.13 in October and 1.66 in November. This is Table 2-34.

5 But, anyway, it can be seen that there has been a decrease  
6 in the beta activity from a peak in October to November and in  
7 December.

8 Then we point out, fifthly, that Page 4-5 of the Report  
9 states that the Prattville plant will use only 5 percent of the  
10 present Prattville water supply capacity.

11 Yet, using the Report's own figures, it can be calcu-  
12 lated, we say, that the plant will use 7.3 percent of the Prattville  
13 water supply capacity.

14 This is based on Prattville Water Board figures, my  
15 assistant, Mr. Bell, has just informed me, that it would be more  
16 like 7.3 percent rather than the 5 percent.

17 But, anyway, these are just some examples. Well, they  
18 may think we are being nitpicking, but, you know, when we see,  
19 like I pointed out earlier, that these reactors are shutting down  
20 because of engineering design mistakes, like the Sequoia plant  
21 up at Chattanooga that Westinghouse itself designed, then, you  
22 know, I think there are enough things about the Report itself that  
23 are erroneous or inaccurate to make us question the whole Report.

24 Thank you.

25 CHAIRMAN WOLF: Any comment, Mr. Cowan?

1 MR. COWAN: Yes, Mr. Chairman.

2 When one is saying that a report is suspect and its  
3 credibility dubious because of erroneous information, when one  
4 points out what is purported to be erroneous information, they  
5 ought to make sure that the information is erroneous. Let me take  
6 up each of the five that he chose as examples of erroneous  
7 information.

8 SEACA says that we are in error in stating that the  
9 Alabama River is not prone to flooding. The problem is that the  
10 Environmental Report doesn't say that the Alabama is not prone to  
11 flooding.

12 What it says is that the proposed plant site is not  
13 prone to flooding. Specifically, it says: "Keeping in mind that  
14 the ANFFP site is situated in the highlands with an average  
15 elevation of around 260 feet above sea level, it becomes readily  
16 apparent that inundation of the site is impossible.

17 "The only portion of the site area vulnerable to  
18 inundation is the extremely southeastern corner where the elevation  
19 drops below 160 feet mean sea level. The highest ever at that  
20 gauge occurred in 1886 with a reading of 160.6 feet mean sea  
21 level."

22 Now, as the Board will see -- and we think a site visit  
23 as suggested by Mr. McPhillips is certainly an appropriate thing --  
24 as the Board will see, the land on which this site is located,  
25 starting from the river, goes up very abruptly.

1           Although the Alabama River is prone to flooding -- in  
2 fact, we understands it floods just about every year -- the site  
3 where the plant will be built is so high up above the river that  
4 the site is not prone to flooding.

5           That is not an example of an error in what we said. It  
6 is an example of SEACA not being able to read what we said properly.

7           Secondly, they contend that while we say in the Environ-  
8 mental Report that the plant site is 12 1/2 miles from Montgomery  
9 that in actuality it is 6 1/2 miles from Montgomery.

10           Well, in fact, the plant is located about 12 miles from  
11 the center of Montgomery and six miles from the nearest Montgomery  
12 city limit.

13           They failed to note that the Environmental Report  
14 specifically states that: "For substantive evaluations the six-mile  
15 distance is used in the Report."

16           We spell out in the Report that it is 12 miles from the  
17 center and six miles from the city limits, and we use the six-mile  
18 figure for out substantive evaluations. Now, that is not an error,  
19 as far as I can see.

20           Then they contend that the environmental report is  
21 inaccurate in stating that spring is a relatively dry season in  
22 Central Alabama.

23           Well, what they did was they wrenched the words, "Spring  
24 is a relatively dry season", out of context. When the report is  
25 read -- and I am referring to Page 2-55 -- it is clear that the

1 statement that "Spring in Central Alabama is a relatively dry  
2 season" is made as a comparison of the spring season with the  
3 winter season, because this is a progression-type of discussion  
4 of the climate through the seasons. It is clear that the  
5 statement in question that says that "Spring in Central Alabama  
6 is a relatively dry season" was meant to be a comparison with  
7 the winter season, and in that context the report is accurate.

8 Now, they also contended in their contention draft  
9 that the statement which appeared in the Environmental Report  
10 on gross data activity increase in November and December, 1976  
11 cannot be reconciled with the data presented on 2-29. I under-  
12 stood there was an amendment to that contention just here orally  
13 and we'll have to look at that amendment to see what difference  
14 that makes, but with regard to the way they have written the  
15 contention, there wasn't any inconsistency because the statement  
16 on Page 2-91 referred to gross data activity noted in preci-  
17 pitation while Table 2-29 presented data regarding gross data  
18 activity in surface and not precipitation.

19 So, again, their alleged inconsistency or error didn't  
20 exist the way they stated the contention.

21 As I say, we'll have to go back and look now that  
22 they have modified it and changed the table that they are  
23 referring to to determine what the new situation is with regard  
24 to that.

25 And finally, they content that we're in error to

1 say that the plant will only use 5 percent of the present  
2 Prattville water supply capacity when their own figures show  
3 the plant will use 7.3 percent. Well, they didn't give us the  
4 basis for the 7.3 percent but they said it was using our figures.

5 But using the report's figures, simple mathematics  
6 establishes that the 255,000 gallons per day water intake by  
7 this plant, divided by the 5 million gallons per day capacity  
8 of the Prattville water system, gives a figure of 0.051, or  
9 5 percent, which is the figure that we have in the report.

10 So, they have a contention here in which they claim  
11 that the Environmental Report is suspect and its credibility  
12 dubious and they cite five purported examples of erroneous  
13 information; not a single one of which is erroneous.

14 We suggest that any vague, general claim of this  
15 type of sweeping condemnation of a report saying that it's  
16 no good ought to have some specifics to it that will stand up  
17 and withstand analysis. And without that kind of specificity  
18 we suggest the Board ought to reject this contention out of  
19 hand.

20 CHAIRMAN WOLF: Mr. Turk, I'd appreciate it if every-  
21 one who is making comments on these contentions would condense  
22 them a bit. We're running behind time and I want to get through  
23 all the contentions before the afternoon is up.

24 MR. TURK: I'll be very brief, Mr. Chairman.

25 Even if these statements which SEACA has claimed are



1 false were in fact true, there is no issue presented by them  
2 for Licensing Board to rule upon, and therefore we also oppose  
3 this contention and don't see how it raises an issue for the  
4 proceeding.

5 CHAIRMAN WOLF: Mr. McPhillips, 18?

6 MR. MC PHILLIPS: Yes, sir. On the preceding con-  
7 tention, just simply take a look at the page numbers we've cited  
8 and I think you'll see who is correct.

9 Now, as to the eighteenth contention, inadequate  
10 information, we claim that we've been denied access to information  
11 which would further substantiate contentions already prepared  
12 and would supply the basis for additional contentions. This  
13 really somewhat related to our motion this morning in which  
14 we said we needed more time, but we say we have not received  
15 information from Westinghouse in several areas, one of which  
16 was the list of interrogatories which we had propounded prior  
17 to this hearing and thought we would have by now.

18 Another is that Mr. Bell says he's made several  
19 telephone contacts in preceding weeks with the office of West-  
20 ingtonhouse requesting information which we needed to formulate  
21 contentions and we have not gotten a response or answer until  
22 late yesterday afternoon when Mr. Cowan came by to our office.

23 Again, there really wasn't enough time to respond to  
24 their answers.

25 We also claim that we -- we feel we need the

1 Environmental Impact Statement. Now, we understand that  
2 Westinghouse and the NRC will be working very closely on that,  
3 but we still feel like we need the Environment Impact Statement  
4 as well.

5 Then, I talk about much of the information in the  
6 report being erroneous, but rather than rehash that I will simply  
7 say that there is a lot of information which Westinghouse and  
8 the NRC staff apparently have exchanged between them -- we have  
9 heard that discussed today -- and I guess it has been decided  
10 that we will get a copy of it now, but we haven't had a copy  
11 of it up to now. That's why I'm glad you've ruled already as  
12 you have this morning.

13 I suppose this contention really may be perhaps met  
14 by your granting us a 30-day extension of time to get more  
15 information together. But this is what our contention was based  
16 on at that time, that we feel like we did not have adequate  
17 information.

