

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

Gulf States Utilities Co., et al

(River Bend Station, Units 1 & 2)

Docket No 50-458

50-459

*Please return original to Jack Whetstone,
E/W-439 - Distribution: TR 01*

Location: Baton Rouge, LA

Pages: 1-132

Date: Tuesday, June 14, 1983

TAYLOR ASSOCIATES

Court Reporters
1625 I Street, N.W. Suite 1004
Washington, D.C. 20006
(202) 293-3950

8306170289 830614
PDR ADOCK 05000458
T PDR

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 BEFORE THE ATOMIC SAFETY & LICENSING BOARD

4 ----- x
5 In the Matter of: :
6 Gulf States Utilities Co., et. al : Docket Nos. 50-458
7 (River Bend Station, Units : 50-459
8 1 & 2) :
9 ----- x

10 State District Court Building
11 Appellate Courtroom
12 222 St. Louis
13 Baton Rouge, LA.

14 Tuesday, June 14, 1983

15 The pre-hearing in the above-entitled matter
16 convened, pursuant to notice, at 9:30 a.m.

17 BEFORE:

18 B. PAUL COTTER, ESQ., Chairman,
19 Atomic Safety & Licensing Board
20 U.S. Nuclear Regulatory Commission
21 Washington, D.C. 20555

22 DR. RICHARD COLE, Member
23 Atomic Safety & Licensing Board
24 U.S. Nuclear Regulatory Commission
25 Washington, D.C. 20555

GUSTAVE LINENBERGER, Member
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

ar11b2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25APPEARANCES:On behalf of the Applicants:

TROY B. CONNER, JR., ESQ.
MARK J. WETTERHAHN, ESQ.
Conner & Wetterhahn, P.C.
1747 Pennsylvania Ave., N.W.
Washington, D.C. 20006

On behalf of the Petitioner, Louisianians for
Safe Energy:

JAMES PIERCE, ESQ.
235 West State
Baton Rouge, LA

On behalf of the Petitioner, Louisiana Consumers
League:

STEPHEN IRVING, ESQ.
DORIS FALKENHEIMER
355 Napoleon St.
Baton Rouge, LA

On behalf of Gretchen Reinike Rothschild:

LINDA WATKINS
355 Napoleon St.
Baton Rouge, LA

On behalf of the State of Louisiana:

IAN DOUGLAS LINDSEY, ESQ.
Office of the Attorney General
7434 Perkins
Baton Rouge, LA

On behalf of the Regulatory Staff:

DAVID REPKA, ESQ.
EDMUND REIS, ESQ.
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

P R O C E E D I N G S

1 JUDGE COTTER: Will the hearing please come to order.

2 This is the pre-hearing conference before an
3 Atomic Safety and Licensing Board of the United States Nuclear
4 Regulatory Commission in an administrative proceeding entitled
5 In the Matter of Gulf States Utilities Company and Cajun Electric
6 Power Cooperative, NRC Docket Numbers 50-458 and 50-459.
7

8 The two utilities, Gulf States and Cajun Electric,
9 will be referred to herein after as Applicants.

10 This proceeding concerns the application for a
11 facility operating license which would authorize the Applicants
12 to possess, use, and operate the River Bend Station Units 1 and
13 2, two boiling water nuclear reactors located some three
14 miles southeast of St. Francisville on the Mississippi River
15 and approximately 24 miles north-northwest of Baton Rouge,
16 Louisiana. Each of the reactors is designed to operate at
17 a power level of 2,894 megawatts thermal with an equivalent
18 net electrical output of approximately 936 megawatts.

19 Construction of the facilities was authorized on
20 March 25, 1977. Notice of the Applicant's request for a
21 facility operating license was published on September 4, 1981
22 in the Federal Register and it was given general public
23 distribution. It provided that any person whose interest
24 might be affected could request a hearing and file a petition
25 for leave to intervene in accordance with the Commission's

ar11b4

1 Rules of Practice. Those Rules of Practice are as set out
2 in Title 10 of the Code of Federal Regulations, Part 2.

3 Petitions were received from the Louisiana Consumers
4 League, Inc., Louisianians for Safe Energy, Inc., and Gretchen
5 Reinike Rothschild, individually. These two corporate and
6 single individual petitioners will be referred to as Joint
7 Petitioners.

8 The State of Louisiana also petitioned to partici-
9 pate both as a party to the proceeding, and as an interested
10 state under our rules.

11 All of these Petitioners have been found to have
12 standing and will be admitted as parties to the proceeding
13 upon a finding by this Board that they have filed an admissible
14 contention.

15 The three Administrative Judges comprising this
16 Board consist of Gustave Linenberger, a physicist, who is
17 seated to my right; and Dr. Richard F. Cole, an environmental
18 scientist and engineer, who is seated to my left. I am
19 B. Paul Cotter, Junior. I am trained in law and administra-
20 tive proceedings and serve as Chairman of this Board.

21 The purpose of this proceeding is to consider
22 the contentions filed by the Petitioners. This Board will
23 issue an Order some 30 to 35 days hence, ruling on the
24 admissibility of some or all of the 20 contentions offered
25 today, and thus whether Petitioners may be admitted to the

1 proceeding as a party. If they are admitted as a party, then
2 notice of hearing will issue.

3 We will also consider today some preliminary proce-
4 dural matters, should one or more Petitioners be admitted.

5 With that preliminary statement, would the represen-
6 tatives of the parties please enter their appearance for the
7 record.

8 MR. CONNER: If the Board please, my name is Troy
9 B. Conner, Junior. With me is Mark James Wetterhahn, from
10 our firm of Conner & Wetterhahn, Washington, D.C.. We have
11 filed appearances of record.

12 JUDGE COTTER: Thank you.

13 MR. REPKA: My name is David Repka, with the
14 NRC Staff. With me is Edmund Reis, also of the Staff.

15 MR. IRVING: My name is Steve Irving of Baton Rouge
16 and with me is Doris Falkenheimer. We're counsel for the
17 Louisiana Consumers League, Incorporated.

18 MR. PIERCE: My name is James Pierce of Baton
19 Rouge. I represent Louisianians for Safe Energy, Incorporated.

20 MS. WATKINS: My name is Linda Watkins and I
21 represent Gretchen Reinike Rothschild.

22 MR. LINDSEY: I am from the Department of Justice,
23 State of Louisiana.

24 JUDGE COTTER: Thank you, ladies and gentlemen. Let
25 me take up a couple of preliminary matters.

arllb6

1 As a matter of personal practice, I have a habit,
 2 whenever it looks like we're getting into a debate that's
 3 going to take some time of going off the record until the
 4 parties sort out their position on the matter and then going
 5 back on the record so it can be stated simply as possible, and
 6 thus cut down all of our reading time and make every word a
 7 pearl.

8 A second preliminary matter is the concern that
 9 Judge Linenberger has as to whether or not he needs to change
 10 his name. Judge Linenberger was placed on this Board six
 11 to nine months ago, and his name was changed on the service
 12 list but some of the parties, or petitioners, have not yet
 13 changed or recognized that Judge Linenberger replaced Judge
 14 Remick. So, if you would please, on your service list, put
 15 Linenberger in place of Forrest Remick.

16 MR. IRVING: Mr. Examiner, we have met and reached
 17 a stipulation as to a number of contentions that I think might
 18 expedite the proceeding if we can read it into the record.

19 JUDGE COTTER: You may be jumping the gun a little
 20 bit on me but I would like to hear that eventually. I have
 21 a little laundry list here I want to run through.

22 MR. IRVING: Okay.

23 JUDGE COTTER: Could the Petitioners clarify their
 24 status as to -- I referred to you as Joint Petitioners but I
 25 am not clear on precisely what the relationship among you is

FORM SEL-711 REPORTERS PAPER & MFG. CO. 800-626-6313

arllb7

1 and whether one is going to speak for all or whether you have
2 worked on that yet.

3 MR. IRVING: We're all in the same office, and I
4 am referring to myself, Ms. Watkins, and Ms. Falkenheimer, and
5 we have worked together on the case. We probably will speak
6 with a spokesman, not necessarily the same spokesman, as to
7 the various contentions, pursuant to the organized contentions.

8 JUDGE COTTER: So what you will do is rotate
9 responsibility for specific contentions, but one person will
10 address them?

11 MR. IRVING: Yes, sir.

12 JUDGE COTTER: Thank you.

13 MR. COLE: Excuse me, Mr. Irving. You mentioned
14 that Ms. Watkins and Ms. Falkenheimer, what about Mr. Pierce?
15 Is he part of the Joint Intervenors also?

16 MR. PIERCE: Yes, I am. I do represent a different
17 client. The four of us actually, collectively, represent three
18 clients, but we have classified ourselves as Joint Intervenors.
19 We are, however, distinct of course from the State of Louisiana.

20 JUDGE COTTER: Yes. Maybe it would be appropriate
21 at this point for you to address that stipulation. We have a
22 question of the late filed contentions by the Joint Intervenors.

23 MR. IRVING: This would dispose of one of those
24 questions.

25 MR. WETTERHAHN: I will make any corrections that

arllb8

1 we deem necessary.

2 MR. IRVING: We have agreed, and would stipulate
3 on behalf of all the Joint Intervenors, to withdraw our
4 Contentions Number 2, 3 -- and I'm referring to the amended
5 contention list when I refer to these numbers --

6 JUDGE COTTER: Which amended contention list, the
7 one dated March 31 -- I'm sorry, May 31?

8 MR. IRVING: Yes. We would stipulate and agree to
9 withdraw numbers 2, 3, 5, 6, and 10, and in return the Appli-
10 cant would agree to withdraw any objection to the timeliness
11 and any objection to Contention Number 12, which deals with
12 the Asiatic clams. We would further stipulate and agree that
13 in the event the State of Louisiana, at some point in the
14 future, withdraws that contention, if it is admitted, that
15 we would agree to withdraw the contention at that point in
16 time also.

17 JUDGE COTTER: Is that a correct statement, Mr.
18 Wetterhahn?

19 MR. WETTERHAHN: Yes. One point of emphasis, though,
20 with regard to the timeliness of the other two late-filed
21 contentions. The stipulation does not affect our position as
22 far as the timeliness.

23 JUDGE COTTER: What is the number of those two
24 contentions?

25 MR. IRVING: 13 and 14 would be the other two.

ar11b9

1 MR. WETTERHAHN: Let me identify them by title,
2 Fossil Plant Thermal Discharges is 13, and 14 is Synergistic
3 Effects. We contemplated that those would be argued, both in
4 terms of timeliness and substance, at this pre-hearing conference.

