

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

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 - - - - -)
4 IN THE MATTER OF:)

5 ILLINOIS POWER COMPANY,)
6 SOYLAND POWER COOPERATIVE, INC.)
7 and WESTERN ILLINOIS POWER)
8 COOPERATIVE, INC.)

Docket Nos. 50-461
50-462

9 - - - - -)
10 Operating License for Clinton)
11 Power Station, Units 1 and 2.)
12 - - - - -)

Urbana Civic Center
108 East Water Street
Urbana, Illinois

Thursday, January 29, 1981.

13 The above-entitled matter came on for prehearing
14 conference pursuant to notice at 9:00 o'clock A.M.

15 BEFORE:

16 ADMINISTRATIVE JUDGE HUGH K. CLARK, CHAIRMAN
17 ADMINISTRATIVE JUDGE GEORGE A. FERGUSON
18 ADMINISTRATIVE JUDGE OSCAR H. PARRISH.

19 APPEARANCES:

On behalf of the NRC Staff:

20 RICHARD J. GODDARD
21 MYRON KARMAN.

22 On behalf of the Applicant, Illinois Power
23 Company, et al.,

24 PETER V. FAZIO, JR. and
25 WILLIAM G. SOUTHARD,
233 South Wacker Drive
Chicago, Illinois

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LEONARD KOCH.

On behalf of the State of Illinois:

REED W. NEUMAN.

On behalf of the Prairie Alliance, Inc.:

ALLEN SAMELSON, Spokesman
CRAIG EHRLICH
CAROLINE MUELLER
JEAN FOY.

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1 CHAIRMAN CLARK: The conference will now come to
2 order.

3 We are pleased to have you here at this
4 conference. This meeting is called as a special prehearing
5 conference. It's part of a proceedings concerned with the
6 application for operating license for Clinton Power Station,
7 Units 1 and 2, which are designed to produce electric
8 power by means of boiling water nuclear reactors.

9 Unit 1 is known by the Illinois Power Company,
10 Soyland Power Cooperative and Wester Illinois Power
11 Cooperative. Unit 2 is wholly-owned by the Illinois Power
12 Company. These three owners will be referred to as the
13 applicants.

14 Constructive permits for the building of
15 these power units were issued February the 24th, 1976. It's
16 anticipated that Unit 1 will be completed by April 1, 1982
17 and Unit 2 during 1991.

18 Before operating licenses will be issued,
19 there must be first a completion of a favorable safety
20 evaluation by the Staff of the Nuclear Regulatory Commission
21 who we will, hereafter, call the Commission.

22 Two, a completion of an environmental
23 review by the Commission Staff.

24 Three, a report on the application for
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1 operating license by the Environment Committee on Reactor
 2 Safeguards; and fourth, a finding by the Commission that
 3 the application complies with the requirements of the
 4 Atomic Energy Act of 1954 as amended and with the
 5 Commission's regulations published in 10 Code Federal
 6 Regulations, Chapter 1. Moreover, by notice in the
 7 Federal Register, dated the September 29th, 1980, persons
 8 whose interests may be affected by the proceedings were
 9 invited to petition for a leave to intervene and request
 10 a hearing before an Atomic Safety and Licensing Board within
 11 the time specified -- Prairie Alliance and some of its
 12 members; namely, Stanley Elsasser, Rebecca Elsasser,
 13 Joanne Schwart, Jean Foy, Caroline Mueller and Allen Samelson,
 14 also by the Bloomington-Normal Chapter of Prairie Alliance.

15 To file such petitions, the State of Illinois
 16 also requested permission to petition -- to participate in
 17 a hearing. This petition was filed pursuant to 10 Code
 18 Federal Regulations, Paragraph 2.715 (c). The State of
 19 Illinois has a right to participate in a hearing if one
 20 is held.

21 An Atomic Safety and Licensing Board was
 22 appointed to rule on the petitions to intervene in the
 23 request for a hearing. If a hearing is ordered, the same
 24 Board will preside over the hearing or the proceedings.
 25

1 The Board consists of three members. A
2 lawyer as Chairman, myself Hugh K. Clark, a nuclear engineer,
3 Judge George A. Ferguson on my left; and an environmental
4 scientist, Judge Oscar H. Parrish on my right. It's a
5 privilege to serve on a board with these distinguished
6 individuals, each of whom brings to this proceeding a
7 wealth of ability and experience.

8 I shall now request Counsel for representatives
9 of the parties to rise and give their names. When a
10 party is represented here today by more than one individual,
11 a spokesman for the group will first introduce himself and
12 then introduce his colleagues.

13 First, I will call on Counsel for the Applicant.

14 MR. FAZIO: Thank you, Judge Clark. My name is
15 Peter V. Fazio. I'm a lawyer with the firm of Schiff,
16 Hardin & Waite, 233 South Wacker Drive, Chicago, Illinois,
17 60611. I represent the Applicants, Illinois Power Company,
18 Soyland Power Cooperative and Western Illinois Power
19 Cooperative.

20 With me today is my associate, William
21 Southard of the same firm, and there is also here today
22 a representative of Illinois Power Company including Mr.
23 Leonard Koch who is on my right, who is the Vice President
24 of Illinois Power Company.
25

1 CHAIRMAN CLARK: Thank you, Mr. Fazio.

2 Counsel for the Commission Staff?

3 MR. GODDARD: Thank you, Judge Clark.

4 I'm Richard J. Goddard representing technical
5 staff of the Nuclear Regulatory Commission, and with me on
6 my left are Mr. Myron Karman. We are from the Office of
7 the Executive Legal Director.

8 CHAIRMAN CLARK: Counsel for the State of Illinois?

9 MR. NEUMAN: Thank you, Judge Clark. I'm Reed
10 W. Neuman, Assistant Attorney General of Environment in
11 Springfield.

12 CHAIRMAN CLARK: Thank you, Mr. Neuman.

13 Spokesman for Prairie Alliance and individual
14 interveners, Mr. Samelson?

15 MR. SAMELSON: Thank you, Judge Clark. My name
16 is Allen Samelson, a member representative of Prairie
17 Alliance. On my left is Craig Ehrlich, member and
18 representative Prairie Alliance. On my right, Caroline
19 Mueller, member and representative of Prairie Alliance
20 and on her right, Jean Foy, member and representative of
21 Prairie Alliance.

22 CHAIRMAN CLARK: Thank you, sir.

23 Now, the purpose of this special prehearing
24 conference is first to identify the key issues in the
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1 proceedings. Second, to take any steps necessary for
2 further identification of the issues; third, to consider
3 all intervention petitions to allow the Board to allow so
4 much preliminary and to file determinations as to the
5 parties of the proceedings as may be appropriate; and fourth,
6 to establish a schedule for further activities in this
7 proceedings.

8 Before going further, I will pause for a
9 moment and give the photographers a chance to take pictures
10 if they so desire. Is the press here? Do they desire to
11 take pictures?

12 PRESSMAN ONE: I already got mine. The rest of
13 them are back there.

14 CHAIRMAN CLARK: I believe the press has been
15 notified that during the hearing they may take pictures
16 providing they use the light which is already here, ambient
17 light as it's called, but they may not use spotlights
18 during the hearing. However, during a recess period they
19 may also take such pictures as they so desire with
20 spotlight.

21 The petitioners for intervention, Prairie
22 Alliance, et al. have filed a supplement to their petition
23 setting forth 41 proposed contentions, all of which were
24 opposed by the applicants. We will now consider these
25

1 contentions one by one. Mr. Samelson will read aloud each
2 contention and add any comments which he desires. Then
3 Counsel for the Applicants and Counsel for the Staff and
4 Members of the Board in that order will be given opportunity
5 to question Mr. Samelson on the contention which he has
6 just read.