18 CHAIRMAN WOLF: The 30 days you are determining by  
19 adding the 10 and the 20, is that correct?

20 MR. MC PHILLIPS: Yes.

21 CHAIRMAN WOLF: Very well.

22 Mr. Cowan?

23 MR. COWAN: We don't think this contention states  
24 a contention. At best it states some type of motion for relief  
25 in a contention form. We assume that Mr. McPhillips either

1 does have or will shortly have whatever other information he  
2 needs for other contentions.

3 We should note that on interrogatories and so forth,  
4 of course, discovery doesn't open until after the contentions  
5 or admitted -- or after the parties are admitted -- and it's  
6 only relevant as to contentions that are admitted. So, we  
7 don't have any specific obligation, but we are willing to  
8 provide some information to Mr. McPhillips.

9 CHAIRMAN WOLF: Yes. The request for discovery was  
10 premature under the rules, but you kindly said you would co-  
11 operate as far as you could on it.

12 MR. COWAN: Yes, sir. We have analyzed the inter-  
13 rogatories and will be answering those that are relevant to  
14 any of the contentions that are actually admitted.

15 MR. MC PHILLIPS: Let me ask you though, will you  
16 be doing it before the 30 days is up?

17 MR. COWAN: With regard to those contentions that  
18 are here, we won't know which ones are admitted by then and  
19 what the shape of those contentions will be.

20 So, the answer is, I doubt it.

21 MR. MC PHILLIPS: It would be helpful if we had  
22 those answers, if you could supply some. I mean, with all  
23 due respect, if you have nothing to hide, you know.

24 MR. COWAN: It's not a question of nothing to hide;  
25 it's a question of if we have a massive amount of information

1 on all types of subjects relating to the plant. The information  
2 that we propose to give you is in response to legitimate needs  
3 that you have for information concerning contentions. With  
4 regard to those where we think there is going to be material  
5 or contentions admitted here after we've talked about how  
6 they're going to be framed, we may well be willing to give  
7 you advanced answers to the interrogatories. On others, we  
8 may not.

9 MR. MC PHILLIPS: I can't force you; maybe they can.

10 CHAIRMAN WOLF: Mr. Turk?

11 MR. TURK: We oppose this contention as not raising  
12 an issue which can be adjudicated in this proceeding and not  
13 specifying in any manner what it is that they are concerned  
14 about in terms of a license being granted.

15 CHAIRMAN WOLF: Mr. McPhillips, 19?

16 MR. MC PHILLIPS: Yes, sir. With respect to 19,  
17 which addresses the lack of evacuation procedures, we simply  
18 say the report does not address that issue in the event of an  
19 accident, sabotage, geological upheaval, or anything else that  
20 might require an evacuation of people from the vicinity.

21 Of course, also if there was an accident in the  
22 transportation to and from the plant. We've got a big inter-  
23 change down here. Somebody told me just today, in fact, that  
24 I think there were two accidents a day involving nuclear  
25 materials. Is that correct?

1 (General nods from the audience.)

2 MR. MC PHILLIPS: And, you know, with bringing the  
3 plant in here we don't think there's anything that would make  
4 us any more or less exempt from an accident than in other parts  
5 of the country.

6 So, if there was an accident of some sort and they  
7 had to evacuate, we have no plan here.

8 I have to point out -- and it might be a little  
9 unusual to point out -- ABC's "20/20" story on Thursday night,  
10 July 31st, where they really highlighted the need for adequate  
11 evacuation procedures for population groups, and pointed out  
12 how the same was existing very much in Chicago -- was missing  
13 in the Chicago area.

14 Well, Chicago with all its nuclear fuel needs and  
15 they're much ahead of us in terms of nuclear energy, they don't  
16 have evacuation procedures. You know we're not going to have,  
17 and don't have them. We say that Westinghouse ought to help  
18 supply it; ought to help push it; ought to have something here  
19 for our people in the case of an accident.

20 We further point out that the civil authorities in  
21 the Prattville-Montgomery area have had no experience in massive  
22 evacuation procedures. Without some specific plan of action  
23 set out in the report, and without an affirmative statement  
24 in the report that Westinghouse will instruct our civil  
25 authorities, then we think it's very possible that chaos,

1 pandemonium, or something else might result if ever there were  
2 a need to evacuate a sizable group of people from the Montgomery-  
3 Prattville area.

4 And that's it.

5 MR. COWAN: Well, this is another contention that  
6 we have problems with the specificity on. We do not address  
7 the matter of evacuation in the Environmental Report; the  
8 evacuation procedures are addressed in the license application,  
9 and in particular in Section 11 of the license application.

10 We note there matters of emergency preparedness at  
11 this plant will be covered in an emergency plan which will be  
12 prepared in accordance with NRC requirements, and will have  
13 to be approved by the NRC. That plan is not in existence,  
14 of course, at this time; that comes somewhat down the road.

15 But unless the contention as it is stated here is  
16 amended to provide some specific with regard to what we have  
17 already covered in the license application, we don't see it  
18 as stating a viable contention here.

19 Of course, any evacuation plan would take into  
20 account the fact, once again -- and I must sound like a broken  
21 record by now -- that this is not a power plant and it doesn't  
22 have irradiated fuel. We're talking about a fabrication plant  
23 with nonirradiated uranium.

24 CHAIRMAN WOLF: Mr. Turk?

25 MR. TURK: Yes. The Commission does have regulations



1 concerning emergency planning. At this time I am not aware  
2 of whether or not evacuation procedures are made a part of our  
3 emergency plan requirements.

4 In any event, however, the contention itself is, in  
5 our view, not specific enough to let us know whether the  
6 Intervenor would wish to oppose our regulations or whether  
7 they are claiming regulations would not be complied with.  
8 So, at this point we oppose it.

9 We would be willing to sit down, if necessary, to  
10 see if it can be reformulated.

11 CHAIRMAN WOLF: Mr. McPhillips, will you speak to  
12 20?

13 MR. MC PHILLIPS: Yes, sir. Moving to the twentieth  
14 contention concerning economic impact. As we point out here,  
15 despite the so-called economic advantages Westinghouse believes  
16 will accrue to our community, or the communities surrounding  
17 this plant, that there are also detrimental effects to the  
18 community which we believe in the long-run far outweigh some  
19 of the advantages.

20 Particularly, we think that the Prattville community  
21 is conditioned at this point to its present economy and is not  
22 suffering from the absence of the plant. The plant will bring  
23 with it the illusion of prosperity and as the economy adjusts  
24 to the increased population through addition of small businesses,  
25 public services, and governmental bureaucracy and what not,

1 the economy will someday stabilize at a level comparable to  
2 its present level. Of course, that can also be said to a cer-  
3 tain extent about Montgomery.

4 But anyway, after 40 years, we say when the plant  
5 shuts down, well, you've seen what's happened when some of those  
6 plants have had to shut down in other parts of the country,  
7 the number of unemployed it leaves and the kind of social  
8 tensions that that creates.

9 I mean, the auto industry around Michigan, it's  
10 really bedlam up there, those poor people.

11 We're saying when this plant shuts down in the  
12 Prattville-Montgomery area there will be a puffed up economy  
13 from the plant, a sudden shortage of employment and cash flow,  
14 and that this will have a deleterious effect on the area, and  
15 the people who have been accustomed to the plant economy will  
16 suddenly be without it.

17 So, we are saying considering the long-term economic  
18 impact it will be harmful in the long-run.

19 MR. MC PHILLIPS: I think what I have just heard is  
20 that any time you bring any plant into an area, whether it is  
21 this plant or any other kind of industrial facility, that over  
22 the long-run any plant has an economic detriment because it  
23 might shut down and force people out of work.

24 Be that as it may, this particular contention is  
25 confusing to us and as presently stated we oppose it, although

1 we would be willing again to see if a justiciable contention  
2 can be made out of it.

3 For example, the contention claims, on the one hand,  
4 that after plant construction the economy will stabilize at a  
5 level comparable to its present level. But, on the other hand,  
6 it says that there will be a puffed up economy after 40 years  
7 so that the plant shut-down will have a deleterious effect on  
8 the area. We don't understand how the plant will have the  
9 effect of having a stabilization of the economy at the present  
10 level while at the same time causing a deleterious effect 40  
11 years down the road. It seems to us those are mutually in-  
12 consistent positions within the contention.

13 We would like to discuss this with Mr. McPhillips  
14 and see if a valid contention can be drawn on this.

15 CHAIRMAN WOLF: Mr. Turk?

16 MR. TURK: We believe the contention raises an issue  
17 which is way beyond the scope of this proceeding. What is at  
18 issue here is a five-year Special Nuclear Material License,  
19 implicit therein the construction of a plant in which those  
20 materials would be contained or used.