5 MR. IRVING: We'd also had a discussion as to the
6 evacuation plan contention and I think we have reached an agree-
7 ment as follows: we will argue today the contention dealing
8 with prisons for the evacuation plan. And the reason for that
9 is that --

10 JUDGE COTTER: Go a little slower, we're making
11 notes.

12 MR. IRVING: The contention dealing with prisons,
13 regarding the evacuation plan. We will concede that the prison
14 is beyond the ten mile circle from the plant, and we will
15 argue the question today as to why we think the evacuation of
16 the prison should be considered. As to other evacuation
17 plan contentions arising out of the off-site evacuation plan,
18 which has not yet been filed, all parties would stipulate and
19 agree that we have a 60 day period from the service on us of
20 the off-site evacuation plan to raise contentions arising
21 out of that document. And that there would be no need for
22 making a special showing in order to have those contentions
23 admitted. Correct?

24 MR. WETTERHAHN: I think that's a fair representation.

25 MR. IRVING: Thank you.

ar11b10

1 JUDGE COLE: You mean a special showing for late
2 filing?

3 MR. IRVING: Yes, a special showing for a late
4 filing.

5 MR. WETTERHAHN: Maybe this is premature, but for
6 the consideration of the Board, we would like to stipulate
7 that the prison is about 18 miles from the facility, air miles.

8 MR. IRVING: We would also stipulate to that.

9 JUDGE COTTER: Do you have these stipulations in a
10 document, or are you going to proceed on the basis of the
11 transcript?

12 MR. WETTERHAHN: These were reached not more than
13 ten minutes ago, so I think we can proceed on the basis of
14 the transcript.

15 JUDGE COTTER: You think we have no choice other
16 than to proceed on the basis of the transcript?

17 (Laughter.)

18 MR. IRVING: In order for clarity's sake, if you
19 desire to prepare a document we can, over the lunch hour,
20 prepare it and perhaps get it signed and submitted.

21 JUDGE COTTER: I would appreciate if you did that.
22 I think there might be -- we'd avoid any possibility of ques-
23 tions about whether it was properly stated. It would suffice
24 if you were to prepare that document and submit it to us, oh,
25 within a week or ten days.

arllb11

1 MR. WETTERHAHN: Either way, perhaps if we can work
2 it out over the lunch hour that would be better to show. If
3 there are any problems in its written form, we'd like to bring
4 that to the attention of the Board this afternoon rather than
5 to let it leave with the impression that we've reached agreement
6 when we have not.

7 JUDGE COTTER: Very good.

8 MR. REPKA: For the information of the Board, the
9 Staff has no objection to the substance of those stipulations.

10 JUDGE COTTER: Thank you.

11 Then, that takes me to the question of the timeli-
12 ness of what remains -- what remains of the question of the
13 timeliness of the contentions filed by the Joint Petitioners
14 dated May 31, and as I understand, that question applies only
15 now to Contentions 13 and 14.

16 MR. IRVING: Yes, sir.

17 MR. WETTERHAHN: That is correct.

18 JUDGE COTTER: In reviewing the filing, the Board's
19 first reaction was that a date certainly was specified for
20 the filing of contentions, and that there was no showing of
21 special circumstance or other reason why these contentions
22 came in only a few days ago. And our preliminary inclination
23 at this point would be to simply find them out of time and
24 strike those contentions. Do you wish to address that?

25 MR. IRVING: Yes, sir. We will address that.

arllbl2

1 We filed a memorandum setting out in more detail
2 our response to the question of the timeliness of the conten-
3 tions. By way of background, our original contentions were
4 submitted timely under the original schedule, which means
5 in December. Thereafter, the State of Louisiana made a request
6 for an extended period of time, which was granted. Under the
7 rules, it's very clear that we have a right to amend our
8 contentions up to 15 days prior to the special pre-hearing
9 conference. The order that the Board issued, pursuant to the
10 request of the State of Louisiana, made no reference whatsoever
11 to the amendment provision in the regulations and it is our
12 position therefore that under the regulations we have a 15
13 day amendment period. And, in fact, exercised our rights
14 under it.

15 JUDGE COTTER: You mean again 15 days prior to the
16 pre-hearing conference?

17 MR. IRVING: Yes, and the amendments were filed
18 timely pursuant to the regulatory provisions. In addition to
19 that, there was not -- never has been -- any special showing,
20 as is required by the regulations, to suspend that 15 day
21 period. There was a request by the State of Louisiana for
22 an extended period of time, due to circumstances that they had,
23 to file contentions. We did not find it necessary to take
24 advantage of that period of time because we were under the
25 belief that we had the right to review our contentions and

ar11b13

1 amend them, based upon the responses to them, as is specifically
2 provided under the regulations. And as the Board's order
3 fixing the schedule for this hearing said absolutely nothing
4 about the 15 day amendment provision provided in the regulations,
5 we relied upon it.

6 And I further might point out that there is nothing
7 prejudicial whatsoever in our amended contentions. One of them,
8 which is the Clam Contention, was previously raised by the
9 State of Louisiana.

10 Thank you.

11 JUDGE COTTER: Do you recall what section of the
12 regulations you're referring to?

13 MR. IRVING: 2.714(b), and it's cited in our
14 brief, too, in CFR 2.714(b). I think you'll find it also
15 referenced in the response to the NRC Staff.

16 JUDGE COTTER: I take it you've served copies of
17 this on the other parties?

18 MR. IRVING: Yes, sir. They were hand delivered
19 previously.

20 MR. JUDGE COTTER: Mr. Wetterhahn?

21 MR. WETTERHAHN: It is the Applicant's position that
22 these two remaining contentions are not timely filed. Section
23 2.714(b) must be read in the context of the remainder of that
24 regulation. That is, that regulation contemplates that a pre-
25 hearing conference will be held within, I believe, 60 days of

ar11b14

1 the Notice of Opportunity for Hearing -- 90 days after the
2 Notice of Opportunity for Hearing and 60 days after its expira-
3 tion. Therefore, the 15 days must be read in the context of
4 the 90 days. The Commission has said it is reasonable to
5 allow up to 15 days, prior to the pre-hearing conference, for
6 Intervenors or Petitioners to submit petitions when the pre-
7 hearing conference is held that short period of time -- relati-
8 vely short period of time -- after the Notice of Opportunity
9 for Hearing. That is, they would have approximately 45 days
10 in which to prepare and file contentions after the Notice of
11 Opportunity for Hearing has expired.

12 However, in this case the time situation is much
13 different and the Board has changed the provisions of 2.714
14 and has adjusted them in accordance with its inherent powers
15 under 2.718. The Board has the power to regulate the course
16 of hearing, shorten times, and lengthen times. When approxi-
17 mately 18 months have passed since the Notice of Opportunity
18 for Hearing the time given by this Licensing Board was entirely
19 satisfactory and complete. Therefore, the Board's order and
20 reasonable time set for the filing of the contentions supercedes
21 the specific time periods in the regulations.

22 And for that reason, these contentions, which easily
23 could have been filed within the relevant time period set by
24 the Board, should be denied. There is nothing in these conten-
25 tions that could not have been raised earlier, in a timely manner.

ar11b15

1 JUDGE COTTER: Do I understand, Mr. Wetterhahn, that
2 your argument is fundamentally based on an interpretation of
3 the rules as distinguished from some finding of prejudice to
4 the Applicant?

5 MR. WETTERHAHN: Anytime that the rules and the
6 orders of the Board are not met, we believe the Applicants are
7 prejudiced and therefore, there is no specific prejudice.
8 But, as the Commission has stated, in its Statement of Policy,
9 Licensing Boards are required to enforce the regulations such
10 as to assure a speedy application -- processing of the applica-
11 tion and consideration of the matters before it.

12 We believe that the time set by the Board, in its
13 various orders, are entirely reasonable and therefore this
14 should not be permitted -- the late contentions should not
15 be permitted.

16 JUDGE COTTER: In essence, the prejudice to the
17 Applicants would lie in time.

18 MR. WETTERHAHN: Yes, sir.

19 JUDGE COTTER: As it affects this proceeding.

20 MR. WETTERHAHN: That is correct, sir.

21 JUDGE COTTER: I have difficulty with that one
22 because this notice of hearing, I believe, was originally
23 issued in 1981 and, if I understand correctly, the estimated
24 fuel load date is April 1985. So it's difficult to see a
25 time prejudice operates.

ar11b16

1 MR. WETTERHAHN: We are not claiming specific
2 prejudice. However, the Notice of Opportunity for Hearing was
3 issued in a time frame consistent with the construction of the
4 facility. I think the Commission changed its rules back in
5 1972, or 1973, to allow an early hearing rather than being
6 30 days before the plant was ready, in order to allow develop,
7 ment of the record. And I believe that this requirement is
8 in furtherance of that. That the contentions be specified
9 at an early time.

10 And as far as my experience is concerned, the Notice
11 of Hearing was issued at a time consistent with other plants,
12 as far as construction is concerned, so there is nothing out
13 of the ordinary for this facility as compared to other
14 facilities the Commission had noticed. The Commission, I
15 believe, contemplated that in saying the 90 time period and
16 this Board has seen fit to extend it for a period of almost
17 18 months.

18 JUDGE COTTER: Let me ask on another score, with
19 respect to the two contentions themselves, it appears to me
20 that the question of synergistic effects has already been
21 raised by the State of Louisiana in their amended petition,
22 which was filed approximately March 15. And so that the only
23 new contention, that I see in here, is the fossil plant thermal
24 question. It's Contention 3.

25 JUDGE COLE: Of the 3/15/83 filing, page 6.

ar11b17

1 JUDGE COTTER: It's at the end of the paragraph
2 that runs over to the top of that page, the last sentence,
3 which begins on the fourth line. For the purposes of the
4 record, let me read it. "Applicant has failed to adequately
5 consider the effect of an accidental plant release of radioac-
6 tive materials on the health and welfare of those persons wherein
7 the Mississippi River is the sole source of potable water, and
8 has additionally failed to adequately consider the synergetic"
9 -- and I assume they mean synergistic -- "effect of such
10 radioactive material combined with the industrial effluent
11 discharged into the river."

12 MR. WETTERHAHN: Looking at page five, the actual
13 contention, I did not read any synergism, or an attempt to
14 introduce the effect of synergism into this contention. I
15 read that, and I believe the Staff did too, as a challenge, in
16 effect, to the Commission's rules with regard to the discharge
17 of radioactivity into the surface and drinking water supplies.
18 A single sentence basis should not be taken as adding to the
19 substance of the contention, which we believe is stated in
20 one sentence on page five. Therefore, we have not read any
21 attempt to raise the concerns for the item raised by the
22 Intervenors, by the State.