7 After Mr. Samelson has answered all such
8 questions, Counsel for the Applicant and then Counsel for
9 the Staff will have a chance to speak in opposition or in
10 favor of the proposed contention. Mr. Samelson will be
11 given an opportunity to reply to any questions as to this
12 procedure.

13 MR. SAMELSON: Mr. Chairman, can any other members
14 at the Counsel Table for Prairie Alliance desire to speak
15 or respond to any questions raised by the Staff as well?

16 CHAIRMAN CLARK: That will be permitted.

17 Before we begin this discussion, does Counsel
18 for the State of Illinois wish to make any statement at
19 this time?

20 MR. NEUMAN: No, Judge Clark, we do not.

21 CHAIRMAN CLARK: Thank you. Mr. Samelson, will
22 you please read us your first proposed contention?

23 MR. SAMELSON: Contention Number 1: Petitioners
24 contend that the Applicant and Regulatory Staff have not
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1 adequately assessed the impact of the numerous unresolved
2 safety issues, in reviewing the Clinton Units 1 and 2,
3 in conjunction with the operating license application. The
4 Clinton systems, structures and components were not
5 backfitted to meet current regulatory requirements for
6 adequate compliance with 10 C.F.R. Part 50.109.

7 Mr. Chairman, is it appropriate for me to
8 comment on it?

9 CHAIRMAN CLARK: You may comment if you desire.

10 MR. SAMELSON: The basis that we're trying to
11 bring out in this contention is that essentially the un-
12 resolved issues cannot be adequately assessed in regards
13 to, one, a list of generic light water safety items that
14 have been developed by the Advisory Committee on safeguard;
15 and two, the list of unresolved water safety reactors
16 issues -- they are discussed in the general electric
17 nuclear reactor safety study known as the Reed Report.

18 There is a problem at this point in pointing
19 to some specific items that are unresolved since the
20 Regulatory Staff has not yet issued Safety Evaluation
21 Report for Clinton Unit 1, but we do wish to point out
22 that all of Category A issues that have been labeled in the
23 test action plan by the Staff do have serious impact on the
24 safety assessments of Clinton because those Category A
25 issues are defined as those issues which provide significant

1 increase in the assurance of health and safety for the
2 public. The priority of these items is of the first
3 priority, and especially for those items that effect the
4 primary system of the plan.

5 CHAIRMAN CLARK: Have you finished your statement?

6 MR. SAMELSON: Yes.

7 CHAIRMAN CLARK: Questions by Counsel for the
8 Applicant?

9 MR. FAZIO: Well, I guess my questions, Mr.
10 Samelson, would be to the need or specifics. As we stated
11 in our original response to your supplement you raised as
12 contentions, we can't understand what it is we're being
13 asked to respond to based on the way the contention was
14 worded. You've added a -- two new concepts in your
15 comments here this morning. You've made a reference to
16 certain generic issues raised by the Advisory Committee
17 on reactor safeguards, you add a reference to the so-called
18 Reed Report relating to general electric reactors.

19 Those two new things were not in the original
20 contention, and I would like to have a better understanding
21 of what these references are supposed to raise in the way
22 of specific contentions.

23 What we are concerned about is that any
24 contentions which will ultimately be admitted in this
25 proceeding are so framed as they are things that can be

1 responded to; and based upon what we've been given so far,
2 we find it impossible to respond to them and this is one
3 case of that. We wouldn't know what to come back with.

4 What is it exactly that you are concerned
5 about and has to do with our particular plan? That's what
6 we're trying to find out.

7 CHAIRMAN CLARK: Mr. Samelson?

8 MR. SAMELSON: Well, it's my understanding that the
9 Commission's procedure that as the procedure will continue
10 and the story unfold that there is a process of narrowing
11 one's contentions through discovery process up until the
12 date of the first regular prehearing conference. We think
13 that that could be one means by which we further specify
14 the basis of the contention, but to try to give you the
15 basic idea, we've focused here on the lack of assessment
16 of the impact of the unresolved safety issue with regard
17 to Clinton.

18 For instance, a technical and economic risk
19 associated with these generic issues haven't been
20 quantified. We think it's important for the applicant and
21 the Regulatory Staff to quantify these risks or attempt
22 to some how incorporate them to make sure that there
23 will be no risk beyond that called for in the Commission's
24 regulations.
25

1 CHAIRMAN CLARK: Any further questions?

2 MR. FAZIO: I just want to make some short comment
3 anyway, Judge Clark, and that is it's the problem that we
4 have. Mr. Samelson, when you talk about risks without
5 identifying specific risks and you're identifying your
6 contention as it's written to unresolved safety issues,
7 you're not identifying certain issues. It's still impossible
8 for us to respond, and I think that for an orderly process
9 we have to have some idea of exactly what types of
10 contentions you're really concerned about. It's incumbent
11 in order to be able to finish a proceeding like this if we
12 start with the specific intention and then we know we can
13 narrow our focus on it as the proceeding goes on, but we
14 have a wide open fishing expedition; and in effect, in
15 discovery, we're putting off the proceeding for several
16 months until we finish discovery, and it's not our
17 understanding of how this process is supposed to work.

18 MR. SAMELSON: Mr. Chairman, if we make one further
19 point? I realize we don't want to go into a long discussion
20 of every contention, but I do think this is a major con-
21 tention of ours and I'd like to make one further point. That
22 is, that we are dealing with the scope of issues that have
23 already been outlined, specifically outlined, by the NRC's
24 Regulatory Staff in the testing plan. We are raising all of
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1 those issues. All issues that apply to water reactors of
2 that type at Clinton, and second of all, it's hard for me
3 to specifically name the issues when, for instance, the
4 Reed Report has not yet been disclosed to the public and
5 we think if we were to put into view with that, we would
6 be able to specifically name the issues. So, we're raising
7 all the generic unresolved issues, which is a tiny set
8 at this point to my understanding; and all those specifically
9 apply to Clinton. So, I think that we are clarifying that.

10 CHAIRMAN CLARK: I think we have purported from
11 the schedule a little bit, but we're going to have
12 questions and then applicant is going to have a chance to
13 argue about this mission of this contention; and you can
14 answer that, and the applicant has already made his
15 argument and you've made your answer and that's all right.
16 In the future, the questions will be intended to discuss
17 questions which would clarify the issues rather than debate
18 the issue.

19 Does the Staff wish to ask any questions on
20 Contention 1?

21 MR. GODDARD: The Staff has no questions for Mr.
22 Sameison, however, I'd like to make a statement with regard
23 to Contention 1.

24 In the course of the operating license review
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1 which is the technical staff, the technical staff will
2 conduct each of the test action plans and be considered;
3 and the applicant will be required to conform to all
4 current Regulatory requirements or adequately justify
5 exceptions. They will present, in other words, a solution
6 satisfactory to the Staff as to each of the unresolved
7 issues before getting an operating license issued.

8 MR. SAMELSON: May I suggest that we reserve the
9 right to raise that contention if the Board does not seem
10 fit to admit it at this time? We would like to reserve the
11 right to re-assert that contention after the Staff has
12 made its evaluation.

13 CHAIRMAN CLARK: Well, now Mr. Samelson, I
14 believe you are aware that you must have one contention
15 which is admissible before you can be admitted to inter-
16 vening status; and if there is no further discussion on--
17 Do you wish to make any further remarks on this first
18 proposal, Mr. Fazio?

19 MR. FAZIO: Not at this time, Your Honor. Thank
20 you.

21 CHAIRMAN CLARK: And you've completed your remarks
22 with regard to this contention?

23 MR. GODDARD: Yes, Judge Clark, except for the
24 fact that I think the intervener should be aware that decisior
25

1 of the Atomic Safety and Testing Guild Board, River Bend
2 in North Indiana, have set forth the principle that all
3 generic items will not be examined within the scope of
4 operating procedure.

5 CHAIRMAN CLARK: Mr. Goddard, while we were
6 talking about these matters, would you be in a position at
7 this time to predict when the Safety Evaluation Report by
8 the Staff will be available and the report on the
9 completion of the Environmental Review by the Staff?