21 The contention raises a very speculative issue as  
22 to what might happen at some unspecified, way-in-the-distant,  
23 future point in time after the plant shuts down, if the plant  
24 shuts down, and we feel it does not raise an issue which is  
25 capable of being litigated here.

1           Also, we feel it does not meet the specificity  
2 requirements of Section 2.714.

3           CHAIRMAN WOLF: Thank you, Mr. Turk.

4           Mr. McPhillips, 21?

5           MR. MC PHILLIPS: Yes, sir. Moving on to the twenty-  
6 first contention, I can anticipate objections based on what  
7 I have heard already from both sides that this will be a specu-  
8 lative sort of contention. Perhaps Westinghouse has got so  
9 much money they can just finance this whole plant out of their  
10 hip pocket.

11           But it is anticipated by us that they might want to  
12 avail themselves to the proceeds of a tax-free industrial bond  
13 issue, the Wallace-Cater Act, and yet we feel such a bond issue  
14 would be greatly delayed, if not defeated altogether. What  
15 would enevitably be, most likely be, a taxpayers' lawsuit  
16 from members of SEACA or other interested members of the  
17 community because there is just so much opposition to this  
18 plant in this area. So, somebody, I imagine, is going to file  
19 a lawsuit -- probably SEACA if no one else will.

20           Once a taxpayers' lawsuit is filed it generally casts  
21 a great cloud over any industrial bond issue, and members of  
22 the vesting public would be reluctant to invest in such an issue  
23 in the face of determined opposition by SEACA and its members.

24           We would have the ability at the very least to tie  
25 the issue up in the court for many months, if not years.

1 CHAIRMAN WOLF: Do you care to comment, Mr. Cowan?

2 MR. COWAN: Well, Mr. McPhillips hit it on the head,  
3 this contention is so speculative and so beyond anything that  
4 the Board ought to consider that we think it ought to be rejected.

5 I might state as a factual matter that Westinghouse  
6 has not applied for any tax-free industrial bond issue for this  
7 plant.

8 CHAIRMAN WOLF: Mr. Turk, do you have any comments?

9 MR. TURK: We also consider the contention to be  
10 very speculative and irrelevant to the course of this proceeding.  
11 We oppose it.

12 CHAIRMAN WOLF: Mr. McPhillips, Number 22, Prototype  
13 Considerations.

14 MR. MC PHILLIPS: This contention here is very  
15 important to us because we feel that we need to have a model  
16 of a plant such as Westinghouse.

17 We've sought to get information from Westinghouse  
18 as to plants which are like this one so we can study.

19 We understand the Columbia, South Carolina plant in  
20 many respects is like it but in some respects it's different.  
21 We understand there are two existing plants which are prototypes  
22 of this plant, but their location is presently unknown.

23 In fact, Westinghouse states here on Page 3-5,  
24 Subparagraph 3-2.1, where it talks about chemical conversion,  
25 and it's talking about the uranium hexafluoride process,

1 et cetera. It says: "The process is well established, has  
2 been commercially utilized in two countries, and provides  
3 opportunity for advantages over alternate processes by sig-  
4 nificantly reducing liquid waste generation."

5 Well, from that, as well as from some other things  
6 that we've heard, we reached the conclusion that there are per-  
7 haps two existing plants, probably not in this country but maybe  
8 in some other country -- although we've heard that in the State  
9 of Washington there is perhaps a plant similar to this one --  
10 in any case, we need to know. We think that Westinghouse has  
11 that information.

12 We think without prototype considerations and without  
13 knowing where other plants are such as this that we can study,  
14 analyze, get a history of their operations, find out what  
15 mistakes, if any, they've had, what their problems have been,  
16 that without that we can't effectively scrutinize this plant  
17 as we should as taxpayers and citizens of this area who live  
18 in and will be effected by this plant.

19 We say that we need that since apparently such infor-  
20 mation does exist.

21 I don't think this plant is going to be entirely  
22 unique. It may be different in some respects, but there are  
23 at least some other plants like it. We need to know where  
24 those plants are. Is this plant designed to be a duplicate  
25 of those two? What operations and maintenance data is available



1 concerning those two plants? Has Westinghouse constructed a  
2 pilot or model plant, and if so, is it available for us to  
3 inspect?

4 So, that's it.

5 MR. COWAN: Mr. Chairman, as I have just heard it  
6 explained, this contention now appears to me to be a challenge  
7 to Commission regulations. There is no Commission regulation  
8 requiring us to have a prototype of this plant. I believe this  
9 issue was litigated in connection with the offshore power systems,  
10 floating nuclear plants.

11 We have to meet applicable Commission regulations.  
12 There is no applicable Commission regulation requiring the  
13 kind of prototype that Mr. McPhillips is suggesting.

14 Now, Westinghouse is not aware of, quote, two  
15 existing plants which are prototypes, close quote, of this  
16 plant, as is claimed by Mr. McPhillips. We are just not aware  
17 of it, that there are any prototypes of it in the way he is  
18 claiming here.

19 We do say in our Environmental Report at Page 3-5  
20 that the chemical conversion process which we propose to use  
21 here is well established and it has been commercially utilized  
22 in two countries. That is not the same as saying that the plants  
23 that utilize that chemical conversion process are prototypes  
24 of this plant. The process has been well established and  
25 commercially utilized; that is totally different in saying it

1 is a prototype.

2 The plant at Columbia, South Carolina is also a  
3 fuel fabrication plant. It is not a prototype of this plant.  
4 This plant will use more advanced technologies, better controls,  
5 and so forth. And we are not aware of any requirement that  
6 we put in any prototype in order to build a full-scale, or  
7 that we put a model up before we can build a full-scale. It  
8 is not a prerequisite to licensing and we think the contention  
9 should be denied.

10 CHAIRMAN WOLF: Mr. Turk, do you care to comment?

11 MR. TURK: The Staff opposes the admission of this  
12 contention on a few grounds. First of all, it does not raise  
13 an issue which can be litigated in the proceeding. It really  
14 appears to us to be a discovery request for information con-  
15 cerning prototypes.

16 Also, in his oral comments Mr. McPhillips did seem  
17 to indicate that he would require that some prototype exist  
18 before this plant could be built, and to that extent -- and  
19 maybe I'm misreading him -- but to that extent I would oppose  
20 the contention and his oral basis for the contention as  
21 challenging Commission regulations.

22 CHAIRMAN WOLF: Thank you.

23 Mr. Allred, can we have you go through your contentions  
24 and see what comments we can get on them?

25 MR. ALLRED: Yes, sir.

1           The first contention I have made in my filing is  
2 that the Environmental Report that Westinghouse has prepared  
3 has failed to adequately address the issues, the environmental  
4 issues, of storing, handling, and shipping intermediate products  
5 such as uranium dioxide powder or pellets from the plant, and  
6 that the reference in the Environmental Report is totally  
7 inadequate with respect to those intermediate products.

8           And by reading Westinghouse's response, I see that  
9 they make reference to the transportation and cite me to  
10 Section 4. I state to the Board that Section 4 consists of  
11 two very short paragraphs, approximately six sentences, dealing  
12 with that issue, and I submit that that's inadequate dealing  
13 with the environmental aspects of transportation.

14           With regard to the storing and handling, I think that  
15 the Environmental Report more adequately deals with that with  
16 respect to the powder, but again, the storing and handling of  
17 the pellets in the plant I don't believe is adequately mentioned.  
18 And I am cited to Section 3 as dealing with storing and handling  
19 and shipping and that is the very section that I cite.

20           That is very briefly is the position I take with  
21 respect to my first contention.

22           CHAIRMAN WOLF: Thank you. Mr. Cowan, any comment  
23 on that?

24           MR. COWAN: Yes. The contention just argued by  
25 Mr. Allred is not the contention in writing that he submitted.

1 The contention he just argued talked about the adequacy of the  
2 discussion in our Environmental Report, and he doesn't point  
3 out in any specificity why it is inadequate.

4 But the contention as it is written says we failed  
5 to address any of the environmental issues. My response is  
6 that that's not so. The contention is invalid on its face  
7 because we did describe and address specific environmental  
8 issues he says we failed to address.

9 Now, if he is claiming now, and modifying the  
10 contention, to say that it is inadequate discussion, then  
11 specificity requires that he comes forward and say in what  
12 respect is it inadequate.