23 JUDGE COTTER: So it's your position that Contention
24 14, the new Contention 14, of the Joint Petitioners on syner-
25 gistic effects is not comprehended within Contention 3 of the

arllb18

1 State.

2 MR. WETTERHAHN: In any event, I don't think it makes
3 a difference. I believe we must look at each Intervenor
4 separately, or each Petitioner separately, and judge the
5 merits of those contentions. I don't think it should enter
6 into the Board's judgment whether another similar contention
7 was filed. The Applicant does have rights with regard to each
8 Intervenor or Petitioner. I would ask that the Board consider
9 each of these independently, as far as their disability. If
10 the Board decides to admit them at a later point in time that's
11 a different story, but just because the State has filed something
12 does mean that lateness should be excused on behalf of the
13 Intervenors.

14 JUDGE COTTER: I think I understand your position.
15 Does the Staff wish to address this question?

16 MR. WETTERHAHN: We are not, at this point, address-
17 ing the substance and specificity. I think that's understood.

18 JUDGE COTTER: Yes.

19 MR. REPKA: We want to state only that, as we
20 stated in our response to the amended and supplemented conten-
21 tions, that we believe that the contentions are untimely
22 as stated in our brief. The specific provision that Mr.
23 Irving relies on, asking for 15 days before the pre-hearing
24 conference, would not apply given the certain schedule set
25 here by the Board.

ar11b19

1 On the synergistic effects, we did note, in our
2 original response, that the State had called it out in the
3 liquid pathway contention, but as the Applicant has stated
4 this is a different Intervenor, a different Petitioner, and
5 the contentions must be treated separately.

6 In addition, I would also point out that the current
7 proposed contention of the Joint Intervenors is broader in the
8 sense that it raises the synergistic effects in air as well
9 as water.

10 MR. IRVING: If I might respond very briefly. First
11 of all, what is the purpose of the 15 day provision in the
12 regulations. Obviously, it's to allow Intervenors, or the
13 State, or whoever, to help clean up problems that they may
14 have. You get an opportunity to review the objections, if
15 there have been any raised by the other parties, and you may
16 want to move your contention around. You may want to abandon
17 the contention. You may suggest another contention or you may
18 want to change the language of your contention. That's the
19 reason that 15 day provision exists. It has nothing to do
20 with the problem the Board was addressing when it granted the
21 extension.

22 Furthermore, I might point out that since this
23 hearing was originally commenced I think the fuel loading
24 date for the plant has been moved backward another two years.
25 So that certainly, no time prejudice whatsoever is brought

ar11b20

1 about by the length of this hearing.

2 Finally, I'd like to draw your attention to Section
3 2.711, which is entitled Extension and Reduction of Timeliness,
4 which is the one that counsel for Applicant is referring to
5 when he says that the Board has authority to change the time
6 periods or set a schedule. Section A of that provision speci-
7 fically requires a showing of good cause in order to change
8 the time schedule. There was none and has never been a showing
9 of good cause for eliminating the 15 day period to amend prior
10 to the special pre-hearing conference. And I suggest to the
11 Board that you never intended to do any such thing when you
12 granted the extension to the State of Louisiana. It certainly
13 did not intend to limit the rights of the other Intervenors
14 in this case.

15 Thank you.

16 JUDGE COTTER: I think we have the positions of
17 the parties.

18

19

20

21

22

23

24

25

ar21b1

1 Before we reach the question of the contentions
2 themselves and their admissibility, it might be beneficial
3 if we were to answer the first two questions in the Board's
4 pre-hearing conference order of April 5.

5 The first question was directed to the Staff and
6 I will ask them to state, as precisely as possible, the dates
7 when the Safety Evaluation Report and it's first supplement
8 in the environmental -- Final Environmental Statement will
9 issue.

10 MR. REPKA: The answer to that question, the Staff
11 SER has been out now --it came out two weeks ago. The final
12 SER -- the first SER will be issued December of '83. The
13 first supplement is scheduled to be issued in May of '84.
14 The draft environmental statement is scheduled to be issued
15 January of '84 and the final environmental statement in June
16 of '84.

17 JUDGE COTTER: Let me back up. The first supplement
18 is May of '84?

19 MR. REPKA: That's correct.

20 JUDGE COTTER: That is simply a planning date,
21 consistent with the FEMA Report date?

22 MR. REPKA: That would be correct. That would
23 assume open items in the SER schedule, and that some of
24 those could presumably be closed out at that point.

25 JUDGE COTTER: And the Draft FES would be January

ar21b2

1 '84?

2 MR. REPKA: Yes.

3 JUDGE COTTER: And the final is still scheduled for
4 June of '84?

5 MR. REPKA: Yes. The Draft SER has just been
6 completed. It is 70% complete and the Final SER that's
7 published in December would include 100% of the sections in the
8 SER. It is anticipated that there will be a considerable
9 number of open items. I believe there are 147 open items in
10 the Draft SER right now. Some of those may be closed out
11 between now and December but, in any case, there will be a
12 fairly large number of open items.

13 JUDGE LINENBERGER: Mr. Repka, was it the intent
14 of the Staff to serve the Board a copy of that Draft SER?

15 MR. REPKA: We will do that. I don't believe you're
16 on the technical service list right now, but we will do that if
17 that is the Board's wish.

18 JUDGE COTTER: Would that be beneficial if there is
19 147 open items?

20 JUDGE LINENBERGER: I won't speak to that. It
21 would be beneficial to this Board member to have a copy of
22 that draft.

23 MR. REPKA: Okay. We will send at least a Draft.

24 JUDGE COLE: Send one to me, too.

25 MR. REPKA: Okay.

ar21b3

1 JUDGE COTTER: Of those 147 open items, can you
2 estimate how much of them, or how many of them, relate to the
3 contentions which have been filed in this proceeding to date?

4 MR. REPKA: Excluding off-site emergency planning,
5 I see very little, if any, overlap between the contentions and
6 the open items.

7 JUDGE COTTER: So that the Draft SER, as it stands
8 now, would be relatively complete as to the subject matter of
9 the contentions?

10 MR. REPKA: That's correct. I think there would be
11 a few minor areas in the liquid pathway, but other than that
12 I can't think of any offhand.

13 JUDGE COTTER: Has the draft report been circulated
14 to the other parties?

15 MR. REPKA: The other parties did receive a copy.

16 JUDGE COTTER: And your best estimate is June 1,
17 approximately two weeks ago?

18 MR. REPKA: June 1st.

19 JUDGE COTTER: With respect to the Draft FES, can
20 you estimate at this time how complete it will be when it
21 issues in January of '84?

22 MR. REPKA: That draft will be complete.

23 JUDGE COTTER: There will be no open items in it?

24 MR. REPKA: That's right.

25 JUDGE COTTER: If it wasn't clear before, I would

ar21b4

1 like a copy of the Draft SER, too.

2 MR. REPKA: Okay.

3 JUDGE COTTER: Thank you very much, Mr. Repka.

4 The second question was addressed to the Applicants
5 and related to the status of Unit 2 and its relationship to
6 this proceeding.

7 MR. WETTERHAHN: The position, with regard to the
8 construction of Unit 2, remains unchanged in that stated on
9 page 39 of Applicant's answer to the contentions filed by the
10 Joint Petitioners and the State of Louisiana. And that was
11 filed on April 15, 1983. That states that Unit 2 is currently
12 not scheduled and construction on that unit has been halted.
13 Applicants will make no decision with regard to Unit 2 until
14 late 1985.

15 JUDGE COTTER: Do you have an estimated percentage
16 of completion for Unit 2?

17 MR. WETTERHAHN: I believe it's less than one percent
18 complete.

19 JUDGE COTTER: And how about for Unit 1?

20 MR. WETTERHAHN: Unit 1 is approximately 71%
21 complete as of May of this year.

22 JUDGE LINENBERGER: Mr. Wetterhahn, the Chairman
23 mentioned earlier our understanding of an extension in the
24 anticipated Unit 1 fuel loading date from October '83 to
25 April '85. Are those numbers still current?

ar21b5

1 MR. WETTERHAHN: That is correct. The fuel loading
2 date for Unit 1 is April 1985.

3 JUDGE LINENBERGER: Thank you.

4 JUDGE COTTER: You said that the utility does not
5 expect to make a decision on Unit 2 until when in '85?

6 MR. WETTERHAHN: Late 1985.

7 JUDGE COTTER: Late 1985. Is that to say that
8 that is simply the present current scheduling date or is
9 there a relationship that the utility will not make a decision
10 on Unit 2 until after Unit 1 has been complete?

11 MR. WETTERHAHN: I believe that date is relatively
12 independent of the fuel loading date for Unit 1 for other
13 reasons. It will make a decision in late 1985.

14 (Board conferring.)

15 JUDGE COTTER: That makes the ultimate question
16 is this a hearing on Unit 1 or is this a hearing on Unit 1 and
17 2?

18 MR. WETTERHAHN: We believe that -- well, Unit
19 1 and Unit 2 are duplicate plants. Any consideration of Unit
20 1 would have direct applicability to Unit 2. Any of the
21 Staff review and any of the contentions which are ultimately
22 heard by this Licensing Board would be applicable to both
23 Units. They are, again, identical in design and construction
24 at this point in time. Therefore, we see no reason not to
25 consider the operation of both units at this point in time.

ar21b6

1 JUDGE COLE: So regardless of what the eventual
2 plan might be, you're applying for license to operate Units
3 1 and 2.

4 MR. WETTERHAHN: Yes, definitely.

5 JUDGE LINENBERGER: That potentially poses, in a
6 nominal situation -- I won't speak for anybody but myself at
7 this point -- but if the decision to proceed on Unit 2 is made
8 beyond the fuel loading date and perhaps low power testing, or
9 pre-operational testing of Unit 1, it's hard to see how
10 consideration such as construction impact cross-talk between
11 the two units can be either dealt with or disregarded by this
12 Board when you make the statement that you are, in essence,
13 applying for an operating permit on both units.

14 Can you enlighten us a bit here?

15 MR. WETTERHAHN: Well, there is significant prece-
16 dence, as far as consideration by Licensing Boards, of the
17 operation of two units. When one construction of the second
18 unit, or even the third unit, will follow that of the first
19 by some period of time, this is normal practice, in Commission
20 consideration. If you examine our response to the particular
21 contention raised -- I have the old number -- Joint Petitioner's
22 Contention 13 -- I believe it's 12 now -- we do say that there
23 are some issues which are premature at this point in time.
24 We do not see any sense in anticipating the decision by
25 considering questions of the interaction of Units 1 and 2

ar21b7

1 during the construction of Unit 2 at this point in time. There
2 are too many unknowns to do that in any manner at this point
3 in time. We don't know how many construction will be there
4 at any given point, or how the construction will be scheduled,
5 however, as to all other issues, not related to this interaction
6 between the two units, while Unit 2 is under construction, we
7 believe they can be considered by the Board jointly at this
8 point in time.