10 MR. GODDARD: Yes, sir, I would. The staff at
11 this time expects to issue the Safety Evaluation Report
12 for Clinton Station Units 1 and 2 in October 1982.
13 Excuse me. That is Clinton Station Unit 1 only in 1982.
14 That's okay. As to the final environmental statement,
15 it's predicted that issuance date of March '82 is probable.

16 CHAIRMAN CLARK: Does this mean that you will
17 postpone these documents with regard to Unit 2 until it
18 more nearly reaches the completion stage?

19 MR. GODDARD: As to the Safety Evaluation Report,
20 yes, the environmental statement will likely cover both
21 units.

22 CHAIRMAN CLARK: I see. Then we're being asked
23 to rule on operating licenses when the plant will not be
24 completed until about 1991 and that is approximate as we
25

1 we see it here today.

2 MR. GODDARD: That is approximately the date.

3 CHAIRMAN CLARK: And it will be nearly that time
4 when the Safety Evaluation Board has made on Unit 2?

5 MR. GODDARD: I have no date to that. I would
6 assume there would be.

7 CHAIRMAN CLARK: Much closer to that date than
8 the current date?

9 MR. GODDARD: I would anticipate that it would
10 not be substantially later than the date of the Safety
11 Evaluation Report for Unit 1 or in the event there are
12 differences in the units which are a factor after having
13 the completion of Unit 1, then this really is covered in
14 the Safety Evaluation Report for Unit 2.

15 As I say, we do not have a time frame for
16 the issuance of the Unit 2 Safety Evaluation Report.

17 CHAIRMAN CLARK: That raises another question in
18 my mind.

19 Is Unit 2 designed to be exactly like Unit
20 1 or are there differences between the two units? Do you
21 know the answer to that?

22 MR. GODDARD: Judge Clark, I don't think I can
23 answer that -- the question with any certainty. The
24 applicant might be able to.
25

1 CHAIRMAN CLARK: Mr. Fazio, do you know the
2 answer to that?

3 MR. FAZIO: Yes, sir. The current design are
4 virtually available.

5 CHAIRMAN CLARK: Thank you. I think it's very
6 helpful to know that fact.

7 Judge Parrish, do you have any questions
8 at this time?

9 MR. PARRISH: No.

10 CHAIRMAN CLARK: Judge Ferguson?

11 MR. FERGUSON: Not at this time.

12 CHAIRMAN CLARK: Then if there are no more questions
13 or no more arguments with regard to Contention 1, we'll
14 proceed with Contention 2.

15 MR. SAMELSON: Petitioners contend that the
16 applicant and Regulatory Staff have not adequately demon-
17 strated that the transport of fuel and radioactive wastes
18 to and from the Clinton site will comply with 10 C.F.R.
19 Part 71.

20 There are essentially two items that we wish
21 to explain, two items that I'd like to make and that's
22 Contention 2. First, we'd like to raise that given the
23 Commission's interim policy on Class 9 accidents as published
24 on June 13th and February 1980, we think that it's important
25

1 that in consideration of Class 9 be made with regard to
2 access to the spent fuel pool. This contention does raise
3 questions of fuel transport to and from the plant in which
4 you have to get the fuel out of the plant in order to take
5 it away. Given the changes in storage of spent fuel and
6 the fact there is no reprocessing being done, I think it's
7 important that since it will be increased - storage of spent
8 fuel in the plant - that the question of increased risks
9 mandated by the new NRC policy be considered.

10 The second point has to do with the healthy
11 facts of long-lived isotopes for the full detoxication period
12 of those isotopes. Basically, we think that the applicant
13 has not adequately considered those effects.

14 CHAIRMAN CLARK: Mr. Fazio, any questions as to
15 the Contention 2?

16 MR. FAZIO: Mr. Samelson, I don't understand the
17 connection between the two points you just raised and the
18 basic issue of transportation under Part 71 of the Code
19 Federal Regulations as listed in your written contention.

20 What do the two points exist raised have
21 to do with transportation of the fuel?

22 MR. SAMELSON: Well, like I said, in order to
23 transport the fuel, you have to get it out of the containment
24 area. So, the first point I raise has to do with the
25

1 increased risks due to the storage in the containment area.

2 The second point has to do with the effect
3 of transporting fuel and in consideration of the health
4 effects with regard to the long-lived isotopes from the
5 fuel and transporting fuel.

6 MR. FAZIO: I don't have any other questions,
7 Judge Clark.

8 CHAIRMAN CLARK: Mr. Goddard?

9 MR. GODDARD: No questions with regard to the
10 contention, sir.

11 CHAIRMAN CLARK: Mr. Fazio, do you now wish to
12 make comments either for or against this contention?

13 MR. FAZIO: Yes, sir. I think that just to save
14 time, I would like to ask the Board to consider that all of
15 the points that I've raised in my written submission will
16 be considered raised without having to repeat them again
17 in order to save some time; and then I guess I would have
18 to say that in response to what I would consider to be
19 two new items raised orally this morning, possibly there
20 is a connection between the transportation contention
21 as I understood it and the written items and these two
22 new points; and with respect to that, I would make two new
23 arguments. One, that hasn't been properly stated again
24 with the necessary specificity; and two, it hasn't been
25

1 raised at the proper time.

2 CHAIRMAN CLARK: You want to answer that, Mr.
3 Samelson?

4 MR. SAMELSON: No. With regard to reasonable
5 specificity, we think that the contention has ridden and
6 its mention of items in the Environmental Report does
7 provide the reasonable specificity required plus to --

8 CHAIRMAN CLARK: Mr. Goddard?

9 MR. GODDARD: Judge Clark, the Staff position is
10 that not only is this too vague to permit a suitable
11 treatment in litigation but also that this is a purely
12 generic Class 9 act to all reactors or well and water
13 reactors which should be considered in a proceeding other
14 than the Clinton operating licensing proceeding.

15 Table S4 10 C.F.R. Part 51 covers the
16 impacts of transfer of water in spent fuel.

17 CHAIRMAN CLARK: Thank you. Do you wish to reply
18 to that, Mr. Samelson?

19 MR. SAMELSON: No.

20 CHAIRMAN CLARK: All right. Do you have any
21 questions?

22 MR. PARRISH: No.

23 CHAIRMAN CLARK: Judge Ferguson, do you have any
24 questions?
25

1 MR. FERGUSON: Yes, I have a question, Mr.
2 Sameison.

3 Just to clarify it in my mind, the last
4 point that you just raised as regards to transport of fuel,
5 are you at this time, concerned about moving the fuel from
6 the plant to some other location or within the plant
7 boundary?

8 MR. SAMELSON: Both, Mr. Ferguson.

9 MR. FERGUSON: Are you aware of the document that
10 Mr. Goddard just referred to?

11 MR. SAMELSON: In Part 51, 10 C.F.R.?

12 MR. FERGUSON: Yes.

13 MR. SAMELSON: Yes.

14 MR. FERGUSON: Table S4 specifically?

15 MR. SAMELSON: No, I'm not.

16 MR. FERGUSON: You're not familiar with Table S4?
17 All right. Thank you.

18 CHAIRMAN CLARK: If there is no further discussion
19 on Contention 2, Mr. Sameison, will you proceed with
20 Contention 3?

21 MR. SAMELSON: Contention 3: Petitioners contend
22 that the applicant has not adequately demonstrated that
23 the Clinton Reactor Containment System meets the requirements
24 of 10 C.F.R. Part 50, Appendix A, Criteria 4, 16, 50, 51 and
25

1 52. For example, the Final Safety Analysis Report does
2 not adequately consider the unresolved issues of LOCA
3 hydrogen generation quantities demonstrated at TMI Unit 2.