13 Insofar as he refers -- and there is more to this  
14 in our response, but I won't go through it -- insofar as he  
15 refers to transportation, we've discussed earlier transportation  
16 is covered under other Commission regulations, and to the  
17 extent the contention seeks to get at potential problems during  
18 transportation, that would address something beyond the scope  
19 of this hearing.

20 So, we oppose the contention as it was originally  
21 stated for the reasons that we set forth in our response. As  
22 I understood it to be modified, we oppose it because of lack  
23 of specificity. And in any event, insofar as it deals with  
24 transportation matters, that's covered by other Commission  
25 regulations.

1 CHAIRMAN WOLF: Now, do you propose, Mr. Cowan, to  
2 get together with Mr. Allred in the same manner that you are  
3 going to attempt to get together with Mr. McPhillips on any  
4 of these contentions of Mr. Allred?

5 MR. COWAN: Yes, we do, Mr. Chairman. But I should  
6 state, as I previously stated to Mr. Allred, that in contrast  
7 to Mr. McPhillips' contentions, some of which we see, with  
8 some wording changes, raising justiciable issues, we do not  
9 see, at least in these four contentions, any of them where on  
10 their face they're going to lead to justiciable issues.

11 But we will get together with him and discuss these  
12 and others that he proposes and see if we can attempt to work  
13 out something.

14 CHAIRMAN WOLF: Very well. Mr. Turk?

15 MR. TURK: We believe that this contention fails  
16 to give us anything specific to litigate, and therefore it  
17 fails to meet the requires of 10 CRF, Section 2.714.

18 Also, I would like to contrast these contentions  
19 with the contentions which have been filed by SEACA. As is  
20 apparent from the face of these contentions there is very little  
21 given in the way of basis or specificity. For the most part,  
22 what we are presented with appears to be a blanket statement  
23 that either the Environmental Report is deficient or that  
24 the Nuclear Regulatory Commission has filed to discharge its  
25 responsibilities.

1 But at this point, from my initial reading of these  
2 contentions, I am not sure that we can arrive at a reformulation  
3 of the contentions which would be admissible.

4 We are willing to try, but I think we have a longer  
5 way to go with these contentions than with any of the contentions  
6 raised by SEACA.

7 CHAIRMAN WOLF: Number 2?

8 MR. ALLRED: In talking to Mr. Cowan and in receiving  
9 the documents or the questions that resulted from the staff  
10 meeting, I understand that the statement in Section S-5 of the  
11 Environmental Report about the amount of uranium in the Alabama  
12 River will be cleared up, I think, to my satisfaction with the  
13 supplemental data that I expect to get, so I propose to just  
14 go on to Number 3.

15 Number 3, the issues that I raised, although in-  
16 articulately, and probably not with sufficient specificity  
17 at this point in time, are the need for the plant and the  
18 evaluation of other plant sites or other alternatives that are  
19 required under the Environmental Protection Act.

20 The position that I have taken is that the plant is  
21 not necessary for production of fuel for reactors. And  
22 secondly, even if such a plant were needed and were necessary  
23 that there are other sites that are more desirable, and  
24 the expansion of sites of possibly be more desirable than  
25 building a new plant here.



1           But again, I expect, based on the supplemental data,  
2 to be able to deal with that with a little bit more specificity  
3 since the Environmental Report did not designate the other  
4 sites or do anything other than mention the criteria that  
5 Prattville met in the estimation of Westinghouse.

6           CHAIRMAN WOLF: Mr. Cowan?

7           MR. COWAN: Well, the contention as stated says,  
8 "In view of events which have occurred since Westinghouse  
9 prepared its Environmental Report; e. g., Three Mile Island,  
10 the need for a new fabrication facility is questionable.  
11 Expansion of existing facilities is economically and environ-  
12 mentally more desirable."

13           The fact is, Mr. Chairman, that this Environmental  
14 Report was drafted the incident at Three Mile Island, and the  
15 report was submitted to the NRC in December of 1979, some nine  
16 months after the incident of Three Mile Island. So the premise  
17 for the contention is wrong. The Three Mile Island incident  
18 occurred before this report was put together.

19           We have previously explained, in connection with  
20 one of Mr. McPhillips' contentions the basis for justification  
21 of the need for this plant, and I'll let that discussion just  
22 stand as it was.

23           We don't think this contention is specific enough  
24 or raises in its present form any justiciable issue. We  
25 frankly don't see how it could evolve into one, but we are

1 willing to talk with Mr. Allred on this, as on the others.

2 CHAIRMAN WOLF: Mr. Turk?

3 MR. TURK: In the case of this contention, as with  
4 the contentions relating to need and alternatives which were  
5 raised by SEACA, we would be willing to sit down and try to  
6 arrive at an acceptable contention for purposes of litigation.  
7 Not that we agree with the merits necessarily, but that we are  
8 willing to try to formulate something which can be addressed  
9 in litigation.

10 At this point though I must say that this particular  
11 formulation of the contention is not specific at all, and also  
12 that when it addresses the question of alternatives it fails  
13 to state that any other alternative would be obviously  
14 superior to this alternative, which is the requirement under  
15 case law interpreting the regulations.

16 Also, I just want to clarify my understanding of  
17 Mr. Allred's Contention Number 2, is that he has withdrawn  
18 that contention. Am I correct?

19 MR. ALLRED: Let me put it this way. I have  
20 tentatively withdrawn it if the data that I'm going to be  
21 supplied does say what it has been represented to me that it  
22 will say. Which is that there will be sufficient information  
23 there for me to determine to my satisfaction that in fact the  
24 data that is included in the Environmental Report does apply  
25 to the Alabama River and that the obtaining of the data was

1 done in accord with standard scientific procedures and that  
2 kind of thing.

3 Really, I'm at a point that if it's necessary to  
4 preserve it to say, no, I don't want to drop it, well, I don't  
5 want to drop it, but I anticipate that Westinghouse's additional  
6 data will resolve the questions that I have to my satisfaction.

7 MR. COWAN: Mr. Chairman?

8 CHAIRMAN WOLF: Yes.

9 MR. COWAN: I think there may be a misunderstanding.  
10 There is nothing that I know of in the additional material and  
11 the answers to the questions to the Staff that we are going  
12 to be sending down at this point. The contention itself said  
13 the uranium concentrations in our report cited New Mexico  
14 River data rather than Alabama River data. We point out in  
15 our answer to the contention that that represented a mis-  
16 understanding and that the Alabama River uranium concentration  
17 data was transmitted to us by a firm located in New Mexico,  
18 but it was in fact Alabama River data.

19 As I understand it from my discussion with Mr. Allred  
20 before, he wants to satisfy himself that that is in fact the  
21 case. I think he can do that from the Environmental Report,  
22 and we will talk to him about it, but there won't be any  
23 additional data that will show that. We will be able to show  
24 you that from the report itself, I think.

25 MR. ALLRED: Well, Question 11(d) of the request

1 from the Staff says: "Are the values of 1100 to 6100 pounds  
2 per day of uranium transported by the river accurate? What  
3 is the source of this uranium?" And it refers to the same  
4 summary that I did, which is Page S-5.

5 So, I think that will supplement and clear it up  
6 for me. And I expect that it will speak to that issue.  
7 That is, if it answers the question.

8 CHAIRMAN WOLF: Mr. Allred, will you speak to Number  
9 4?

10 MR. ALLRED: Yes, sir. But one more comment about --  
11 Mr. Cowan has said several times that the Environmental Report  
12 was prepared after the Three Mile Island incident, which is  
13 true. The Environmental Report was prepared and submitted on  
14 December of 1979. However, the vast majority of the citations  
15 in the report, the information from which the report was made,  
16 come prior to Three Mile Island.

17 And that's really not only the point I'm making, but  
18 SEACA has also tried to make. Not that this green folder  
19 here was prepared before Three Mile Island, but that the data  
20 upon which it rests was prepared before Three Mile Island,  
21 by and large. I think that's obvious from the dates in the  
22 footnotes.

23 With respect to Contention Number 4, I state that  
24 the Nuclear Regulatory Commission has failed to discharge its  
25 responsibility and duty to require Oak Ridge National Laboratories

1 and/or Union Carbide to provide all relevant information  
2 concerning conflicts of interests with respect to the Commission  
3 contracting Oak Ridge National Laboratories and/or Union  
4 Carbide to prepare the Environmental Impact Statement.

5 And the reference that I have there is to Title 42,  
6 Section 2210(a) of the United States Code which provides that  
7 the Commission, the Nuclear Regulatory Commission, shall by  
8 rule require any person proposing to enter a contract agreement  
9 or other arrangement for the conduct of research development  
10 evaluation activities or any other technical services to provide  
11 the Commission with all relevant information bearing on conflicts  
12 of interests.