9 JUDGE COLE: Mr. Wetterhahn, if Unit 2 is now
10 only one percent complete, and you're not going to make a
11 decision as to whether to go forward with it until December
12 or late 1985 when Unit 1 will be complete and capable of
13 operation, you say you have no way to make estimates of what
14 the work force might be. It will be quite similar to what
15 you did with Unit 1 wouldn't it, with respect to numbers if
16 you're going to make some estimates of construction workers?

17 MR. WETTERHAHN: It could be done as a general
18 estimate, certainly, but we see no reason at this time to make
19 specific plans as far as evacuation of construction workers
20 or to security, etc., until a decision is made on Unit 2.

21 Certainly, if the Board believes it desirable, we
22 could go ahead on a hypothetical case and present realistic
23 assumptions.

24 As far as the construction of Unit 2, I believe that
25 the experience gained in the construction of Unit 1 would

backup 2

1 allow a relatively fast paced construction, if that course
2 was desired.

3 JUDGE COLE: Are you suggesting we hold off on the
4 contention of that type and then litigate it when you make that
5 decision?

6 MR. WETTERHAHN: We believe that is the best course.
7 However, we would be open to doing it any way the Board
8 considers it most expeditious.

9 JUDGE COTTER: Along that same line, the considera-
10 tion that strikes me is that if, even allowing for some
11 economies in the construction of Unit 2, the length of time
12 for completing it runs more than five to seven years. That's
13 essentially ten years from today. It may involve a certain
14 amount of crystal ball gazing as to whether or not that plant
15 is indeed identical to Unit 1.

16 MR. WETTERHAHN: At this point in time, I have
17 no reason to believe that it will not be other than identical.
18 Let me do say one thing about construction. The foundation
19 work, new extensive excavation, and backfill work that was
20 made necessary to lengthen the period of construction for
21 Unit 1 has to be done. So, when I say construction I mean
22 actual physical laying of concrete and rebar. No additional
23 excavation work need be done for the second unit. Therefore,
24 it is likely to be better than the general experience of the
25 industry as far as construction is concerned if that is the

ar21b9

1 course chosen by the Applicants.

2 JUDGE COLE: What does your one percent completion
3 mean, then? Certainly if what you said has been done has,
4 in fact, been done then Unit 2 is further along than one
5 percent.

6 MR. WETTERHAHN: In the terms that the industry
7 uses, and as the Applicant uses, in judging the completeness
8 of construction, it is less than one percent. But yes, there
9 are actions taken with regard to Unit 1, the construction of
10 Unit 1, which will enable probably faster construction of Unit
11 2. But it is still less than one percent complete as judged
12 by this Applicant.

13 JUDGE LINENBERGER: Mr. Wetterhahn, forgive our
14 ignorance here. The Board does not have a copy of the
15 Applicant's FSAR, so I should like to ask you does Applicant's
16 FSAR address combined simultaneous operation of two units
17 in terms of its impact on all sorts of things?

18 MR. WETTERHAHN: Yes, it does.

19 JUDGE LINENBERGER: And let me ask the Staff, does
20 the Staff anticipate that it's -- or does the Staff SER and
21 will the Staff FES address combined simultaneous operation
22 of both plants?

23 MR. REPKA: That will be addressed in the SER
24 and the FES.

25 JUDGE LINENBERGER: Thank you.

ar21b10

1 (Board conferring.)

2 JUDGE COTTER: In connection with Judge Linenberger's
3 question, the Board would appreciate a copy of the FSAR.

4 MR. WETTERHAHN: Certainly. We will send you an
5 updated copy as soon as we can.

6 JUDGE COLE: I think just one updated copy, which
7 we could use. And if you could make the inserts before you
8 send it, it would be appreciated.

9 (Laughter.)

10 And later on, we'll get another copy.

11 JUDGE COTTER: That background is helpful to us
12 with respect to the question of the contentions which have
13 been filed themselves. It seems to me that the contentions,
14 as they stand now, are divided fairly evenly, approximately
15 seven or eight address safety issues, approximately seven or
16 so address environmental issues. I believe there are only
17 two which address emergency planning, and two which fall into
18 some other category.

19 We had, prior to ~~begin~~ down here and reviewing the
20 record to date, considered a ~~variety~~ of alternatives in trying
21 to deal with the contentions as filed. Largely because it
22 appeared that, with respect to the record which might ultima-
23 tely be built for a contention which had been admitted, that
24 a substantial portion of the information is not yet available.
25 We note the Staff's consistent position alleging prematurity

ar21b11

1 with respect to many of the contentions.

2 I might also add a personal note of my own which
3 is intended, I suppose, to benefit the Joint Petitioners but
4 it may not sound that way. I was concerned that many of those
5 contentions were too general. They were so general that it
6 was difficult to get a focus on the real issues that you
7 ultimately thought lay in the application. With respect to
8 any future contentions which may be filed as a result of
9 newly discovered information, we would greatly appreciate a
10 more expanded statement to the extent it's possible. It seems
11 to me with all the documentation that's being built, more
12 specific references to particular sections of both the Appli-
13 cant's documents and the Staff's review of those documents
14 and the significance of the contents of those particular
15 sections.

16 With that said, I guess we would appreciate the
17 parties' views on how best to proceed here. Off the top of
18 my head, it seems to me that there are only two or three
19 contentions which might be ready to roll on. I think my
20 colleagues think there might be more, but that leaves a
21 substantial portion of them which may, in fact, be premature
22 because of the emergency plan not being available and that
23 sort of thing.

24 Maybe we should start, since they are the Petitioners
25 contentions, to hear the position was, first, the manner in

ar21b12

1 which you think it would be most beneficial to proceed on these.

2 MR. IRVING: I think one of the things is, pursuant
3 to the Board's order, we've attempted to identify contentions
4 which are perhaps subject to consolidation between ourselves
5 and the State of Louisiana, and you might want to address
6 those first.

7 JUDGE COTTER: Could you quickly give us a list
8 of those?

9 MR. IRVING: Our old river control structure
10 contention raises the same issue as the State has raised in
11 its Contention Number 4. Of course, the Clams Contention
12 we previously addressed and they are identical. Our synergism
13 contention raises an issue that is also in the State's
14 Contention Number 3. Our liquid pathway contention also
15 raises an issue that's in the State's Contention Number 3
16 and what is left of our emergency evacuation plan contention
17 that we're going to, by stipulation, take up today which is the
18 question of the Angola Penitentiary will also be addressed
19 in the State's emergency plan in Contention Number 2.

20 (Board conferring.)

21 JUDGE LINENBERGER: Mr. Irving, is it your position
22 that these are items for potential consolidation with the
23 State or is it your position that these are items that
24 Petitioners are currently, let me say, negotiating with the
25 State?

ar21bl3

1 MR. IRVING: It has been discussed in the State and
2 my understanding is the State would have no problem with
3 effecting a consolidation of those matters.

4 JUDGE COTTER: Would the State like to address that?

5 MR. LINDSEY: To the extent that those contentions
6 are similar, the State has no objection to consolidation on
7 certain items in similar contentions. For instance, emergency
8 planning that are not similar, of course, there could be no
9 consolidation.

10 (Board conferring.)

11 JUDGE COTTER: You understand, all of you, with
12 respect to consolidation of issues that what the Board would
13 contemplate would be a lead Intervenor and one set of witnesses
14 addressing that particular issue?

15 MR. IRVING: Yes, sir. That's understood.

16 MR. LINDSEY: I would assume that the State would
17 reserve its right, as an interested state, to participate
18 independently.

19 JUDGE COTTER: Yes. We'd appreciate -- yes, sir.

20 MR. WETTERHAHN: We'd like to be heard on that
21 point.

22 JUDGE COLE: Has Mr. Lindsey finished?

23 MR. WETTERHAHN: I'm sorry. I can't see Mr. Lindsey.
24 Is he finished?

25 JUDGE COTTER: Proceed, Mr. Wetterhahn.

ar21bl4

1 MR. WETTERHAHN: It is the Applicant's position that,
2 as established by the Gulf States Utilities Case, ALAB 444,
3 the state may come in either under Section 2.714 or Section
4 2.715. If the participation is different, as to those issues
5 which it sought to have contentions introduced, we believe
6 it has elected to proceed along that basis. So, as to conten-
7 tions it has submitted, I believe it is precluded from pursuing
8 this particular contentions also under 2.715.

9 JUDGE COTTER: Have you discussed, with the State,
10 what their intention is?

11 MR. WETTERHAHN: I believe their pleading is fairly
12 clear, that they've submitted contentions which is indicative
13 of filing under 2.714. If they were to be consolidated, which
14 we have no objection to, it should be understood they are
15 participating as to the particular contention under that
16 Section of the regulations. They would not have an independent
17 opportunity to participate under 2.715.

18 With that understanding we have no objections to
19 the consolidation of the parties.

20 JUDGE COTTER: Mr. Lindsey?

21 MR. LINDSEY: That's not my appreciation of it.
22 I am under the impression that the State, under 2.715, can
23 participate even if the State has no contentions and partici-
24 pates basically as a party with contentions that any Intervenor
25 raises.

ar21b15

1 (Board conferring.)

2 JUDGE COTTER: It seems like we're going to have
3 to do a little homework, but I don't know if that's an issue
4 that we need to reach at this point.

5 MR. LINDSEY: It's my appreciation that an interested
6 state has additional rights that are not afforded to Intervenors.

7 JUDGE COTTER: That's correct, but I think what
8 Mr. Wetterhahn is saying is that if you elect to act as a party
9 with respect to a particular contention then his argument that
10 you are precluding from acting also as an interested state
11 with respect to that contention.

12 MR. WETTERHAHN: It is our position.

13 MR. LINDSEY: I would respectfully disagree.

14 JUDGE COTTER: All right. I think we will defer
15 the issue, at least on the surface, so that we know it may
16 be an issue but it doesn't require ruling on at this point.

17 (Board conferring.)

18 JUDGE COTTER: Judge Linenberger makes a good point.
19 I think it might be well if Mr. Wetterhahn and Mr. Lindsey
20 consulted on the question, and you may find that there is not
21 a problem. Of course, we won't know until we see what
22 contentions, if any, are admitted to the proceeding.

