

1 MS. BRADFORD: It is Contention 7 of the
2 Anti-Nuclear Group Representing York. It is on emergency
3 planning.

4 CHAIRMAN SMITH: It is a new contention?

5 MS. BRADFORD: Yes, sir.

6 CHAIRMAN SMITH: All right. We will adjourn until
7 about 3:30, I guess, or until we are summoned.

8 MR. TOURTELLOTTE: I might suggest 3:00, and
9 perhaps we can take up ANGRY's matters and then this list,
10 because it seems like this list is long enough that it might
11 take at least 30 minutes.

12 CHAIRMAN SMITH: All right.

13 (Recess.)

14 CHAIRMAN SMITH: Having been prodded by the list
15 of issues pending provided before the break, the Board is
16 prepared to rule on, as a matter of fact, all of them; and
17 we can get those out of the way.

18 First, we will deal with ANGRY's motion to adopt
19 Sholly's contentions, emergency planning contentions, the
20 Sholly Contention 9 on radiation monitoring. We grant the
21 motion with respect to Sholly Contention 9.

22 We deny the motion with respect to the emergency
23 planning contentions except for Sholly Contention 9, Roman
24 numeral B and A Roman numeral I. The reasons for the denial
25 are substantially set forth in Mr. Zahler's memorandum on

1 the subject. We pointed out in a rather parallel
2 circumstance in the October 3rd emergency planning session
3 when we would not allow Mr. Cunningham to reinstate all of
4 his earlier contentions when it was known that some were
5 duplicates, without an analysis and without a direct
6 statement that there was a difference and explaining why.

7 The motion simply did not contain any
8 justification. It would have placed the burden upon the
9 Board to weed out duplicates. It did not address the
10 factors that should have been addressed. And independently
11 reviewing the contentions, we, on our own initiative, do not
12 believe that they are necessary to a complete record in the
13 proceeding.

14 So the ruling is you may adopt Sholly Contention
15 8, Roman numeral B -- I mean 8 -- 8 (I)B and 8 (I)I and
16 Sholly Contention 9.

17 The Board will rule, for reasons which we will set
18 forth in a memorandum when we have opportunity, that we will
19 not permit the testimony of Dr. Beyea. This is not the
20 ruling. I am just telling you that we will issue a
21 memorandum explaining it.

22 The reason I am making the statement now is to
23 give the parties as much notice as possible so that for
24 whatever plans had to be made.

25 Dr. Little pointed out to me it might be helpful

1 if you would refer to the transcript on the October 30
2 session following 4421 for our statements that -- to Mr.
3 Cunningham about the problems of just trying to reinstate a
4 large group of contentions without analysis and without
5 asserting a need for it. That explains some of our
6 reasoning on your motion to adopt the large number of Sholly
7 contentions.

8 Mr. Sholly's withdrawal of Contention 17 is okay
9 with the Board. We are not going to retain any of those --
10 that contention. We are ruling that ECNP's motion -- ECNP's
11 motion, which is styled as a response, we are ruling on the
12 motions contained in that. This is "Response of the
13 Environmental Coalition on Nuclear Power to Board Memoranda
14 and Orders" of November 25, December 4 and -11, 1980.

15 First we rule that ECNP is in default with respect
16 to its Contentions 4B and 4C because of a failure to respond
17 to the Board's order to state its intentions with respect to
18 its remaining -- to state its intentions with respect to its
19 remaining contentions.

20 The Board's order of November 25, 1980, required
21 ECNP to address its intentions with respect to all of its
22 contentions, remaining contentions. ECNP responded with
23 respect to only its emergency planning contentions. So our
24 ruling is that they are in default on those contentions. We
25 have examined those contentions, and we do not believe that

1 they are necessary to a complete record in this case, so
2 those contentions are dismissed.

3 We are denying ECNP's request for discovery,
4 because ECNP has not explained the nature of its discovery
5 that it seeks, nor has it explained why the Board-mandated
6 informal discovery meetings were not adequate for its
7 purposes, nor whether they were -- nor why they, as seems to
8 be the case, they did not take full advantage of those
9 discovery opportunities. However, our ruling does not
10 depend upon the later factor.

11 We are denying the motion by ECNP to disqualify
12 this Board because it takes the wrong impression from the
13 statement that they refer to; that when I stated that the
14 Board was not competent to rule on emergency planning
15 contentions, I was not referring to our abilities. I was
16 referring to, in somewhat sloppy and imprecise language, to
17 the problems of having so many contentions and having them
18 at such an early stage that we did not feel it was
19 appropriate for us to get into -- unnecessarily and
20 prematurely -- into the many, many details of emergency
21 planning.

22 As has been noted by the response of the Licensee
23 to that motion, there is no statutory requirement or
24 regulatory requirement that there be any special expertise
25 in Nuclear Regulatory Commission proceedings for presiding

1 officers.

2 I think that disposes of all -- yes. Mr. Basdekas
3 stated in his memorandum of October 10, 1980 to Mr.
4 Tourtellotte, referring to the safety implications of
5 control systems and plant dynamics and their relevance to
6 the TMI-1 hearing, that the issue, although it has been
7 treated as a generic issue, applies directly to TMI-1.

8 We have read his papers, and although we
9 understand the points he is making, we do not know if he
10 means any special application, and we do not know what he
11 means by that statement. And we would like to have him come
12 to the hearing and explain it.

13 The statement is made some place else, too, and at
14 the moment I cannot locate it. But he makes the statement
15 that the views presented by him have application to TMI-1.
16 I just cannot find it, but it is made more than once in the
17 papers he submitted; but it was made at least once in the
18 second full paragraph of his letter to Mr. Tourtellotte of
19 October 10, 1980.

20 I think that -- oh, Ms. Bradford, you served --
21 you provided the Board with a copy of your Contention Roman
22 numeral VII. Have you served that?

23 MS. BRADFORD: Yes, sir.

24 CHAIRMAN SMITH: You served it on the other
25 parties?

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MS. BRADFORD: Yes, sir.

CHAIRMAN SMITH: Okay. Thank you.