13 The response from Westinghouse cites to a section  
14 of the Code of Federal Regulations 10 CFR, Section 0.735-20  
15 and the following sections after that which are really a non-  
16 sequitur in the sense that those regulations apply to a conflict  
17 of interest on the part of NRC personnel or special Government  
18 employees. The conflict of interest that I have requested  
19 information on has to do with the conflict of interest that --  
20 not a Government employee or special Government employee,  
21 but Oak Ridge National Laboratories or the persons supplying  
22 the Environmental Impact Statement would have.

23 MR. COWAN: Well, basically the conflict of interest  
24 contention that Mr. Allred is attempting to raise here we  
25 think needs to be responded to by the NRC rather than by us.

1 But the point of our response was that when a matter of conflict  
2 of interest is raised to the NRC in connection with the pre-  
3 paration of the report to be used in an individual licensing  
4 proceeding, it is not clear to us that the Commission regulations  
5 contemplate that the Licensing Board is the appropriate authority  
6 to resolve the conflict of interest question.

7 We think rather that the conflict of interest  
8 question has to be resolved through other channels within the  
9 Commission. And therefore, on a question of strictly of the  
10 appropriateness of the Board considering this contention, we  
11 have questions concerning the contention.

12 The basic part of the conflict of interest question  
13 is a matter for the Staff, we think.

14 CHAIRMAN WOLF: Mr. Turk?

15 MR. TURK: I did address this question somewhat when  
16 we first began today. To sum that up, I would say for the  
17 record again that a letter is in the midst of being prepared,  
18 a response to Mr. Allred's request. It will be sent to him  
19 in the very near future.

20 I would like to respond to this particular contention  
21 beyond what is discussed in our letter by stating that I  
22 don't see anything here that raises an issue appropriate for  
23 adjudication in this proceeding.

24 As Mr. Cowan said, any determination that there  
25 may or may not be a conflict of interest would have to be made



1 outside of the Licensing Board.

2 CHAIRMAN WOLF: You question the Licensing Board's  
3 jurisdiction in that type of matter?

4 MR. TURK: Yes. In my view that's a matter to be  
5 taken up with the appropriate office of the Nuclear Regulatory  
6 Commission and possibly by the Commission itself, if necessary.

7 But as I stated earlier, there is a determination  
8 made that there is no conflict of interest, and a conflict of  
9 interest statement was a part of the agreement between the  
10 Nuclear Regulatory Commission and the Department of Energy  
11 when Oak Ridge -- when the services of Oak Ridge were contracted  
12 for. The determination has been made that there is no conflict  
13 of interest.

14 CHAIRMAN WOLF: Will you see that the members of the  
15 Board get a copy of the letter that's sent?

16 MR. TURK: I will be happy to do so.

17 CHAIRMAN WOLF: Mr. Cowan?

18 MR. COWAN: Could I add one comment?

19 CHAIRMAN WOLF: Yes.

20 MR. COWAN: With regard to the citation reference  
21 of 10 CFR, Section 0.735-20 and the following sections, to which  
22 Mr. Allred made reference, we think that does cover this  
23 situation as well as employees of the NRC, and we refer  
24 specifically to Section 0.735-28(a)(3) which makes it applicable  
25 to all consultants. That is the appropriate NRC implementation

1 of the federal statutes regarding conflict of interest both  
2 with regard to NRC employees and with regard to their con-  
3 sultants.

4 MR. TURK: For the record, I just want to state that  
5 there is a separate regulation covering organizational conflicts  
6 of interests. It is not the one cited by Mr. Cowan, but  
7 reference is made to it in the letter which will be issued  
8 shortly.

9 DR. STEINDLER: Mr. Allred, you brought up the issue  
10 in your Number 3 concerning events that have occurred since  
11 Westinghouse prepared its Environmental Report and you identify  
12 Three Mile Island as one of the events of consequence as an  
13 example. Would you be able to provide some specific examples  
14 of what events occurred and how they relate to the issues at  
15 hand?

16 MR. ALLRED: Primarily what I had in mind was really in  
17 the broadest and most general terms the future of the nuclear  
18 industry in the United States. My understanding is that after  
19 the incident of Three Mile Island there was a moratorium or  
20 a length of time in which there was some question about whether  
21 further licenses would be issued. There was also a question  
22 about going back and checking other nuclear reactors to see  
23 if there were problems in those reactors.

24 Of course, each of these events causes more cost,  
25 increases the cost of nuclear energy generally. If we are

1 looking at a plant, a fuel fabrication plant, to be built to  
2 supply fuel for nuclear reactors and an incident has occurred  
3 which puts into some question whether or not nuclear reactors  
4 will still be used in this country, then I think that a valid  
5 thing to look at is whether or not the plant is really needed.

6 Again, I would say that although the Environmental  
7 Report was prepared and submitted and put together after Three  
8 Mile Island, the data in it is primarily from before Three  
9 Mile Island.

10 Of course, there was some opposition to nuclear  
11 energy then, but my understanding is the NRC has taken a number  
12 of actions since that time by way of inspection, by way of  
13 increased supervision, monitoring, those kinds of activities,  
14 which may have caused the cost of nuclear reactor generated  
15 electricity or power to be cost prohibitive.

16 DR. STEINDLER: Do you anticipate being able to get  
17 together with Mr. Cowan to word in a succinct fashion a con-  
18 tention that arises out of the comments you've just made in  
19 such a way as to be clearly applicable to the issue at hand?

20 MR. ALLRED: I anticipate being able to talk to him;  
21 whether or not we can arrive at an agreement or a stirulation  
22 is something else altogether.

23 But I would represent to the Board that I will make  
24 a good faith effort to do so, and at this time, expect to do  
25 so.

1 DR. FOREMAN: I have just a couple of comments.

2 With respect to transmission of information, I suspect  
3 that the answers to the questions that you pose to Westinghouse  
4 will be reaching the Board as well as to the potential Inter-  
5 venors?

6 MR. TURK: I am informed they will be made available  
7 to the Licensing Board. So far they have not yet been repro-  
8 duced.

9 Ordinarily, Intervenors in proceedings are sent  
10 copies of all environmental statements prepared by the Staff  
11 and all comments and questions concerning those environmental  
12 statements. They are not generally sent to individuals members  
13 of the public unless they are parties in a proceeding. And  
14 to date the organization represented by Mr. McPhillips and  
15 Mr. Allred are not intervenors, therefore they were not on the  
16 service list of the questions and responses.

17 If they are admitted, they will routinely be  
18 sent copies of all such transmissions.

19 MR. TREBY: I'd like to elaborate upon that just a  
20 little bit. I guess the Board will be receiving copies of  
21 that. It is possible the Board has not received copies of  
22 it because as the Board may recall a number of years ago the  
23 Staff began what was known as Board notification procedures  
24 whereby the Staff was sending out many items to the Board  
25 relating to issues, and there was some discussion within the

1 Commission, and particularly by the Chairman of the Appeal Board  
2 Panel and Licensing Board Panel that tremendous amounts of paper  
3 were innundating the various Boards. And there was a paper  
4 sent to the Commission discussing the distribution of materials  
5 to the Boards.

6 My understanding is that that paper indicated that  
7 there were going to be certain initiating events which would  
8 cause this flow of paper to begin to the Boards. At one time  
9 that initiating event was the issuance of certain Staff documents,  
10 either the Environmental Statement or the Safety Statement,  
11 because it was considered that prior to that time all this  
12 correspondence back and forth between the Staff and the  
13 Applicant would all be covered when this Staff document was  
14 ultimately issued.

15 I understand the procedures now have been slightly  
16 changed so that the initiating event for the flow of paper  
17 is when the hearings begin. It's not quite clear when it is  
18 the beginning of the evidentiary hearing or the pre-hearing  
19 conference, but we will assume that it means the pre-hearing  
20 conference.

21 We will now make sure that the Board is on all  
22 correspondence and including any questions that the Staff asks  
23 the Applicant, and so forth.

24 So, I think that may explain why the Board had  
25 not received their copies of past correspondence between the

1 Staff and the Applicant in this proceeding.

2 MR. COWAN: Mr. Chairman?

3 CHAIRMAN WOLF: Yes.

4 MR. COWAN: It is our understanding that the Applicant  
5 is responsible to provide the Board with copies of any documents  
6 such as the Environmental Report or any formal amendments to  
7 the Environmental Report or amendments to the license application.  
8 And also, of course, we have some obligation apart from that  
9 to supply the Board with certain selected information. But  
10 generally speaking, when we respond to Staff questions, or  
11 indeed, when we correspond, as we will be doing with Mr.  
12 Allred and Mr. McPhillips, we would not normally supply the  
13 Board with copies of that correspondence and that information.