23

24

25

end t2

ar3lb1

1 Mr. Irving, did you wish to say anything further?
2 You noted that you had intention to consolidate five of the
3 issues which have been filed. If you have a position as to
4 how you would like to see the Board proceed with respect to
5 all of the contentions at this point.

6 MR. IRVING: What I was suggesting is that since
7 they involved more people, and perhaps we will get to the
8 heart of some of the issues, that we might want to take up
9 the ones that are subject to consolidation that we have
10 suggested first.

11 JUDGE COTTER: Let me expand a little bit on what
12 I was saying or perhaps repeat it. We were considering
13 deferring any of those contentions which may depend upon or
14 be impacted by documents which have not issued, be that updates
15 of the FSAR, or the Staff's Safety Evaluation Report, or the
16 Final Environmental Statement. So that is a preliminary
17 consideration. Is it your position that you want those
18 issues addressed or does the prospect of deferral appeal to
19 you or none of the above?

20 MR. IRVING: I think the -- I think deferral of
21 those issues would probably work in everyone's best interest,
22 particularly if it afforded us some opportunity, when the
23 documents are filed, to amend and update our contention in
24 accordance with the documentation we receive.

25 JUDGE COTTER: That prospect is always there if

ar31b2

1 there is new information. Otherwise, you operate under the
2 late filed contention.

3 MR. IRVING: It would be our understanding that we
4 would not be subject to the late file under those documents
5 that --

6 JUDGE LINENBERGER: Only if there's new information
7 that's involved.

8 MR. WETTERHAHN: The Applicants would strenuously
9 object to the approach, as we have heard it, as reflected
10 in Applicant's answer and as I am prepared to discuss today.
11 We believe that as far as the contentions are filed they
12 have been specifically addressed in the Final Safety Analysis
13 Report, or the Environmental Report Operating License --

14 JUDGE COTTER: With the exception of emergency
15 planning.

16 MR. WETTERHAHN: Yes, I think we've stipulated as
17 to the emergency plan. And let me state a schedule right now.
18 It is scheduled to be submitted again, like this here, around
19 the first of December.

20 But aside from those, all other issues --

21 JUDGE COTTER: I'm sorry. I wasn't clear on that.
22 The Applicant will submit the emergency plan around --

23 MR. WETTERHAHN: Section 50.47 contemplates that
24 the off-site plans of the State involving parishes will be
25 submitted on the record. And this is the filing which I

ar3lb3

1 have been discussing. It is a copy of the State plans involved
2 in the plume EPZ and ingestion EPZ. They will be submitted on
3 the record and delivered to the Intervenors and the Board such
4 that the filing of contentions could begin at that point in
5 time.

6 But as to --

7 JUDGE COTTER: And that date would be approximately
8 the end of December?

9 MR. WETTERHAHN: Late this year. December, before
10 the end of the year. But I think the parties contemplate
11 that the time for filing would commence with actual delivery
12 but that will be reflected in our stipulation.

13 JUDGE COTTER: Thank you.

14 MR. WETTERHAHN: But aside from that, and aside
15 from the Unit 1/Unit 2 question, which we also believe to be
16 premature at this point in time, the others are ripe for
17 decision as far as whether they constitute adequate contentions
18 under the Commission's rules. We believe, as to the others,
19 they are lacking specificity. When judged against information
20 available in the Final Safety Analysis Report, the ER-OL, and
21 the remainder of the application as filed. Therefore, we
22 believe that the Board should and can rule on the other
23 contentions at this point in time. We see absolutely no reason
24 to defer them.

25 JUDGE COTTER: Does the Staff have a position on

ar3lb4

1 that?

2 MR. REPKA: We would agree with the Applicant that
3 the great majority of these contentions could be ruled on
4 at this time. I think the emergency planning contentions on
5 the effects of Unit 2 construction are premature. However, all
6 the other contentions, giving them a cursory overview, look
7 like they can be judged at this point on the standards of
8 2.714 and their admissibility determined now. And that would
9 be consistent with -- if there's new information or documents
10 that have not been available, which later give rise to new
11 concerns, those contentions can be raised at that point.
12 However, no contention should be admitted conditionally at
13 this time, or even held in abeyance.

14 JUDGE COLE: Except the emergency planning contentions:

15 MR. REPKA: That's correct.

16 JUDGE COTTER: Let's take what's possible here.
17 Do I understand that it is agreed, among the parties, that
18 neither the emergency planning contentions or the impact of
19 Unit 2 construction on Unit 1 are ripe for consideration or
20 ruling at this time?

21 MR. WETTERHAHN: With the exception of the one
22 issue the prison and its location, 18 miles from the
23 facility, and the legal question of whether that should
24 be included in the plume EPZ.

25 JUDGE COTTER: What's the point of arguing about

ar31b5

1 that?

2 MR. WETTERHAHN: If we are able to obtain a ruling
3 from the Board and the Board ruled favorably to the Petitioners
4 we would proceed to plan, or ask the State since of course
5 the Applicants do not control off-site plans. We believe that
6 this legal issue can be decided right now and it would give
7 the parties an opportunity to plan, depending on what the
8 Board's ruling was.

9 MR. IRVING: My understanding of the Applicant and
10 Staff's position on the prison is that even if the State
11 did attempt to include that in the evacuation plan, that since
12 it goes beyond the ten miles, they could not legally do so.

13 MR. WETTERHAHN: No, that is not our position at
14 all. Our position is that the NRC would not have to, and
15 should not, consider that aspect of the emergency planning
16 of the State since it went beyond what is required by the
17 Commission, by the Federal Regulations, as far as the plume --

18 JUDGE COTTER: As distinguished from the State?

19 MR. WETTERHAHN: Yes, we are not precluding the
20 State from doing anything it wants to and thinks it needs to
21 protect its own citizens. What we are talking about is the
22 jurisdiction of this Board under the NRC regulations to
23 consider such State requirements, which we believe are outside
24 the scope of NRC requirements.

25 MR. IRVING: I understood that the second step

ar31b6

1 was there, but perhaps it's not.

2 JUDGE LINENBERGER: Well, Mr. Irving?

3 MR. IRVING: Yes?

4 JUDGE LINENBERGER: Let's leave aside now the
5 issues that I think have been relatively well identified, as
6 to their prematurity, and talk about the ones for which Appli-
7 cants and Staff take the position that there is adequate
8 information available from which to frame a contention or
9 contentions sufficiently well to permit this Board to make
10 a decision about their admissibility.

11 You, on the other hand, have indicated earlier
12 that Intervenors would prefer deferral. Now, that leaves a
13 polarization between you and Applicants and Staff on this
14 matter. How say you?

15 JUDGE COTTER: Perhaps it would be best for him
16 to -- maybe we ought to consult for a moment. If you'll
17 excuse us.

18 (Board conferring.)

19 JUDGE COTTER: I think, before we get into what
20 might be a somewhat extended process, we'll take a ten minute
21 recess.

22 (Recess.)

23 JUDGE COTTER: We're back on the record.

24 Let me suggest, as a preliminary matter, that with
25 respect to emergency plan completeness and Petitioners for

ar31b7

1 Intervenor's questions with respect to the adequacy of the
2 emergency plan, that this forum is an awkward one for resolving
3 those kinds of questions. And so, the Board asks or directs
4 that the Applicant and the Joint Petitioners get together
5 over the course of the next six months for the purpose of
6 resolving any questions or difficulties that anyone may find
7 with the emergency plan. And that after the plan is filed --
8 we understand that it is currently scheduled for filing at the
9 end of this year -- that 45 days after that plan is filed that
10 the parties, whatever parties there are in this proceeding,
11 file with the Board a report of their discussions and
12 negotiations concerning any questions they may have with the
13 plan.

14 And it seems to us that that approach to it may
15 effect resolution of any questions that are raised in connection
16 with it in a more efficient manner than if we go the conventional
17 contention and subsequent litigation route.

18 Does anyone wish to comment on that?

19 MR. WETTERHAHN: That arrangement is generally
20 acceptable. However, on two sub-items I do -- I don't believe
21 that, speaking for the Applicant which is not really responsible
22 for submitting the plans, we would hope that the cognizant
23 State agency, the Department of Natural Resources, Office
24 of Environmental Affairs of the Nuclear Energy Division, we
25 would hope to involve them in our discussion. However, I'm

ar31b8

1 not sure we can reach resolution with regard to the question
2 of Angola.

3 JUDGE COTTER: What's Angola?

4 MR. WETTERHAHN: That's the state prison.

5 JUDGE COTTER: I'm reserving that issue.

6 MR. WETTERHAHN: The other issue, which is related
7 to emergency plan, is the question of the administration of
8 potassium iodide. And I believe that we have a legal position,
9 which is a discrete legal issue, which we believe can be
10 ruled upon, and I see no hope of resolving that issue by
11 discussion. So I see no reason not to consider that.

12 JUDGE COTTER: We see no problem with that.

13 MR. WETTERHAHN: With those two provisos, we have
14 no objection to meeting with Intervenors and reporting 45 days
15 after the submission of the emergency plan. Perhaps the Board
16 could set a date, or wishes to reserve that right, at which
17 time to file a contention, maybe 30 days after the 45 days
18 have expired.

19 JUDGE COTTER: I'm seeing so much reasonableness
20 in this room that there's some hope that it may not be neces-
21 sary to file a contention.

22 Mr. Irving?

23 MR. IRVING: We previously stipulated to 60 days
24 after the emergency plan was filed. But if he wants to give
25 us an additional 15 days we would certainly not --

ar31b9

1 JUDGE COTTER: We're talking about two different
2 things. The Board is not addressing the question of your
3 stipulation and mutual agreement to file contentions 60 days
4 after the plan is filed. What the Board is asking you all
5 to do is to consult on the plan so that it may be possible
6 that you can negotiate resolution of any questions that you
7 have, and it would then not be necessary for you to exercise
8 your agreed upon right to file contentions after 60 days.

9 JUDGE COLE: It might very well be that making your
10 views at as early a stage as possible might result in the
11 satisfaction of your concerns by consideration in the plan
12 itself.

13 MR. IRVING: We would agree. I might point out that
14 in the last proceeding that we intervened in, in the Waterford
15 case, we did in fact settle our intervention. They redesigned
16 part of the plan and we pulled out.

17 JUDGE COTTER: I think that's a more sensible approach.
18 Mr. Lindsey, do you have any comment on that approach?

19 MR. LINDSEY: That's fine with me.

20 JUDGE COTTER: All right. I'm not going to attempt
21 to spell out timeframes on that, but the Board certainly
22 would urge you to communicate early and often.