4 CHAIRMAN CLARK: Do you have any further discussion
5 on that point at this time?

6 MR. SAMELSON: No, I don't.

7 CHAIRMAN CLARK: Mr. Fazio?

8 MR. FAZIO: Mr. Samelson, the reactor at TMI 2 is
9 quite different from the reactor that's designed for this
10 station. So, we find it hard to understand exactly what
11 issue you're trying to raise by reference to a different
12 kind of reactor.

13 Would you be more specific?

14 MR. SAMELSON: The issue that we're raising here is
15 that the experience of Three-Mile Island accident shows
16 that the non-hydrogen generated from the reactor under
17 abnormal conditions was greater than previously expected;
18 and we simply want to raise consideration of that for the
19 Clinton reactor as well. We don't think the consideration
20 has been adequate.

21 MR. FAZIO: Are you raising an issue which is not
22 already been raised by the Staff in terms or are you
23 familiar with what position the Staff has taken with
24 respect to this general issue of hydrogen generation?
25

1 MR. SAMELSON: No, I'm not.

2 MR. FAZIO: No other questions.

3 CHAIRMAN CLARK: Mr. Goddard?

4 MR. GODDARD: Judge Clark, I have no questions of
5 the -- from the Staff. The Staff, again, opposes this
6 contention of being permissibly vague.

7 CHAIRMAN CLARK: Do you have any comments with
8 regard to this contention not trying to understand it but
9 as to itself?

10 MR. FAZIO: We'll stand on our statement and
11 written answer.

12 CHAIRMAN CLARK: Very well. Mr. Samelson, do you
13 have any further comments?

14 MR. SAMELSON: I believe Caroline Mueller would
15 like to respond.

16 MS. MUELLER: I'd just like to make the point
17 that we feel the hydrogen generation is not of an issue.
18 It's a very specific thing, of course, in every plant where
19 there is the radiology of water and that we feel that the
20 prevention of contained pressure is definitely an issue
21 which should be raised at this point given that the
22 hydrogen is very combustible and could easily explode.

23 CHAIRMAN CLARK: Judge Parrish, do you have any
24 questions?
25

1 MR. PARRISH: No.

2 CHAIRMAN CLARK: Thank you very much. We will
3 continue with the next contention.

4 MR. SAMELSON: Contention 4: Petitioners contend
5 that the applicant has not developed adequate experimental
6 data and performed sufficient testing to verify the contain-
7 ment design in accordance with requirements of 10 C.F.R.
8 Part 50, Appendix B, Criteria 3 and 11.

9 Specifically, this contention raises the
10 functioning of the Emergency Core Cooling System under all
11 contention and accident conditions. We would-- It's not
12 been adequately considered or verified by the applicant.

13 Secondly, I think that the NRC interim
14 policy on Class 9 accidents has not been complied with
15 with regard to the containment system.

16 MR. PARRISH: Excuse me, Mr. Samelson. You just
17 mentioned the Emergency Core Cooling System which is
18 mentioned in Contention 5. Are we talking about 4 or 5?
19 Are we talking about the same thing?

20 MR. SAMELSON: Pardon me. I misstated it. That
21 was a misstatement.

22 A VOICE: The statement-- I'd like to ask whether
23 the statement of the attorney in the center, the applicant,
24 they're suggesting that their written documents be entered
25

1 without their statement at this meeting. Was that-- I
2 don't recall whether that was resolved.

3 CHAIRMAN CLARK: Mr. Fazio, I think at this
4 point for the benefit of the audience, you might well
5 read the opening part of your objections as to this group
6 of contentions in order that the general public may be
7 advised of what you mean when you say that your comments
8 apply to all these contentions. Would you do that,
9 please?

10 MR. FAZIO: Yes, sir, I'd be happy to do that.

11 The general comments of our written answer
12 reads as follows: On November 10, 1980, Illinois Power
13 filed it's answer to the Prairie Alliance petition to
14 intervene, and from now on, we'll refer to Prairie Alliance
15 and individual members as petitioner.

16 In that answer, Illinois Power stated they
17 do not oppose intervention by parties who have a legitimate
18 interest in and will make a valuable contribution to these
19 proceedings. However, Illinois Power expressed a concern
20 that intervention by the Prairie Alliance would not serve
21 these goals because the Prairie Alliance petition involved
22 numerous issues falling outside the ambient of the present
23 operating license proceeding, which were fully employed and
24 resolved in the construction permit herein.

25

1 After reviewing the 41 contentions contained
2 in the Prairie Alliance supplement, now January 14, 1981, we
3 referred to hereafter as supplement. Applicants find that
4 Illinois Power has previously expressed concerns and were
5 well-founded. Contrary to the expressed requirements of
6 10 Code Federal Regulation, Section 2.7014 (B), the Prairie
7 Alliance contentions are entirely devoid and of this
8 specific factual basis necessary to understand and
9 evaluate the alleged issue.

10 Representations of this type do nothing to
11 further the licensing process and have historically been
12 rejected. At this point intime, we refer to the Off Shore
13 Power Systems case involving a manufacturing and nuclear
14 power plant and a decision in which appears to be 6 NRC 249
15 in which we quoted the following:

16 "To be admissible, contentions must be
17 specific and factually supportive. Contentions which are
18 conclusional or barren or unfocused are of no assistance
19 in the resolution of the issues to be decided and are
20 inadmissible." That's the end of the quote.

21 Even conceding that a pro se petition that
22 will remain one and held without benefit of counsel is not--
23 I'm quoting again -- "Held for those standards of clarity
24 and decision to which a lawyer might reasonably be expected
25

1 to adhere," -- end quote; and we referred to a number of
2 cases where that type of language was cited in opinions.
3 Petitioner supplements still fails to meet even the minimal
4 standards of factual specificities required to stage an
5 intelligible contention. The contention is further reflected
6 in the contention cited at the constructed permit stage.

7 A significant member of Prairie Alliance
8 contentions merely restate the design issues exhaustively
9 considered and resolved in that proceeding. Re-examination
10 of these issues in the operating license proceeding would
11 not only be inconsistent with the current practice, again
12 referring to case and this is a quote from that case; and
13 "Review and operating license proceedings should not be
14 utilized to rehash issues already resolved at this stage
15 but also reserve time and resources."

16 Finally, petitioner finally raises contentions
17 to nuclear facilities that are -- which are different from
18 the Clinton design or which merely restate other contentions
19 presented in the supplement. Then we go on, Judge Clark,
20 to respond to the contentions of ones that were raised in
21 the supplement.

22 CHAIRMAN CLARK: And in most of those contentions
23 you say you're merely repeating the argument in your opening
24 statement; is that correct?
25

1 MR. FAZIO: Yes, sir; that is correct.

2 CHAIRMAN CLARK: Does that answer your question,
3 sir?

4 A VOICE: Yes, and could I ask a question now?

5 CHAIRMAN CLARK: Will you please identify yourself
6 for the Record, please?

7 A VOICE: I'm Paul Muthe, M u t h e. I would
8 ask a question relating to Contention 3. I'm sorry to
9 interject like this.

10 CHAIRMAN CLARK: Ordinarily the audience is not
11 permitted to participate in this discussion, but we'll make
12 an exception in your case.

13 MR. MUTHE: Judge Ferguson, I was wondering
14 whether the Mark III Reactor that's to be built in Clinton
15 has fuel rods that are zirconian clad? Do you know that
16 detail because that's very pertinent. It's not just
17 radioanalysis. It's also this unexplained process of the
18 zirconian interacting with the water with the reactors.

19 MR. FERGUSON: Mr. Muthe, I'll answer your
20 question. Yes, I know the answer to that but you might
21 address it to the applicant. They are the people who are
22 building the reactor.