14 When the Staff gets the formal response to our  
15 questions then it is -- as I understand the procedures of the  
16 NRC at the present time -- once the hearing begins -- and I  
17 guess they are saying it began as of today -- then the Staff  
18 supplies those to the Board. But we do not routinely supply  
19 all of the paperwork that goes back and forth either to the  
20 Staff or to other parties to the Board. It's a massive amount  
21 of paperwork.

22 DR. FOREMAN: Also the license application I think  
23 we should have copies of.

24 MR. TURK: I certainly agree with that. I assume  
25 that the Applicant is going to provide the Board with the



1 application.

2 MR. MC PHILLIPS: There again, my understanding is  
3 at the time we filed the license application we were required  
4 to file an original and 20 copies. That's been amended since.  
5 We filed our original and 20 copies and my understanding was  
6 that three of those copies are normally sent to the Board as  
7 soon as the Board is appointed.

8 We will make certain the Board has the license  
9 application, however. We will talk with Mr. Turk about whether  
10 we should sent it to you or whether he should.

11 CHAIRMAN WOLF: Neither Dr. Foreman or Dr. Steindler  
12 have received it, and I can't say because I haven't been back  
13 to my office in some time.

14 MR. COWAN: I am personally chagrined that the Board  
15 does not have that. We should have checked to make sure. We  
16 will make certain that the Board has the license application,  
17 of course.

18 MR. TURK: It is my understanding that Westinghouse  
19 will be making available to Mr. McPhillips and to Mr. Allred  
20 both the licensing application and the submissions concernig  
21 the Environmental Report, our questions and Westinghouse's  
22 answers.

23 CHAIRMAN WOLF: That is correct.

24 MR. TURK: And I think the only thing left for Mr.  
25 Cowan and me to resolve is whether he or I should make available

1 the license application to members of the Board. That I will  
2 discuss with Mr. Cowan.

3 DR. FOREMAN: We assume you will resolve that  
4 issue.

5 MR. TURK: Yes, very promptly.

6 MR. COWAN: Today.

7 DR. FOREMAN: There is one other point that I may  
8 have misunderstood something that Mr. Allred implied. Namely,  
9 you said you would try to reach a stipulation, but you should  
10 know that even if you don't reach a stipulation with the other  
11 parties with respect to a contention, if you believe a contention  
12 is valid it still should be submitted.

13 MR. ALLRED: Yes, sir, I understand that. I think  
14 I may have an easier time if I could reach a stipulation within  
15 the parameters that we've already discussed, including the  
16 extra data.

17 MR. MC PHILLIPS: May I ask the Board a question?

18 CHAIRMAN WOLF: Yes.

19 MR. MC PHILLIPS: Let's say after I meet with Mr.  
20 Turk and Mr. Cowan and Mr. Allred and let's say that we are  
21 able to agree on some contentions that we stipulate, as to those,  
22 fine. But as to those which we cannot agree on, should we  
23 leave then the contentions in the form as they are now?

24 CHAIRMAN WOLF: That's up to you.

25 MR. MC PHILLIPS: Or could we perhaps, you know,

1 polish them a little bit and claim that they are the same  
2 contention -- and they would be on the same subject matter  
3 but in slightly different language?

4 MR. COWAN: This may help clarify. We will try to  
5 reach with Mr. McPhillips -- and the same goes for Mr. Allred --  
6 agreeable language on a contention and an agreement that the  
7 contention is admissible and represents in agreed-upon language  
8 something that the Board should hear as an issue.

9 But with regard to certain contentions, we will  
10 also try, if we can't go that far, to reach agreement with  
11 Mr. McPhillips on the language of the contention but leave open  
12 the argument as to whether or not the contention is admissible  
13 or not. So that the Board will be presented with language  
14 that we would agree is all right but that the admissibility  
15 would still be a matter for the Board to rule on.

16 Then there may be some contentions where we can  
17 neither agree on admissibility nor language, and I guess that's  
18 the third category you were just discussing.

19 DR. FOREMAN: Then you do intend to put forth your  
20 reasons why you think they are not admissible, and you, your  
21 reasons why you do?

22 MR. MC PHILLIPS: Yes.

23 MR. COWAN: Yes, sir.

24 MR. MC PHILLIPS: Let me ask the Board also, do you  
25 want arguments based primarily on the facts or do you also look

1 for citation of a lot of case authority?

2 CHAIRMAN WOLF: We want you to make the strongest  
3 case you can. If you can cite authorities to the cases, fine.

4 MR. TURK: If I may ask a question?

5 CHAIRMAN WOLF: Yes.

6 MR. TURK: Mr. McPhillips indicated he would like  
7 to polish some of the contentions. I assume that what he is  
8 being permitted to do is refocus them but not at this time to  
9 bring in additional facts and other bases which he has not  
10 referred to previously.

11 CHAIRMAN WOLF: Yes. I think Mr. Cowan had stated  
12 earlier what would be done, and as I understood it it was his  
13 intention to attempt to straighten out the language, if possible,  
14 but not to reorientate the thing in any way to get in a new  
15 contention or go off on a tangent.

16 MR. COWAN: That is correct, Mr. Chairman.

17 We would also anticipate that on at least some of  
18 the contentions after we've talked about them the Petitioners  
19 will decide not to pursue certain areas.

20 Our experience is we get a mix of all of these various  
21 things when we go to discuss them.

22 MR. ALLRED: Mr. Chairman?

23 CHAIRMAN WOLF: Yes, Mr. Allred? What are you going  
24 to speak about?

25 MR. ALLRED: I was simply going to make a request

1 to the Board that we take about a five-minute intermission to  
2 get together and determine a time or a time frame that we  
3 could get back together to work out these things, and then  
4 come back in here and put it on the record.

5 CHAIRMAN WOLF: Yes. But there are three things that  
6 I want to do first. I agree that will be a good idea.

7 First, I would like to state that the Board will  
8 take under advisement the presentations made today in regard  
9 to the contentions, but will not pass upon them until we have  
10 all the material that you are going to submit to us. And at  
11 that time, when we get it all together, we will pass upon the  
12 admissibility of the contentions.

13 And incidentally, that will determine whether or  
14 not SEACA and Mr. Allred, that their petition to intervene is  
15 accepted or not.

16 If it turns out that they had no contentions that  
17 were admissible, as you know from the rules, they couldn't  
18 be accepted as parties. But if they have one acceptable  
19 contention, they will be accepted as a party.

20 But we will hold in abeyance that determination until  
21 we have passed upon all the contentions.

22 Secondly, I'd like to bring up the fact that we  
23 mentioned earlier -- it was mentioned here -- discovery. Can  
24 we set up any schedule for the discovery, Mr. Cowan, at this  
25 time?

1 MR. COWAN: I don't know that we can do it at this  
2 time, Mr. Chairman, because any such schedule will turn on  
3 when the contentions are finally admitted by order of this Board  
4 so that we can have discovery against specific contentions.

5 As I understand the present plan, SEACA and Mr. Allred  
6 will be coming forth with some new contentions 30 days from  
7 now, I think, or approximately September 20, and then we and  
8 the Staff will be responding in eight and 10 days, respectively,  
9 to that, which takes us to the beginning of October.

10 We are going to need some time to go over the new  
11 contentions in much the same way we will try to do with the  
12 old ones. So, I would not envision that we would have a filing  
13 back to the Board until perhaps mid-October. And at that point  
14 the Board will have to come out with a ruling, I presume, on  
15 this.

16 CHAIRMAN WOLF: I think that's reasonable. Then  
17 you would set up a schedule for the discovery and when it might  
18 be completed.

19 MR. COWAN: It might be helpful if all parties in  
20 that filing, in some filing in October, proposed a discovery  
21 schedule, yes. But I think it's premature to figure out now  
22 what dates discovery should open and when the interrogatories  
23 should be filed, and so forth.

24 I might note that we have talked with Mr. McPhillips,  
25 and we will be doing so again, about the possibility of



1 conducting much of the discovery in an informal way. By that  
2 I do not mean orally, but I mean without filing of interrogatories  
3 and filing of answers, but rather with answers back and forth  
4 so you can get the information without the technicalities  
5 of the Board's process being involved.