23 All right. Let's address the question of the
24 prisons. Now, as I understand the question that's being
25 placed before us, it is that, as a matter of law, the prison

ar31b10

1 which is located approximately 18 miles outside of the emergency
2 planning zone is not a facility for which the Applicant or the
3 State is required, by either the Nuclear Regulatory Commission
4 Rules or Regulations nor FEMA Rules or Regulations, to address
5 in the context of emergency evacuation. Is that a correct
6 statement of the issue?

7 MR. IRVING: As framed by the Applicant, I think
8 that is correct.

9 JUDGE COTTER: All right. You will have a full
10 opportunity to frame it yourself.

11 (Laughter.)

12 How do you want to proceed? Who goes first, Mr.
13 Wetterhahn?

14 MR. WETTERHAHN: I believe that the Petitioner
15 bears the burden of proof, as far as the admissibility of
16 contentions and I believe it's appropriate for the Intervenor
17 to proceed.

18 JUDGE COTTER: It appears that the Intervenor
19 agrees. Mr. Irving, proceed.

20 MR. IRVING: One of the reasons you have a hearing
21 like this or an opportunity for a hearing like this, rather
22 than a simple computer program where you plug in all the
23 variables and they spit out what the plan is supposed to look
24 like, is to take into consideration individual variables which
25 are distinct and different for different sites.

ar31b11

1 In this case, there is a penitentiary, and let
2 me give you something of the geological or geographical outlay
3 of the penitentiary. First of all, let me tell you that this
4 is a plantation farm type penitentiary of the type that perhaps
5 you do not have in the northern part of the country. This is
6 a penal system that developed particularly in the South, and is
7 I think, generally accepted to be antiquated. However, it
8 still exists and it's all we have.

9 There are some 4,000 plus inmates at this peniten-
10 tiary and they are inmates of the most incorrigible variety.
11 Those who are lesser offenders and even felons who are first
12 offenders are sent to other parts of the state in other facili-
13 ties. You are dealing with people that you would not feel
14 comfortable with meeting on the street and you would not want
15 these people a) mad at you or b) loose. Most of them, or a
16 good number of them, are there for long times. Several of them
17 have been there before and with the exception of, you know,
18 one or two local officials who wind up there periodically --
19 things do happen --

20 (Laughter.)
21 -- you're really dealing with the really hard core part of
22 society.

23 The prison is located at a bend in the Mississippi
24 River. It has one entrance and exit road.

25 JUDGE COTTER: Is it on the Mississippi?

ar31b12

1 MR. IRVING: Yes, sir. It is on the Mississippi
2 River. It's actually surrounded, more or less, on three sides
3 by the Mississippi River. It was put there for a reason and
4 that is, for a long time, period of time no one ever successfully
5 escaped from it. Because on three sides you have the Mississippi
6 and on the fourth side you have a very dense and impenetrable
7 swamp.

8 JUDGE COTTER: Where is it in relation to the
9 facility?

10 MR. IRVING: North and slightly west of the facility.
11 You just follow the meander of the Mississippi up and if you
12 look at a map of the state of Louisiana, Angola would be the
13 bottom of the tongue of the shoe, just for comparison purposes.

14 JUDGE COTTER: Could you give me miles?

15 MR. IRVING: It's approximately 18 air miles from
16 the facility and, as I say, if you were to look at a map of
17 the state, it would be where the tongue connects to the shoe.

18 Now, our concerns with regard to the penitentiary
19 are two-fold. First, of course, there are inmates there,
20 4,000 people there, who would be very, very difficult to
21 evacuate in the event that there was an accident.

22 JUDGE COTTER: How big a staff is there?

23 MR. IRVING: I'm not for certain the size of the
24 staff. I can tell you that it is consistently understaffed
25 because it's not considered a desirable place to work. If

ar31b13

1 you ever need a job, I guarantee you there will be one here
2 in Louisiana working at the penitentiary.

backup 3

3 JUDGE COTTER: Thank you.

4 MR. IRVING: At any rate, it is the ingress and
5 egress to this site -- it is very difficult if one did have
6 to evacuate it, it would be very difficult.

7 But a second point, and I think the most important
8 point to the people who are outside -- because members of
9 the Consumers League are not in the penitentiary by and large,
10 some of them may have family members there but they're not
11 specifically our clients -- is the possibility of even an
12 accident or even a rumored accident at the plant inducing a
13 situation at the penitentiary where the inmates decided to act
14 en masse to escape. I can assure you that if 4,000 people
15 at Angola State Penitentiary decided they want to get out,
16 they would succeed. And if that were to happen, it would
17 present a danger to the persons on the outside who live in
18 the area including Baton Rouge, St. Francisville, and the
19 other surrounding communities.

20 That is a particular problem with this site. It
21 is specifically addressable by this Board and I think there
22 are mechanisms, which we'll propose at a later date, to deal
23 with it.

24 Certainly one is going to be able to provide addi-
25 tional security for the penitentiary and one is going to have

ar31b14

1 to be able to guarantee the inmates of the penitentiary that
2 if there is an accident at River Bend, mechanisms will be
3 provided for them to get out so that they don't try to do it
4 on their own.

5 What we're asking the Board to do is consider the
6 unusual situation of this plant and its unusual location and
7 particularly a penitentiary of this type, which you don't have
8 in other parts of the country, and to take it into consideration.
9 We have framed the contention to put the issue before the
10 Board as best that we could.

11 Thank you.

12 JUDGE COTTER: Mr. Irving, as you know, this Board
13 is a creature of statute and we are wrapped in regulations.
14 What is our authority? I can understand the situation which
15 you so graphically present, but under what authority would
16 we be acting if we were to find that the emergency plan should
17 encompass a facility which is outside the ten mile emergency
18 planning zone?

19 MR. IRVING: Hang on a second, counsel is underlining
20 a provision of the regulation. We can brief that point, but
21 I think the key thing is that, if it is not addressed here,
22 where else can it be addressed?

23 JUDGE COTTER: Well, obviously the State can
24 address it.

25 MR. IRVING: The State can address it in the

ar31b15

1 evacuation plan to the extent of the issues which it may
2 lawfully consider in an evacuation plan. But you've still got
3 to deal not just with evacuation but providing security, and
4 that is the important issue. That's not -- the evacuation
5 aspect of it is only one of the many facets of seeing to it
6 that the penitentiary is secure in the event of an accident
7 or even the rumor of an accident.

8 JUDGE COTTER: If I understand it, the core of your
9 argument is the potential threat of panic and mass escape from
10 this facility could jeopardize the smooth operation of other
11 portions of the evacuation plan?

12 MR. IRVING: Yes, sir. Yes, sir.

13 Counsel also points out that you could have events
14 such as 4,000 inmates escaping and a likely target is they
15 might want to take the plant. You know these things do
16 happen. This is a dangerous group of people you're talking
17 about and if they were to succeed in escaping, they would be
18 heavily armed.

19 JUDGE COTTER: That would be stupid, though, wouldn't
20 it?

21 (Laughter.)

22 MR. IRVING: It is a matter of opinion. One would
23 certainly assume when one violates the law sufficiently so as to
24 get caught and sent to jail that at least your level of
25 intelligence about how to violate the law isn't as good as

ar31b16

1 some other people's.

2 JUDGE COLE: Mr. Irving, if the event that triggered
3 the evacuation was something that happened at the plant is it
4 likely that they would proceed in that direction? That seems
5 to me to be remote.

6 MR. IRVING: Remember that you're dealing with a
7 situation where the rumor of an event at the plant even could
8 do it. Unless these people get outside -- I think certainly
9 the possibility of coming and taking the plant over may not
10 be such a likely event but I promise you that if 4,000 people
11 from the penitentiary are running around it will thwart the
12 efforts of the other parts of the evacuation plan by complica-
13 ting matters.

14 JUDGE COTTER: Why is it if we were willing to
15 accept the theoretical possibility that 4,000 people would
16 attempt to escape en masse because of an event occurring at
17 the plant, why wouldn't it be a more logical conclusion that
18 the direction of their escape would be away from the plant and
19 away from the ten mile EPZ?

20 MR. IRVING: We can postulate as to which way
21 they're going to go once they get out. The fact of the matter
22 is that most of these people are from Louisiana and the only
23 way away from the plant that doesn't -- the only way away
24 from the plant goes to Mississippi and beyond. You're going
25 into the hills of north Mississippi or going into urban Baton

ar31bl7

1 Rouge and you're talking about urban criminals. We're not
2 suggesting an enlargement of the ten mile area, but rather
3 to take into consideration this particular situation and,
4 among other things, the impacts that it would have on people
5 inside the ten mile area.

6 JUDGE COTTER: Is there anything about the geography
7 of the land surrounding this facility that would cause people
8 to move south rather than east, west, or north?

9 MR. IRVING: Well, if you look at the penitentiary
10 itself, there's only one way out of the penitentiary which
11 moves in the direction of the highway which passes the plant.
12 Okay? Now once you get to that point, you are to the main
13 highway. Now from there you can go two directions. You cannot
14 cross the river at that point. You can go east or you can
15 go south past the plant. If you go east, you're going to
16 proceed through Jackson, Louisiana, you're going to proceed
17 through Clinton and generally into a very rural kind of an
18 area. If you are a prisoner and you want to escape detection,
19 I would suggest that you're going to move in the direction of
20 the biggest metropolis that you can find, where you can become
21 lost in crowds. And that means go to Baton Rouge or New Orleans,
22 and that means head south.

23
24
25

1 I might add that you're dealing with an area
2 of the state where the highway development is not that good
3 anyway. This is four lane -- four lane roads don't exist
4 in that area. There are going to be some in the near future.
5 It will be the road heading out to the plant. You're dealing
6 with narrow two lane blacktop roads running through the hills
7 of northern Louisiana.

8 JUDGE COTTER: Did you have a citation to the
9 Statute of Regulations you're relying on?

10 MR. IRVING: We haven't found it but the fact
11 that there are impacts within the ten mile area easily possible
12 from the event is alone sufficient to have it considered by
13 the Board.

14 JUDGE COTTER: Thank you, Mr. Irving.

15 MR. WETTERHAHN: Excuse me if I argue from a seated
16 position. I have some references. I don't think I have ever
17 heard something as remote and speculative based upon fear, or
18 fear of fear, as I did in the last five or ten minutes. The
19 issue that real y faces the Licensing Board is its jurisdiction,
20 or the consideration of emergency planning as far as evacuation
21 for those within a designated area in the plume emergency
22 planning zone.