23 MR. MUTHE: You're the nuclear engineer. These
24 are the lawyers. They know how to talk like lawyers.
25

1 MR. FAZIO: We'll be happy to answer the question.
2 The answer is, yes, and we have with us now a --

3 MR. FERGUSON: Just for the benefit, if I may
4 touch on this for just a moment, Mr. Muthe? For your
5 benefit, it's irregular, to say the least, for judges to
6 be questioned as regards facts in the case.

7 MR. MUTHE: Doctor Ferguson?

8 MR. FERGUSON: That isn't the point. The point
9 is simply you should address your question to the people or
10 the parties in the case; not to the judge. Is that clear?

11 MR. MUTHE: Excuse me then. I'm very sorry.

12 MR. FERGUSON: If you want information, just ask
13 the people who have that information who are parties in the
14 case and not the judge; is that clear?

15 MR. MUTHE: Thank you.

16 MR. FERGUSON: That's the point I'm trying to
17 make.

18 CHAIRMAN CLARK: Can Mr. Fazio answer your
19 question?

20 MR. MUTHE: Zirconian clad on the fuel rods?

21 CHAIRMAN CLARK: T J's right. That's what he
22 said.

23 Now, before we were interrupted, I believe
24 that in Contention 4, and you've made some comments -- this
25

1 perhaps named Contention 5.

2 Do you wish to again comment on Contention 4?

3 MR. SAMELSON: Caroline Mueller would like to
4 comment on Contention 4.

5 MS. MUELLER: Just with regard to the comment in
6 reference to testing is that we feel that it hasn't been
7 brought out sufficiently, clearly by general electric whether
8 or not the-- All of the suppression pool, loss of coolant,
9 accidents, dynamics can be considered in testing. I don't
10 know if the applicant could sufficiently clarify that now
11 or if that's a question.

12 CHAIRMAN CLARK: Do you wish to ask a question with
13 regard to --

14 MR. FAZIO: I have to ask Miss Mueller that we
15 still don't understand what you mean by suppression pool
16 dynamics. We don't understand Miss Mueller. What do
17 you mean by suppression pool dynamics under loss of coolant
18 and accident conditions? There is some particular event
19 that you can recall will happen in suppression pools that
20 has not been properly tested for?

21 MS. MUELLER: Well, yes, there are a number of
22 them. This is not a limited list. It's a pool swelling,
23 for instance. The pool swelled and clearing lateral vent
24 loads, seismic splash.

25

1 CHAIRMAN CLARK: Mr. Fazio, do you have further
2 questions?

3 MR. FAZIO: We have no further questions, Judge
4 Clark.

5 CHAIRMAN CLARK: Mr. Goddard?

6 MR. GODDARD: The Staff has no questions with
7 regard to this contention, Judge Clark.

8 CHAIRMAN CLARK: Judge Parrish?

9 MR. PARRISH: No questions.

10 CHAIRMAN CLARK: Judge Ferguson?

11 MR. FERGUSON: Nothing further.

12 CHAIRMAN CLARK: I take it the applicant does wish
13 to present any further statements as he's already indicated
14 that his general statement will apply to all of the
15 contentions.

16 Do you have any further statements you care
17 to make, Mr. Goddard, with regard to this contention?

18 MR. GODDARD: The Staff would oppose this
19 contention as being vague with regard to the first
20 paragraph thereof. With regard to the second paragraph,
21 dealing with the loss of coolant and accidentally hydrogen
22 generation at Three-Mile Island, Unit 2, we do not feel that
23 the petitioners have demonstrated an excess between that
24 accident -- incident and the proceeding at issue.
25

1 MS. MUELLER: Are we on Contention 4? I'm sorry.

2 CHAIRMAN CLARK: I think we're on 4.

3 MS. MUELLER: The point raised was for Contention
4 3, I believe --

5 MR. GODDARD: I have not responded to 3 at this
6 time. I will proceed to respond to Contention 4.

7 The testing of the containment design and
8 the opinion of the Staff would be premature at this time.
9 The petitioners here have used the language inadequately
10 without specifying the inadequacies which they seek to explore
11 here and of the opinion of the Staff this Contention is
12 likewise too vague to permit presentation of evidence on
13 the contention as drafted, even with the supporting
14 statements which were offered by petitioners orally here.

15 CHAIRMAN CLARK: Do you have anything you wish
16 to say with regard to 4 before we pass on to 5?

17 MR. SAMELSON: No.

18 CHAIRMAN CLARK: Mr. Samelson, would you read
19 Number 5 now, please?

20 MR. SAMELSON: Petitioners contend that the
21 applicant and Regulatory Staff have not adequately
22 demonstrated that the Emergency Core Cooling System for
23 Clinton meets the requirements of 10 C.F.R. Part 50.46 and
24 10 C.F.R. Part 50, Appendix K.

25

1 There is one point we'd like to point out
2 and that has to do with the geotechnical site of the
3 testing operation for the cooling system. The review of
4 the Final Safety Analysis Report demonstrates that no
5 borings were done for that part of the site supporting the
6 Emergency Core Cooling System. Instead, I simply used the
7 borings that were located near the main plant. We think
8 this is insufficient.

9 The second point of specificity regards the
10 adequacy of the capabilities of the core splash adequately
11 cooled the core. We realize that this has been raised by
12 the Staff and the test action plan has generic issue but
13 if I may make a short statement as with regards to these
14 generic issues, it's our reasoning on the case that the
15 burden is on the applicant to show why this plant can go on
16 line without a resolution of all those unresolved issues;
17 and instead of requiring the intervener who has less access
18 to information. I think the burden is on the applicant to
19 show how each of the issues is being resolved for the
20 Clinton Unit 1 and 2.

21 CHAIRMAN CLARK: Mr. Fazio?

22 MR. FAZIO: I don't have any questions, Judge
23 Clark. At some appropriate time, I'd like to make a short
24 statement.

25

1 CHAIRMAN CLARK: I understand.

2 Mr. Goddard?

3 MR. GODDARD: I have no questions. I also would
4 like to make a statement, Judge Clark.

5 CHAIRMAN CLARK: Judge Parrish?

6 MR. PARRISH: No questions.

7 CHAIRMAN CLARK: Judge Ferguson?

8 MR. FERGUSON: Nothing.

9 CHAIRMAN CLARK: Mr. Fazio, you may now make a
10 statement.

11 MR. FAZIO: Judge Clark, I just want to make sure
12 that everybody understands, including the Prairie Alliance
13 members who are here, that irrespective of whether there
14 are any intervention petitions allowed and irrespective of
15 whether there are any contentions allowed at the hearing
16 proceeding, the Illinois Power Company will be required to
17 and will satisfy all of the Staff's concerns and all of the
18 regulations; and in the affirmative manner involved many,
19 many man years of work before the Staff will be in a
20 position to recommend issuance of the operating license; and
21 I just wanted everyone to understand that this kind of
22 proceeding can go forward even without a hearing.

23 CHAIRMAN CLARK: Mr. Goddard?

24 MR. GODDARD: Thank you, Judge Clark. With
25

1 regard to the reference in Contention 5, and I will point
2 out the similar references that exist in Contention 6, 7
3 and 10 to the Regulatory Staff.

4 The Regulatory Staff, as we indicated, has
5 not yet issued its Safety Evaluation Report for each of
6 these units but it does so. It will evaluate each of these
7 systems or conditions against the applicable regulations
8 and discussion will be presented in the SER.

9 As to the contention itself, the Staff is
10 in a position that the inadequacy alleged by the petitioners
11 has not been demonstrated with the requisites specificity.

12 CHAIRMAN CLARK: Thank you. Do you have any
13 response to this or are you ready to proceed to the next
14 contention, Mr. Samelson?

15 MR. SAMELSON: Ready to proceed.

16 CHAIRMAN CLARK: Well, read the next contention,
17 Contention 6, I expect?

18 MR. SAMELSON: Petitioners contend that the
19 applicant and Regulatory Staff have not demonstrated that
20 the result of human error has been examined as required
21 by 10 C.F.R. Part 50, Appendix A, Criteria 19, 20, 22 and
22 29.