6 CHAIRMAN WOLF: Very well.

7 Mr. Allred you mentioned earlier that you were an  
8 Assistant U. S. Attorney. What office do you work in?

9 MR. ALLRED: This one. I am an Assistant U. S.  
10 Attorney for the Middle District of Alabama, and my office is  
11 here, in fact, in this building.

12 CHAIRMAN WOLF: Thank you. For some reason or other  
13 there was some question as whether you were from here or  
14 Tennessee. I don't know why that came up.

15 MR. ALLRED: I was on vacation this week in Tennessee.

16 Let me make it very clear for the record though that  
17 my job is in no way related to my participation in these  
18 proceedings. I am no leave today and will be on leave every  
19 time that we have any hearings or that I participate. I am  
20 participating as a private citizen.

21 CHAIRMAN WOLF: We understand.

22 I'd like to say one word about limited appearances.  
23 I think that limited appearances are very important and we  
24 intend to have them. There are two problems: when should  
25 we have them? Where should they be?

1           Should we have them here in Montgomery, or should  
2 they be in Prattville?

3           They should be, of course, at the beginning of the  
4 hearings on the merits after the pre-hearing conferences are  
5 completed.

6           MR. MC PHILLIPS: And after discovery is completed?

7           CHAIRMAN WOLF: Well, you will have to fill me in  
8 on what --

9           MR. MC PHILLIPS: Doesn't discovery take place before  
10 the actual hearing?

11           CHAIRMAN WOLF: Well, we wouldn't have hearings  
12 until you are ready because of what you've determined from  
13 discovery.

14           MR. MC PHILLIPS: Right. But you're saying that  
15 the limited appearances of the public at large at a hearing,  
16 and the hearing would take place after discovery is completed,  
17 isn't that correct? And not until?

18           Or would there be any intermittent hearing?

19           Do you follow me?

20           CHAIRMAN WOLF: It would depend on the number of  
21 people who apply to make limited appearances. If we have  
22 enough to fill a whole day, we might take some before we had  
23 opening statements.

24           MR. MC PHILLIPS: Well --

25           CHAIRMAN WOLF: But early in the proceeding, yes.

1 MR. COWAN: I think Mr. McPhillips is assuming that  
2 all discovery will close before the start of any evidentiary  
3 hearing on any of the contentions. In my experience in NRC  
4 practice, that is not necessarily the case. Sometimes there  
5 will be evidentiary hearings on some of the contentions, when  
6 they are ready to be heard, while other contentions are still  
7 being developed and still in the process of discovery.

8 So, I think, Mr. Chairman, it is appropriate to take  
9 limited appearances at the beginning of the first evidentiary  
10 session, whenever that may be. From our standpoint we think  
11 the paramount consideration in where they should be taken is  
12 a question of what is most convenient to the members of the  
13 public who wish to make limited appearance statements, and that  
14 could be either Prattville or Montgomery depending on that  
15 convenience factor.

16 Maybe Mr. McPhillips might have some thought on that.

17 CHAIRMAN WOLF: Do you have any suggestions on that,  
18 Mr. McPhillips?

19 MR. MC PHILLIPS: I think Montgomery would be a  
20 better place, probably. Right here is a good place.

21 CHAIRMAN WOLF: This would be a better place?

22 MR. MC PHILLIPS: I think it is more convenient to  
23 everybody, probably. Although there will be a lot of people  
24 from Prattville, there will be a lot from Montgomery, too.  
25 And those from Montgomery feel that they are just as interested

1 as those from Prattville, especially when you consider the  
2 proximity to Montgomery.

3 CHAIRMAN WOLF: Very well. I don't believe we are  
4 in a position to discuss dates of future hearings at this time.  
5 That will have to wait until we find out whether or not  
6 contentions are cleared up and that sort of thing.

7 We will take the five-minute period suggested by Mr.  
8 Allred and meet back here in five or six minutes to get on the  
9 record whatever time you come up with.

10 (A brief recess was taken.)

11 CHAIRMAN WOLF: Now, to whom am I addressing myself?

12 MR. TURK: We have appointed Mr. Cowan as our  
13 spokesperson.

14 MR. COWAN: We have agreed, Mr. Chairman, that it  
15 makes more sense for us to meet after the additional contentions  
16 have been filed and after we've had a chance to review them  
17 and respond in accordance with the Board's oral order of  
18 earlier today.

19 Accordingly, we have agreed to meet beginning on  
20 Tuesday, October 7th, which is the week following the last of  
21 the various documents that have to be filed pursuant to that  
22 order.

23 We don't know how long it will take; we have set  
24 aside several days then, and there may be some need for a  
25 follow-up. And then once we have determined which contentions

1 we reach agreement on and which we don't, there will be a need  
2 to write the position papers with regard to those that we  
3 don't. So, we would propose that the stipulation, if any,  
4 or the results of the meeting if it is short of a stipulation,  
5 and the position papers be filed with the Board by all parties  
6 on Friday, October 31, which would give us October to work out  
7 these various contentions and the wording, if we can, or to  
8 work them out as far as we can.

9 CHAIRMAN WOLF: That is agreeable to the Board.

10 We would like to say we will look forward to attempting  
11 to have -- if necessary, if it turns out to be necessary --  
12 another pre-hearing conference sometime in the middle of  
13 November -- but not on Thanksgiving.

14 I have one questions, Mr. Turk and Mr. Treby. What  
15 additional material can the Board expect from you?

16 MR. TURK: Well, as we discussed earlier, the  
17 questions which the Staff posed to Westinghouse and Westinghouse's  
18 responses to those questions will be made available to you  
19 by Westinghouse. That will happen in the very near term.

20 The license application also will be sent to you by  
21 Westinghouse or by us immediately.

22 Beyond that, there will be a draft environmental  
23 statement and a final environmental statement. Our present  
24 projection of when those will come out is that the draft  
25 environmental statement will be out by the beginning of the

1 year. We are predicting on paper January, 1981. There is  
2 a possibility we can get it out somewhere between October and  
3 December, but we can't say specifically at this point.

4 The final environmental statement then will come  
5 out 90 days later following the period of public comments on  
6 the draft. Which means the final environmental statement  
7 would be coming out approximately March, 1981.

8 CHAIRMAN WOLF: How about the safety analysis report?

9 MR. TURK: As I understand Westinghouse's application,  
10 at this date the application does not contain a full safety  
11 discussion. That will be supplemented by Westinghouse and  
12 we will then need something like nine months following the  
13 receipt of that complete statement in which to get out the  
14 safety evaluation for the Staff.

15 I am told by Westinghouse that the safety evaluation  
16 will be completed by the end of the year from their point of  
17 view -- the end of 1980. In which case, our safety evaluation  
18 would then come out approximately in September of 1981.

19 DR. FOREMAN: Does that mean that we can't go into  
20 evidentiary hearings before then?

21 MR. TURK: We can go into evidentiary hearing on  
22 environmental issues once our final environmental statement  
23 has been issued. That's approximately March. And then a  
24 hearing as to safety issues would take place subsequently,  
25 once the safety evaluation paper has come out.



1 DR. FOREMAN: How do you handle the questions that  
2 deal on the surface with environmental issues but in fact have  
3 underlaid a significant amount of what I would call safety  
4 related, plant related issues?

5 MR. TURK: As I understand what goes on in a Part  
6 70 environmental statement, there is a deterministic approach,  
7 which, as I understand it, means that the Staff says we assume  
8 these events will happen, we assume there will be a release,  
9 let's look at the consequences environmentally.

10 DR. FOREMAN: Aside from the special nuclear license,  
11 what other permits and the like does the Applicant need to  
12 build the plant?

13 MR. TURK: I am not aware of any regulation which  
14 provides that a license must be obtained prior to construction  
15 of a facility. I suppose theoretically they would be free  
16 to construct a facility today, but I assume they could not do  
17 so because we later could tell them they're not in compliance  
18 with our regulations as far as safety and environment.

19 They will need a license, however, for transportation  
20 of materials, special nuclear materials, beyond what they  
21 would obtain in this proceeding.

22 I am told also that there are various state and local  
23 regulations which control possibly the construction of the  
24 plant. I'm not aware of them, but it's possible they exist  
25 and somebody else may know about them.