23 Certainly the State has the jurisdiction to plan
24 for contingencies with regard to evacuation. I would be
25 shocked if the State -- by that I mean any part of the State --

ar41b2

1 didn't have plans for any contingency at Angola. To say that
2 4,000 prisoners would run rampant is just speculative and
3 there's just no basis given for it.

4 I'm certain as counsel for the Intervenors has
5 stated this is near the Missississippi River. I'm certain that
6 since the levees are approaching their top, there are
7 contingency plans for such eventuality. Perhaps the prisoners
8 were threatened more by the flooding than they would be ever
9 by the nuclear plant, but there was no rioting.

10 In any event, the question before this Board is
11 its jurisdiction to consider evacuation. The Commission has
12 found that approximately a ten mile radius is appropriate for
13 planning evacuation, or other protective actions, from the
14 effect of a plume from an accident in the EPZ. It has set
15 this on the basis of various studies set forth in NUREG-0396.
16 It has set this by rulemaking and it applies generically to
17 all plants.

18 As we read the regulations, and as those regulations
19 have been interpreted by other Licensing Boards, there is some
20 slight margin for flexibility, but that flexibility in setting
21 the bounds of the plume EPZ certainly doesn't allow this
22 Licensing Board to change and increase the area to about 18
23 or more miles from the facility.

24 In the San Onofre case, that's Southern California
25 Edison, San Onofre Nuclear Generating Station Units 2 and 3,

ar4lb3

1 LBP-82-39, 15 NRC 1163, which was decided in 1982,
2 the Licensing Board stated, "Rather these boundaries" -- speaking
3 about the boundaries of the plume EPZ -- "are to be established
4 in the first instance at about ten miles, subject to their
5 possible adjustment inward or outward based upon the judgment
6 of local emergency planning officials. Such judgments will
7 be made with reference to the factors enumerated in the rule
8 that applies to the particular case."

9 We note first the language stating that the plume
10 EPZ shall consist of an area about ten miles in radius. This
11 is mandatory language. It would clearly allow leeway for a
12 mile or two in either direction, based on local factors, but
13 as the Board said in that case, it clearly precludes a plume
14 EPZ radius of say twenty or more miles. We believe 18 is the
15 same order of magnitude as 20 miles and the Licensing Board
16 is precluded, by the regulation which is 50.47(c)(2), from
17 considering evacuation of the inmates at Angola, at the loca-
18 tion of 18 miles. An excess just a little bit off the mark,
19 though, because the language talks in terms of an enlarged
20 radius. In here it is being argued that it's a single facility
21 that might impact the plant.

22 I don't think there's any rational basis for
23 saying that these prisoners would be affected and therefore
24 the Commission has meant to restrict any consideration beyond
25 that point. I believe that is most evident in another portion

ar41b4

1 of the Commission's regulations. Our guidance, which is
2 specifically referenced is 50.47, and that is NUREG-0654, Rev.
3 1 entitled Criteria for Preparation and Evaluation of Radiolo-
4 gical Emergency Response Plans in Preparedness and Support of
5 Nuclear Power Plants. At page 63 of that document, speaking
6 in terms of relocation of individuals within the plume EPZ,
7 it states that relocation centers in host areas which are at
8 least five miles and it says preferably ten miles beyond the
9 boundaries of the plume exposure emergency planning zone, are
10 sufficient. Therefore, it would allow the -- the Commission's
11 guidance would allow relocation of individuals evacuated from
12 the plume EPZ at a location closer in than the 18 mile location
13 of the prison. And if people can be relocated from their homes
14 within the plume EPZ to a distance of 15 to 20 miles, certainly
15 there is no requirement that individuals or groups of indivi-
16 duals located within that band of the facility need be relocated
17 or considered in the Commission's Emergency Planning Regulations.

18 I won't repeat it. If you can relocate people to
19 within 15 miles of the facility, which is closer than 18 miles,
20 it certainly indicates to me the Commission's intention not
21 to have to consider institutions or individuals located 18
22 miles away. We're talking about people who are physically
23 being relocated from the vicinity of the plant. I don't think
24 -- in addition, I don't think any specificity has been given,
25 other than sheer speculation, as to how these individuals could

ar41b5

1 affect the planning process for evacuation in this facility.

2 JUDGE COTTER: If all the buses that were to be used
3 in the evacuation at River Bend were located in a facility 16
4 miles outside or away from River Bend, should the location of
5 the buses be considered in the emergency plan?

6 MR. WETTERHAHN: Certainly.

7 JUDGE COTTER: Why? Is it not because they would
8 have a major impact on the implementation of the plan?

9 MR. WETTERHAHN: It would have an impact on the
10 evacuation of the individuals within the plume emergency plan-
11 ning zone, as set by the Commission, which is approximately
12 ten miles.

13 JUDGE COTTER: But, if I understand the argument,
14 before you get to its plausibility or its likelihood they're
15 simply saying that there exists a situation 18 miles away
16 which could have a major impact on the implementation of the
17 evacuation plans.

18 MR. WETTERHAHN: I believe that it's -- what he is
19 asking for -- that is, a requirement that the Commission impose
20 evacuation planning and require that of the prison is beyond
21 what can be required by this Licensing Board. And I think
22 that's the remedy which is being requested by the Petitioners
23 in this case and we believe that that is beyond what can be
24 required by the Licensing Board.

25 Again, that's in addition to the argument about the

ar41b6

1 plausibility or lack of it as far as the prison and its effect
2 upon the emergency planning evacuation.

3 JUDGE COTTER: All right. Mr. Lindsey, did you
4 want to address this subject?

5 MR. LINDSEY: No, I didn't because the State is
6 working on the evacuation plans at the present time so we
7 choose not to raise the issue against ourselves, so to speak.

8 JUDGE COTTER: As a matter of background information,
9 does the State have any plans with respect to evacuating the
10 prison, wholly aside from the question of nuclear power plants?
11 It was suggested possibly in connection with a flood, for
12 example.

13 MR. LINDSEY: Yes. As a matter of fact, there was
14 a pretty strong likelihood that the State would have to
15 evacuate because of the high water we had very recently, and
16 it would have required a fair amount of assets and frankly, I
17 don't know of the details of the plan. Most of the details were
18 kept confidential.

19 JUDGE COTTER: But the plan has, in fact, been
20 written and is in existence?

21 MR. LINDSEY: I can't even answer that.

22 JUDGE COLE: Is it that you don't know?

23 MR. LINDSEY: That's correct.

24 JUDGE COLE: Okay.

25 JUDGE COTTER: Can you find out and answer that?

ar4lb7

1 MR. LINDSEY: Yes, I can.

2 JUDGE COTTER: We would appreciate that if you'd
3 do that. Does it sound feasible to do it within a week's time?

4 MR. LINDSEY: Yes.

5 JUDGE COTTER: Thank you. Does the Staff wish to
6 address this subject?

7 MR. REPKA: We can only add a very brief comment.

8 I think that Petitioners are setting forth two
9 hypotheses. First, the difficulty to evacuate the prison, and
10 on that point, the Staff does take a position that the
11 regulation is very clear. It sets the ten mile EPZ as the
12 outer limits of the Commission's regulations. And therefore,
13 the prison would not -- evacuation would not be required by
14 the prison. If the State chose to do so, that's something
15 the Commission could look upon with favor.

16 The second hypothesis would be the rebellion that
17 could potentially affect evacuation within the EPZ. It seems
18 very speculative, and very much lacking in basis, and from
19 that standpoint it would not be a very helpful contention
20 to litigate. Furthermore, this again would be a situation
21 where it's clearly within the State's police power -- their
22 powers to protect the public health and safety from a possible
23 rebellion at the prison. They should be encouraged to take
24 some sort of action for a plan to such a contingency.

25 However, it is outside the Commission's regulations

ar41b8

1 again to require something which is possibly unforeseeable and
2 very speculative.

3 JUDGE COLE: So, you're saying it might not be a
4 bad idea to do it but it's not required by NRC regulations?

5 MR. REPKA: That's correct.

6 JUDGE COTTER: Assuming it were plausible, do you
7 see it as a -- when I say it I mean the fact of a mass escape --
8 do you see that as a second step to mean that it could somehow
9 significantly impact the EPZ evacuation?

10 MR. REPKA: I suppose anything is possible. I mean,
11 it's speculation at this point. It's not a radiological threat
12 and therefore it's not something within, really, the Commission's
13 jurisdiction.

14 JUDGE COTTER: Thank you. Mr. Irving?

15 MR. IRVING: I might point out that security during
16 the flood was a major issue that was of concern and was
17 addressed in connection with the evacuation of the penitentiary.

18 I might also add that a period of months preceded
19 the period of high water when it was a known fact that it was
20 going to occur. There was an opportunity to plan for and
21 get ready for the event. The Mississippi River's crest has
22 been known since February that it was going to be very, very
23 high, at near record levels. So there is a good bit of
24 difference there and what you might have with a nuclear event
25 where you would have less time ahead of time to get ready.

ar41b9

1 You had asked for the statutory or regulatory
2 authority for the Commission to consider the issue and we
3 believe it is encompassed in 50.47(c)(2). In particular, the
4 right to address the exact size and configuration of the zone
5 as well as the zone shall be particularly determined in
6 relation to local emergency response needs. And the capabili-
7 ties as they are affected by such conditions as demography,
8 topography, land characteristics, and access roads, which
9 I think would specifically encompass the issue that we're
10 raising.

11 JUDGE COLE: Isn't there some Commission precedent
12 that sort of establishes guidelines for departure from the
13 ten mile zone?

14 MR. IRVING: There are Commission precedents but
15 there are none that have ever addressed an issue of this type
16 because this particular problem is unique to this plant. There
17 are no other plants, that I am aware of, that have a penal
18 farm type institution within such close proximity, with
19 this many inmates.

20

21

22

23

24

25

1 JUDGE COTTER: I'm not sure that is the case.
2 Does that ring a bell with you gentlemen?

3 MR. WETTERHAHN: There are other facilities,
4 nuclear facilities, which have maximum security and farm
5 type prisons close to the plume -- edge of the plume EPZ,
6 so this plant is not unique.

7 MR. IRVING: There is a difference between a
8 maximum security prison building and a prison farm type
9 environment, as is provided at Angola. The prison farm
10 type environment relies much more on the geography around
11 it to ensure that the prisoners do not escape. Certainly
12 there are fences and armed guards and this kind of thing,
13 but in particular this site was selected because of its
14 inaccessibility, to help keep the prisoners in. And also
15 the number of inmates that you have is probably greater
16 than you would find at a prison type merely housed in a
17 building.