23 Specifically, a review of the Final Safety
24 Analysis Report shows that on top of decrease in reacting
25

1 coolant temperature, and the subtopic contained there -- I
2 mean on an effect of single failures and operators errors,
3 we consider the discussion in that section inadequate and
4 that it only discusses single failures for each type of
5 possible related accident, and that we've experienced
6 since Three-Mile Island has shown that on multiple
7 sequence accidents, the failure should be accounted for.

8 CHAIRMAN CLARK: Any questions, Mr. Fazio?

9 MR. FAZIO: Mr. Samelson, I was of the opinion that
10 the kinds of failures you just specifically referred to were
11 not human errors, and Contention 6 was intended to deal
12 with human errors; and was I wrong in my assumption?

13 MR. SAMELSON: Well, it has to do with human
14 errors insofar as of the discussion that I cited in the
15 SER and it states that the effect of single failures in
16 operators errors are only discussed with regard to single
17 failures; and what we're saying is that a combination of
18 human error plus single failures plus multiple sequence
19 accidents should be considered.

20 MR. FAZIO: I have no further questions.

21 CHAIRMAN CLARK: Mr. Goddard?

22 MR. GODDARD: I have no questions, Judge Clark.

23 CHAIRMAN CLARK: Do you wish to make further
24 comments, Mr. Fazio?
25

1 MR. FAZIO: No, sir. We'll stand on our written
2 statement.

3 CHAIRMAN CLARK: Mr. Goddard?

4 MR. GODDARD: Again, the Staff would oppose this
5 contention of being excessively vague for litigation.

6 CHAIRMAN CLARK: Do you wish to ask any questions,
7 Judge Parrish?

8 MR. PARRISH: Yes.

9 Mr. Sameison, are you saying that human error
10 during multiple sequence accidents should be accounted for?

11 MR. SAMELSON: Yes.

12 MR. PARRISH: Okay.

13 CHAIRMAN CLARK: Judge Ferguson?

14 MR. FERGUSON: Are you aware, Mr. Sameison, of
15 any effort to, in fact, do that?

16 MR. SAMELSON: Not at this time, no.

17 MR. FERGUSON: All right. Thank you.

18 CHAIRMAN CLARK: Next contention, please.

19 MR. SAMELSON: Contention 7: Petitioners contend
20 that the applicant and Regulatory Staff have not adequately
21 demonstrated that the Clinton nuclear system meets the
22 requirements of 10 C.F.R. Part 50, Appendix A, General
23 Design Criteria for Nuclear Power Plants.

24 Specifically, we'd like to call attention to
25

1 Criteria 19. I believe that the FSAR is conclusory
2 incomplete on this point that would -- has to do with the
3 equipment outside the control room shall have the design
4 capability of the potential of the reactor, and subsequent
5 control shutdown.

6 Secondly, I call attention additionally to
7 Criteria 61 which requires fuel storage handling systems
8 to be designed to insure adequate safety. I believe that the
9 Clinton fuel storage facilities are inadequate and that
10 they were originally designed for short-term service. Since
11 then, spent fuel pool now is being designed indefinitely
12 with on-site storage pools. It would be appropriate
13 inspection schedules and other identification should be
14 identified.

15 CHAIRMAN CLARK: Mr. Fazio?

16 MR. FAZIO: Mr. Samelson, in respect of Criteria
17 19 in your oral comments, you made a statement that the
18 FSAR, the Final Safety Analysis Report, was conclusory and
19 incomplete.

20 Would you refer us to specific portions of
21 the document which you feel are lacking?

22 MR. SAMELSON: I don't have those with me at this
23 time. It's quite cumbersome to bring the 19 volume report
24 and we don't even have our own copy of it. I'm sure your
25

1 engineers will know where the Criteria 19 was discussed
2 in the FSAR.

3 MR. FAZIO: With respect to the fuel storage
4 facility point, are you aware that there was an amendment
5 to the construction permit to account for a change in
6 design of the fuel storage pool?

7 MR. SAMELSON: No, I'm not aware of that.

8 MR. FAZIO: We have no other questions.

9 CHAIRMAN CLARK: Mr. Goddard?

10 MR. GODDARD: The Staff has no questions, Judge
11 Clark.

12 CHAIRMAN CLARK: Judge Parrish?

13 MR. PARRISH: No.

14 CHAIRMAN CLARK: Mr. Ferguson?

15 MR. FERGUSON: Just very briefly, Mr. Samelson,
16 I think that it should be made very clear that what the
17 Board would like to do is to really understand the things
18 that you are concerned most about and to try to, in our
19 minds, determine just what those points are.

20 You mentioned just a moment ago about your
21 concern for an inspection schedule of the spent fuel
22 storage pools. By expressing your concern that way, are
23 you suggesting that there is no such schedule or are you
24 unhappy with the schedule if one does exist? Are you
25

1 unhappy with that schedule?

2 MR. SAMELSON: The latter.

3 MR. FERGUSON: Could you very briefly tell us
4 what it is that you're unhappy about?

5 MR. SAMELSON: Well, although I have not seen the
6 amendment to the storage pool design, we believe that the --
7 given a change in storage of fuel on the site would require
8 more frequent and more -- some substance of changes with
9 regard to the waiting inspections done. I can't spell it
10 out at this time, but I think that gives adequate basis for
11 the applicant to know the kinds of errors we're concerned
12 with and of which they'll have to fend against at a hearing.

13 MR. FERGUSON: So, to try to summarize at least
14 what I understand you to have said on that point, you
15 feel that there has been some change in the fuel loading?
16 You feel there has been some change in the storage pool
17 design? You feel there has been some change in the
18 inspection schedule of that storage pool? You don't know
19 what it is but you'd like to investigate it; is that
20 correct?

21 MR. SAMELSON: Yes.

22 MR. FERGUSON: Thank you.

23 CHAIRMAN CLARK: Any further comment, Mr. Fazio?

24 MR. FAZIO: We would raise the same objections
25

1 that are stated in our answer to what we perceive as to new
2 specific intentions raised orally here today, and we would
3 make a further comment that we think those are raised too
4 late.

5 CHAIRMAN CLARK: Mr. Goddard?

6 MR. GODDARD: Again, the Staff would oppose the
7 contention as drafted on vagueness. To the extent that the
8 fuel storage issues have been raised orally by the petitioners
9 perhaps this contention could be reformed into a contention
10 in acceptable form. However, we do not feel that the
11 contention as presented here even with the oral statement
12 made by Mr. Samelson, meets the requirements of the Commission
13 regulations.

14 CHAIRMAN CLARK: Thank you. Any further comment,
15 Mr. Samelson, on this contention?

16 MR. SAMELSON: No, thank you.

17 CHAIRMAN CLARK: Will you take the next
18 contention, please?

19 MS. MUELIER: Petitioners contend that the
20 applicant has not demonstrated that the Clinton reactor
21 containment and supporting structure of the pressure vessel
22 meet the requirements of 10 C.F.R. Part 50, Appendix A,
23 Criteria 4, 16, 30 and 51.

24 Just as further clarification on this
25

1 petition, we are calling into question here the ability of
2 the applicant to assure us that the reactor containment
3 system meets the requirements of these questions in the
4 10 C.F.R. and the ability of the dry well-wet well membrane
5 to understand the loss of coolant to produce transient load
6 at the experience and the ability of containment pressure
7 of reactors that might be reduced. I'm starting over.

8 That Clinton containment systems meets the
9 requirements that are cited in this contention and the
10 inability of the containment of the dry well- wet well
11 membrane to withstand the loss of coolant and the accident
12 induced to transient load it may experience and the ability
13 of the containment pressure boundary to prevent fractures
14 that may be induced by pressure or impact loads from
15 transient dynamics or missiles and the capability to test
16 the leakage rate of the dry well-wet well membrane and other
17 critical parts.