1 CHAIRMAN WOLF: Doesn't the Commission reserve the  
2 right to pass on the plant after it is constructed?

3 MR. TURK: We do reserve the right not to grant this  
4 license on the basis that the plant will not be safe.

5 CHAIRMAN WOLF: Yes.

6 DR. STEINDLER: You say a review by the Staff of the  
7 safety analysis that the Applicant is going to submit in the  
8 not too distant future is going to take nine months?

9 MR. TURK: The Staff's response to their safety  
10 evaluation?

11 DR. STEINDLER: Yes.

12 MR. TURK: That's my understanding at this time.

13 DR. STEINDLER: Is that an inordinately long time  
14 for a thing of this size?

15 MR. CROW: I would say it was the maximum number.

16 We normally schedule them so that we are about ready  
17 to issue the license when the plant is about to be completed.

18 DR. STEINDLER: That anticipates that there will be  
19 construction prior to the time that you complete your work,  
20 is that correct?

21 MR. CROW: Yes, sir.

22 MR. COWAN: Mr. Chairman and Dr. Steindler, just so  
23 we get the terminology clear. We will be submitting what is  
24 called in this context a safety demonstration. It is not the  
25 same as a safety evaluation done for a power plant. It is not

1 a safety analysis report, if you will, as we're used to in  
2 nuclear power plant proceedings, because this is a different  
3 type of a proceeding for a different type of plant.

4 The safety demonstration document will be completed  
5 by Westinghouse as the Staff has indicated approximately the  
6 end of the year and will be in their hands at approximately  
7 that time. In addition, if I can go back to your prior question,  
8 Section 9 of our Environmental Report lists environmental  
9 approvals and consultations which are required from federal,  
10 state, and local authorities for this plant. Specifically,  
11 Section 9 lists those that are related to protection of the  
12 environment.

13 There are a number of different types of federal,  
14 state, and local permits that we need. For example, we need  
15 an NPDES permit, a National Pollution Discharge Elimination  
16 System permit. There are a number of others. We need some  
17 state construction permits.

18 But there is no other permit or license that we need  
19 from the NRC, apart from the one for which we are applying,  
20 except as was pointed out, we will need a permit to transport  
21 nuclear material totally apart from this proceeding.

22 CHAIRMAN WOLF: Is there anything further? Mr. Turk?

23 MR. TURK: Yes, I do have one final comment.

24 The Staff has not yet filed a written response to  
25 the Petitioners' contentions, and with your permission we will

1 not do so now. Ordinarily, our time to do so would expire  
2 next Monday and Tuesday, but in light of the fact that there  
3 will be additional contentions present, or even the present  
4 contentions will be reformulated and possibly dropped altogether,  
5 we do not intend to file a written statement at this time on  
6 those contentions.

7 CHAIRMAN WOLF: I think that would be a useless  
8 effort to require you to do that.

9 MR. TURK: I agree. And also, I want to state for  
10 the record that we reserve the right to comment on these  
11 contentions once they are reformulated or proposed a second  
12 time upon the re-filing.

13 CHAIRMAN WOLF: Yes.

14 MR. TURK: And also in the new regulations concerning  
15 assistance to Intervenors, the statement is made that parties  
16 will be given a free transcript of the proceedings, and I  
17 notice that that does not cover Petitioners for leave to  
18 intervene who have not yet been admitted as parties. I just  
19 want to state if the Petitioners want to request a copy of  
20 the transcript of today's hearing -- it is not automatically  
21 being provided to them since they are not yet parties -- but --

22 MR. MC PHILLIPS: Yes. I would so like to request  
23 such a copy of the transcript if copies will be made available.

24 CHAIRMAN WOLF: Well, that's an arrangement you'll  
25 have to make with the reporting service.

1 MR. MC PHILLIPS: Is it?

2 CHAIRMAN WOLF: Well, we don't have any authority  
3 to give copies of the transcript --

4 MR. TREBY: (Interrupting) Mr. Chairman, when the  
5 Commission issued its guidance on this -- it's a one-year  
6 pilot program -- they indicated in that guidance that -- and  
7 I'll read from this Federal Register notice. It's at 45 Federal  
8 Register 49536.

9 "Therefore the Commission has decided to initiate  
10 a one-year pilot program to provide free transcripts on the  
11 basis previously described. Licensing Boards will have the  
12 discretion to control the distribution of transcripts to the  
13 parties. For example, to limit distribution to some but not  
14 to all of consolidated groups of intervenors or to only those  
15 phases of the hearings in which an intervenor intends to  
16 participate." (sic)

17 The Staff interprets that as indicating that it's  
18 the Licensing Board who has the discretion to determine which  
19 of the parties, or all of the parties, are eligible to get these  
20 free transcripts.

21 And we would recommend that each of the participants  
22 here should be provided a copy of the transcript.

23 CHAIRMAN WOLF: I'm not against providing it, but  
24 as I understood the issuance there in the Federal Register  
25 it was required that a request be made for it in writing and

1 some kind of a certification of inability to meet the cost.

2 I've given you a copy, Mr. McPhillips, of the thing  
3 we are discussing here, and you read it and comply with that,  
4 if you will.

5 MR. MC PHILLIPS: I'm sorry, Your Honor, I don't believe  
6 I understand. What is it you have given me a copy of?

7 CHAIRMAN WOLF: The Federal Register that contains  
8 the information regarding the change in the regulations that  
9 relate --

10 MR. MC PHILLIPS: (Interrupting) Right, right. You  
11 gave me that earlier this morning. That's correct.

12 CHAIRMAN WOLF: So, if you will read that and comply  
13 with that, we will see what we can do about getting you the  
14 copies of the transcript, if you are going to apply for them.

15 But you have to make an application; you have to  
16 certify as to your inability, or that it's a hardship to pay --  
17 I don't know what the wording is in there.

18 MR. MC PHILLIPS: Of course, we certainly do thank  
19 you because as a nonprofit corporation we do have limited  
20 resources. Very limited.

21 CHAIRMAN WOLF: Just make sure you comply with whatever  
22 the requirements are in that piece of paper I gave you.

23 If Mr. Allred is in the same fix, you might also  
24 give him a copy of that, and if he wants to apply, he may also.

25 MR. ALLRED: Thank you.



1 CHAIRMAN WOLF: I can't believe that the rich State  
2 of Alabama needs help, Mr. Godwin.

3 (Laughter.)

4 MR. GODWIN: Mr. Chairman, we are trying a cost  
5 control program down here.

6 I was trying to find the section, and I can't find  
7 it, where it says we have to certify financial inability.  
8 Perhaps it's in there and I haven't had a chance to find it.

9 CHAIRMAN WOLF: Isn't that correct, Mr. Turk?  
10 You are a recipient of that paper there.

11 MR. TURK: I am a recipient of this paper. I am not  
12 aware of the certification requirement under this regulation.

13 CHAIRMAN WOLF: Well, it's a rambling piece, as  
14 usual, and I think you have to read it thoroughly.

15 MR. TURK: I think you have to make a request, as  
16 the Chairman stated, but I don't see a certification requirement.

17 CHAIRMAN WOLF: Well, I think you have to read it  
18 all to come to that conclusion.

19 In any event, comply with that and we'll see what  
20 we can do about getting you the transcript.

21 MR. MC PHILLIPS: Mr. Chairman, I can't help but  
22 noting very wryly that the providing of these transcripts --  
23 philosophically I don't disagree with that -- in this case  
24 by the NRC, really is at the expense of the Applicant since  
25 the Commission has previously ruled, and had sustained by the

1 courts, a position that the fee to be paid by the Applicant  
2 has to pay one hundred percent of the costs of these proceedings.

3 CHAIRMAN WOLF: Mr. Cowan, you don't understand the  
4 new economics.

5 (Laughter.)

6 CHAIRMAN WOLF: Mr. Godwin?

7 MR. GODWIN: Mr. Chairman, just to make sure I  
8 understand, you did admit us as a party this morning, didn't  
9 you?

10 CHAIRMAN WOLF: As an interested state, yes.

11 MR. GODWIN: Thank you.

12 CHAIRMAN WOLF: If there is nothing further, we will  
13 adjourn sine die. You will be notified, Mr. Allred, with the  
14 proper papers as to the next meeting.

15 (Whereupon, at 4:30 o'clock, p.m., the hearing  
16 in the above-entitled matter was adjourned  
17 sine die.)

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C E R T I F I C A T E

This is to certify that this is a true and accurate transcript of the proceedings before the Licensing Board of the Nuclear Regulatory Commission, taken on Thursday, August 21, 1980, at Montgomery, Alabama, in Docket Number 70-2909.

*Kenneth W. Ricci*   
Reporter