18 CHAIRMAN CLARK: Yes, sir. Any questions, Mr.
19 Fazio?

20 MR. FAZIO: To our way of thinking, that
21 contention is -- goes to the design of the plant and if you
22 mean it to raise an issue which relates to something other
23 than the design of the plant which was already approved in
24 the construction permit hearing, we don't understand and
25

1 we'd like some clarification.

2 MR. SAMELSON: Do we have to respond or is that --

3 CHAIRMAN CLARK: No. You can respond. You have
4 the permission to respond.

5 MR. SAMELSON: I would like to say that my review
6 of the FSAR I found that, well, these issues where we
7 rehashed that in the FSAR in the Final Safety Analysis
8 Report and these issues have to be covered again in some
9 way that they're not just a design problem but they're
10 also a safety problem and that they weren't dealt with
11 specifically.

12 CHAIRMAN CLARK: Is what you're saying is that
13 something which has been decided in the construction permit
14 must again be reviewed, and if so, what is the justification
15 for reviewing something which has once been settled?

16 MR. SAMELSON: No, I'm not saying that the
17 construction permit was -- needs to be reviewed. I'm just
18 questioning the content of the standards dealing with
19 these safety problems.

20 CHAIRMAN CLARK: Well, what is the difference
21 between that and what I said?

22 MR. SAMELSON: I'm sorry. I might have mis-
23 understood you.

24 CHAIRMAN CLARK: I don't understand your position.
25

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1 MR. SAMELSON: I feel that this is a reasonable
2 issue to raise at this point.

3 CHAIRMAN CLARK: Mr. Goddard?

4 MR. GODDARD: Judge Clark, we have no questions
5 on this contention.

6 CHAIRMAN CLARK: Judge Parrish?

7 MR. PARRISH: Miss Mueller, I wonder if you would
8 look at Contention 3 and Contention 8 and briefly tell me
9 how they differ? They both refer to the reactor containment.

10 MS. MUELLER: They are very similar. The Contention
11 8 also says the supporting structure of the pressure vessel.
12 It's supposed to be broader systems that they're referring
13 to, and Contention 3 was not meant to include this
14 supporting structure of the pressure vessels. Contention 3
15 was supposed to be a smaller issue.

16 CHAIRMAN CLARK: Any other questions?

17 MR. PARRISH: That's enough.

18 CHAIRMAN CLARK: Judge Ferguson?

19 MR. FERGUSON: No.

20 CHAIRMAN CLARK: Do you wish to make any further
21 comment on this contention, Mr. Fazio?

22 MR. FAZIO: No, sir.

23 CHAIRMAN CLARK: Mr. Goddard?

24 MR. GODDARD: Judge Clark, the Staff would oppose
25

1 this contention, first, as being vague; and second, as being
2 either repetitive of or incorporated in Contention Number 3.

3 CHAIRMAN CLARK: Do you have any response that
4 you wish to make at this time, Mr. Samelson?

5 MR. SAMELSON: No, thank you.

6 CHAIRMAN CLARK: At this point, we'll take a
7 10 minute recess.

8 (WHEREUPON, a short recess in
9 the above-entitled cause was
10 had and the following proceedings
11 were had, to-wit:)

12 I should like to say to you that this Board
13 is much more interested in substance than we are in form.
14 We recognize that the regulations require that things be
15 done in a certain matter, and we also recognize that the
16 interveners are not represented by legal counsel.

17 We particularly are impressed with the fact
18 that Mr. Goddard's position concerning the contentions that
19 we have so far discussed tend to be in the direction that
20 they're too vague and they do not adequately meet the
21 regulations applying thereto.

22 Mr. Goddard, have you any suggestions how
23 this situation may be rendered?

24 MR. GODDARD: Judge Clark, in other cases with
25

1 which Mr. Karman and I have been connected in the past, one
2 approach that has been taken has been to meet with the
3 petitioner and explain what we consider to be the
4 deficiencies in their proposed contention; attempt to
5 ascertain the nature of their concerns with greater
6 specificity obviously than has been set forth in their
7 proposed contentions; and then to attempt to demonstrate a
8 means by which they could reduce these concerns to writing
9 with such specificity and basis stated in the contention
10 as required by 10 C.F.R. of 7.14 that they will be
11 susceptible to the development of evidence by the Staff and
12 the applicant and the State upon those contentions.

13 I don't mean to imply that the Staff would
14 draft the contentions for the petitioners nor to go so far
15 to provide your direct assistance in drafting the contentions
16 but rather attempting to resolve the different views that
17 the Staff and the petitioners have as to what constitutes
18 a suitable contention to know that.

19 Naturally, the applicant in any such case
20 would be invited or certainly welcome to participate in
21 any such discussions. Of course, it would be up to the
22 applicant and their counsel. I'm not suggesting that that
23 be done here but this might be one way to resolve the
24 issues.
25

1 Another way to resolve the issue would be
2 simply to state in a summary fashion the position of each
3 party on the contentions as they are drafted. Those
4 contentions are before the Board, and let the Board make
5 a decision as to each of the contentions given the views
6 of each party.

7 Have I answered your question, Judge Clark?

8 CHAIRMAN CLARK: Thank you. If the Board is to
9 reject these contentions because of the inexperience
10 represented in the interveners, I feel that perhaps we have
11 not yet reached the ideal solution to the problem, and
12 therefore, I would like to ask Mr. Samelson would he be
13 agreeable to sitting down with the Staff with the idea in
14 mind of revising his contentions with their advice but not
15 with their participation perhaps so as it's presented in
16 contentions, which more truly meet the requirements of the
17 regulations and also meet your requirements as to the
18 contentions that you wish to pursue.

19 MR. SAMELSON: We would welcome such an opportunity
20 to meet with the Staff and to imply the standards that are
21 set down. We appreciate the fact that the Board and the
22 Staff recognize the limitations under which we're working
23 and understand that this proposed process is not a precedent
24 to the initial proceedings, and in the alternative, we would
25

1 also welcome additional time or procedure to make our
2 contention more specific through a written process as well
3 but we would definitely take you up on that offer.

4 CHAIRMAN CLARK: Thank you, Mr. Samelson.

5 Mr. Fazio, would you look with favor on such
6 a program and would you like to participate in it?

7 MR. FAZIO: Judge Clark, we would certainly look
8 in favor on such a program if it can be accomplished today.
9 We would pose any suggestion that proceedings be lengthened
10 beyond times that are set by the Board of the first instance
11 to accomplish this.

12 We would encourage a meeting today with the
13 understanding that the parties contending meeting would
14 attempt to come back when this hearing would be reconvened
15 this afternoon with something to offer to the Board which
16 might come out of their meeting. I think that we would not
17 participate in the meeting.

18 CHAIRMAN CLARK: I see. Mr. Goddard, I have some
19 question in my mind as to whether a meeting between you
20 and Mr. Samelson would be able to meet your objectives if
21 it were held between now and the afternoon session, and it's
22 not at all unprecedented for more time for this kind of
23 thing to be done, and the second special prehearing conference
24 to be held thereafter. If you were to participate in such
25

1 an endeavor with the intervener's representative, what
2 kind of time schedule would you propose?

3 MR. GODDARD: Judge Clark, first I might say that
4 the schedule proposed by Mr. Fazio the Staff finds utterly
5 unacceptable. There is no way that we can attempt to meet
6 and come back this afternoon based on my experience in
7 other cases. With the view to the dates for the Staff
8 issuance of documents during 1982 and the time frame of
9 this proceeding as we would expect it to unfold at this
10 stage, I see no reason why we'd have to complete any
11 meetings or discussions today. I'm not ready to set a
12 fixed time frame but I'm sure we can come back within the
13 next four to six weeks with a supplemental -- that is, the
14 petitioners could probably come back within four to six
15 weeks with a second supplemental petition, and at that
16 point, we can attempt to schedule a second special
17 conference if it was in accordance with the views of the
18 Licensing Board.

19 I don't feel, based on the time schedule of
20 this case, that we're under any extreme pressures.

21 CHAIRMAN CLARK: Well, we will have a short recess
22 while the Board discusses this matter among themselves and
23 we will return very shortly with our views as to what
24 the next step should be.
25

1 (WHEREUPON, a short recess in
2 the above-entitled cause was
3 had and the following pro-
4 ceedings were had to-wit:)

5 The conference is reconvened.

6 Do I understand that the proposed date for
7 the Safety Evaluation Report by the Staff is October of
8 this year?

9 MR. GODDARD: No, sir. The proposed date for the
10 issuance of the Safety Evaluation Report, Clinton Station
11 Unit 1 is October 1982.

12 CHAIRMAN CLARK: October 1982?

13 MR. GODDARD: The projected date for the final
14 environmental statement for the Clinton Station Unit 1 which
15 although is not indicated on your document, would likely
16 cover Clinton Unit 2 as well as March 1982.

17 CHAIRMAN CLARK: Thank you. Before a hearing
18 can be heard on contentions if petitioners is to intervene
19 or allowed to intervene these two reports, have to be
20 filed by the Staff. This means that according to the
21 persons schedule, it will be at least October 1982 before
22 the hearing could be held even if we finished these
23 preliminary matters in advance.

24 In view of the fact it's the opinion of the
25

1 Board that although we deplore any unnecessary delays, we
2 feel that a delay of not to exceed six weeks -- that during
3 which time the Staff will meet for the representatives of
4 the petitioners to intervene is a justifiable delay since
5 I do not believe the Staff or the Board does not believe
6 that it will lengthen the period before an operating license
7 could be granted in any event; and the point in concern as
8 I said earlier, that the interveners be given an opportunity
9 to present the items which they wish to be contested, any
10 form such that the substance can be addressed and therefore
11 our ruling is that this conference will be adjourned for a
12 period not to exceed six weeks and that notice of a second
13 special prehearing conference will be issued by the Board
14 upon receipt of advice by the Staff that they have performed
15 this discussion and assistance to the interveners.

16 We would also like a report from the Staff
17 not later than six weeks from today as to what progress they
18 have made in this regard.

19 MR. GODDARD: Yes, Judge Clark. If I may ask you
20 for a clarification you referred to the adjournment of this
21 proceeding for a period not to exceed six weeks. Am I to
22 interpret that as to adjourn this proceeding during which not
23 to exceed six weeks will elapse before the next supplemental
24 petition of the petitioners is filed?
25

1 CHAIRMAN CLARK: Well, I've used the word
2 adjournment in this proceeding. Perhaps not explaining
3 what I meant, but we have only covered less than half of
4 the proposed contentions but we have heard enough of them
5 so that it's very clear to this Board that the objections
6 at least in parting to form rather than substance and therefore
7 we feel that it would be a waste of everyone's time to go
8 through the rest of these contentions today.

9 With that understanding, we will propose to
10 close this special prehearing conference today and institute
11 a second special prehearing conference when we have the
12 report from the Staff that they have conferred with the
13 representatives of the interveners, and we would expect the
14 representative of the interveners to file a second
15 supplement to their petition to intervene giving us the
16 results of the revisions that they have made.

17 Now, before setting the second special
18 prehearing conference, the applicants should have an
19 opportunity to study that second supplement; and so, the
20 date for the second special prehearing conference will be
21 set with that in mind so that the applicant does not have
22 to come in and just read the second supplement the day of
23 the hearing.

24 In that connection, after the close of the
25

1 hearing, Mr. Samelson, or perhaps we can do it on the
2 Record, your filings have not been in accordance with the
3 accepted procedure. I'm sure you have received filings
4 from the applicant, have you not?

5 MR. SAMELSON: Yes, we have.

6 CHAIRMAN CLARK: And have you noticed the proof
7 of service which is attached to their filings?

8 MR. SAMELSON: Yes.

9 CHAIRMAN CLARK: And you will note who gets copies
10 of it and you will note that the Members of the Board also
11 should receive copies of the filings, and thus far, the
12 Board has not received yours with any degree of speed.
13 As a matter of fact, I saw your last filings just day
14 before yesterday.

15 MR. SAMELSON: I apologize for my misreading of
16 the Commission.

17 CHAIRMAN CLARK: We understand, but I'm just
18 calling it to your attention so that your next filing will
19 be in accordance with the normal procedure.

20 MR. SAMELSON: It certainly will.

21 CHAIRMAN CLARK: Mr. Fazio, do you have any
22 comment to make before we close this conference?

23 MR. FAZIO: Just-- Judge Clark, I just want to
24 make one comment; that is, there is an on-going disagreement
25

1 between the Staff and the applicant as to how quickly the
2 plans will be constructed. My present understanding is that
3 the applicants feel it will be constructed six months
4 earlier than the Staff and that certain Members of the
5 Staff may -- given the applicants some assurance that if
6 the construction moves along faster than they will
7 anticipate, they will move along the licensing procedures
8 a little bit faster to accommodate the faster pace. So,
9 I'd like it understood that the applicants still feel the
10 time is very much of the essence and we still feel that
11 we're going to be able to construct a schedule that is
12 faster than the Staff currently believes. We'd like to
13 have the freedom to move up the licensing process if we
14 are, in fact, able to move up the construction process.

15 To that end, we would volunteer to within
16 10 days and after service on us of the second supplement
17 to be in a position to respond so we would not need any
18 large amount of time in between to respond. We'll do
19 that quite promptly toward the end of the next prehearing
20 conference so it can be scheduled at the earliest possible
21 time.

22 CHAIRMAN CLARK: Well, bear that in mind. Mr.
23 Goddard, do you have any further comments to make at this
24 time?
25

1 MR. GODDARD: No, I do not, Judge Clark. Than
2 you.

3 CHAIRMAN CLARK: Mr. Samelson?

4 MR. SAMELSON: We have one further request; that
5 is, we would like a copy of the Final Safety Analysis Report
6 so that we may read it and have access to it and for our
7 convenience of the applicant, we understand they have
8 various members come to their office to view it; and only
9 during certain hours and since we are not professional
10 consultants and it's difficult for us to go over to the
11 attorneys offices --

12 CHAIRMAN CLARK: This is the one that the
13 applicants filed?

14 MR. SAMELSON: That's right.

15 MR. FAZIO: Judge Clark, we will agree to give
16 the Prairie Alliance interveners a copy of the Final Safety
17 Analysis Report. We'll be able to get one in their hands
18 sometime next week.

19 CHAIRMAN CLARK: Thank you very much, Mr. Fazio.
20 We appreciate that.

21 MR. SAMELSON: Thank you.

22 CHAIRMAN CLARK: Does that finish?

23 MR. SAMELSON: Yes, sir, it does.

24 CHAIRMAN CLARK: Has any participant representing
25

1 parties in this special prehearing conference have anything
2 else to say before we terminate the conference?

3 (Chorus of naves.)

4 This conference stands adjourned.

5 (The hearing in the above-
6 entitled cause was thereupon
7 adjourned.)

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This is to certify that the attached proceedings before the

Atomic Safety and Licensing Board

in the matter of: Illinois Power Company, et al.

Date of Proceeding: January 29, 1981

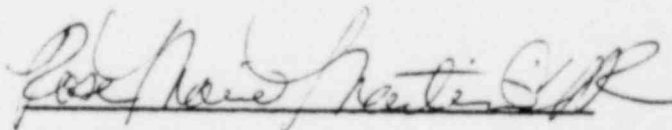
Docket Number: 50-461, 50-462

Place of Proceeding: Urbana Civic Center

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Rose Marie Martini, C.S.R.

Official Reporter (Typed)



Official Reporter (Signature)