18 JUDGE COLE: What is going to change and make it
19 easier for them to get out, then?

20 MR. IRVING: I would doubt seriously that without
21 an expenditure of many millions of dollars you could make
22 it any easier to get out, if you mean in terms of access
23 roads. In terms of getting out, the possibility of escape
24 is a continuing problem. People escape from Angola on a
25 reasonably frequent basis. What's different is that you

1 don't normally have all the prisoners at the penitentiary
2 trying to escape at once, which is what you might have if
3 you had an event of this type, and I don't think that is
4 speculative, I think that is a very real possibility. If
5 you were locked up in an area where you were afraid that
6 something like this might be happening, that you might be
7 exposed to radiation, you might well want to get out and
8 you could probably get a lot of people to go with you.

9 And also, remember that you are not dealing with
10 people who have a high education level and understand the
11 security and safeguards that are provided for them. You
12 are dealing with people that are very emotional or they
13 wouldn't be there in the first place.

14 MR. WETTERHAHN: May I address two items? This
15 is getting to be very close to what the Supreme Court
16 decided in the TMI case. This is fear of fear, the risk
17 of risk, and I know while it's in a slightly different
18 context, environmental vs. safety, I think we are getting
19 very remote from what the Commission intended as far as
20 the necessity for evacuation.

21 I think, as the Petitioner has indicated, this
22 prison is located such to impede the egress of prisoners.
23 We are talking about evacuation times in a plume EPZ on
24 the order of several, maybe four to five, hours. By the
25 time that plume EPZ were evacuated, perhaps then the prisoners

1 would be escaping, but we have not seen how this facility
2 and these prisoners escaping 18 miles away would indeed
3 impede evacuation. It is entirely remote and speculative.

4 I believe again it is a matter of state planning,
5 and as the Petitioners admitted, the State has already
6 planned for contingencies such as flooding. There is no
7 reason to believe that they would not and are not planning
8 for other contingencies. But, again, the question is, what
9 can this Licensing Board impose? And we believe the
10 precedents are clear, the Licensing Board cannot impose
11 requirements as far as evacuation from Angola, and that
12 nothing has been shown which requires you to consider the
13 effect of such prison on the evacuation of the designated
14 plume EPZ.

15 JUDGE COTTER: All right. I think we have a
16 feel for the position of the parties.

17 I would propose at this point that, as a matter
18 of convenience, holding aside the fact that we have not
19 ruled on the admissibility of the Joint Petitioners' latest
20 filing, that we proceed through those contentions within
21 that filing and get the positions of the parties with
22 respect to them for the purpose of ruling on the conten-
23 tions.

24 I would ask -- I don't think there is any need
25 to repeat what you have already said in your respective

1 pleadings. It should be more an exercise in whether or not
2 you have something additional to add to it.

3 Do I understand that the financial and technical
4 qualifications contention has not been withdrawn?

5 MR. IRVING: That is correct.

6 JUDGE COTTER: And, of course, I assume you are
7 aware of the regulations on the subject?

8 MR. IRVING: Yes, sir.

9 JUDGE COTTER: Is there any need to address the
10 financial aspect of that contention?

11 MR. IRVING: We filed an affidavit from myself
12 in connection with the amended contentions which I think
13 sets forth the details of why we are trying to meet the
14 showing that is required to support this contention, and I
15 think we have pretty well covered the waterfront in terms
16 of our position on the financial qualifications of the
17 Applicant.

18 JUDGE COTTER: Is there anything the State
19 would like to say?

20 (No response.)

21 JUDGE COTTER: Mr. Wetterhahn, is there anything
22 to add to your position?

23 MR. WETTERHAHN: Not really. With all due
24 respect to learned counsel, his affidavit, which is an
25 affidavit of counsel, adds absolutely nothing to making a

1 prima facie case under 2.758.

2 I would only add that looking at the four examples
3 given on page 2 of the pleading, that the note of purported
4 cost-cutting measures -- I don't see there has been any
5 demonstration, there's been any compromise in safety, that
6 there are other than isolated noncompliances, particularly
7 with regard to the fourth one.

8 GSU, the lead applicant, proposed openly to the
9 Commission an alternative way of meeting the regulations.
10 This was more cost-effective. I'm sure that Petitioners
11 would be quite excited if, in other proceedings --
12 particularly rate proceedings -- if the Applicants did not
13 pursue cost-cutting measures which were in compliance with
14 the NRC regulations.

15 This was done openly. The Applicant sought
16 Staff approval, they had meetings, and the Staff approved
17 it. There is nothing to show that there was any compromise
18 of safety.

19 We believe that the showing under 2.758 has not
20 been made.

21 JUDGE COLE: Mr. Irving, I have got some concerns
22 about the nexus of those four examples to the Applicant's
23 financial ability. Would you care to elaborate on that,
24 sir?

25 MR. IRVING: Our concern is that due to the

1 very strapped state of the Applicant's financial condition,
2 which I might add there's been some suggestion we might
3 have contributed to, the record will reflect over the years
4 we have intervened in their rate cases. We have always
5 supported them receiving a fair rate of return, and have
6 in fact on occasion, if not with them, with other utilities,
7 gone to court to see to it they got a rate increase greater
8 than that awarded by the Public Service Commission because
9 what was awarded was less than what they were entitled to.

10 So our concern specifically is that the financial
11 condition of the Applicant is not such as they can actually
12 complete this plant. We have that on a number of bases.

13 We know for a fact, and we believe the Public
14 Service Commission's consultants would concur, that at a
15 price greater than \$2-1/2 to \$3 billion, this Applicant
16 cannot raise the money to complete this plant.

17 It is our belief that the current completion
18 cost will be in excess of \$4 billion. We have postulated
19 4.2.

20 I might add that we have a very good track record
21 in estimating the cost of nuclear plants.

22 In fact, we arrived at the Applicant's current
23 projected cost several years prior to the Applicant
24 arriving at those figures, as was also the case with
25 Waterford 3 in New Orleans.

1 Our concern specifically is that they don't have
2 the money to do it. They can't get the money to do it, and
3 so they must, to complete it at some point, cut corners,
4 and we believe the incidents that we have cited are evidence
5 that they are in fact already cutting corners.

6 JUDGE COLE: A couple of points, Mr. Irving:

7 You indicated that it is the position of your
8 clients that they have always supported a fair and
9 reasonable rate of return, and I assume that based on your
10 view that they have received a fair and reasonable rate of
11 return?

12 MR. IRVING: Yes, sir, they have.

13 JUDGE COLE: Then how come they're in such bad
14 financial condition if they have received a fair and
15 reasonable rate of return?

16 MR. IRVING: I'm glad you asked that question.
17 It is a combination of several things:

18 For one thing, the company has a history of
19 mismanagement that dates really from the early 19 -- really
20 dates prior to that. They did not have a significant
21 problem, because running a natural gas generator is
22 something that really doesn't require a lot of talent,
23 and before this utility got into the nuclear industry,
24 they really didn't have to have it, and they did a good job.

25 When they got into the nuclear business, they did

1 not have the onboard technical support, and I might add that
2 I'm not raising this question. During the construction
3 permit stage, this Board or the Board that was here then
4 raised the question. This is not a new idea.

5 They did not have the onboard technical support
6 necessary to make the decisions that they had to make
7 in construction of this plant, number one.

8 Number two, the plant is being constructed under
9 what amounts to a cost-plus contract, and what technical
10 support they did have was provided by the architect-
11 engineer, who was on the cost-plus contract.

12 In essence, what you are asking for is for the
13 wolf to watch the chickens.

14 Number three, the architect-engineer, Stone &
15 Webster, in fact owned a holding company which owned this
16 utility until 1935. In the 1930-35 timeframe. And in
17 fact there were Stone & Webster people in the management
18 of Gulf State Utilities up until the time these decisions
19 were made.

20 So you have again the wolves watching the
21 chickens.

22 JUDGE LINENBERGER: Mr. Irving, excuse me, but
23 I would like to understand how you intend the Board to
24 receive the remarks that you are just now making. Let me
25 explain my question.

1 Either there is a possibility that you are
2 testifying or else there is a possibility that the remarks
3 you are providing us constitute a further amendment to
4 your already amended statement of contention, and in whichever
5 case it is, it is not clear to me that you have established a
6 basis for proceeding in either direction.

7 MR. IRVING: I wasn't trying to do either. I was
8 just trying to answer his question.

9 JUDGE COLE: It's my fault.

10 Go ahead.

11 MR. IRVING: My knowledge on the subject
12 comes from having for a number of years, since 1976,
13 participated as an intervenor in the utility rate
14 proceedings. I have designed utility rates which were
15 in fact implemented by the Commission for this utility,
16 and I'm probably more familiar than most anybody else,
17 outside the utility itself, on the financial aspects of it.

18 I am also a holder of some modest amount of stock
19 in the company, so I am aware of what they do.

20 I believe that while they have been allowed a
21 fair rate of return, their management, in terms of what
22 they did with that fair rate of return, is extremely
23 suspect.

24 I am not, by that, criticizing the present
25 management whom I am very pleased with, and I think is very

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

competent at doing the best with what they have got.

1 JUDGE COTTER: That seems inconsistent with
2 what you were saying before.

3 MR. IRVING: The management has improved, but
4 they are in a very unenviable position because of what has
5 gone on before.

6 JUDGE COLE: The title of the contention,
7 Financial and Technical Qualifications -- it seems to me
8 that the thrust of this contention is almost exclusively
9 with the financial. What aspect of it considers technical,
10 or is it a financial qualification contention?

11 MR. IRVING: We were attempting to address the
12 impact of the financing on the technical qualifications
13 and on the construction. We were intending to get at
14 specifically the impact of financing on this company and, as
15 I say, we believe that that impact is very, very detrimental
16 to the completion of the construction of this facility
17 because of what we believe is going to be the actual
18 completion cost.

19 JUDGE COLE: You are not proposing to relitigate
20 the contention on the technical qualifications of the
21 Applicant?

22 MR. IRVING: No, I think the technical qualifica-
23 tions at the construction stage were very suspect, and I
24 think everyone recognized that. At this point in time
25 there have been many new people brought in by the Applicant,

1 particularly relatively recently, and we are not challenging
2 their technical qualifications at this point in time,
3 with the current people that they have onboard.

4 JUDGE COTTER: Well, why are you asking us to do
5 what the Commission has specifically told us not to do?

6 MR. IRVING: Because in this case you have--
7 you've got to look at specifically the problem in this
8 case, and that is that this company can't raise the money
9 to do what it is here asking this Board to do. I mean, it
10 is not possible.

11 JUDGE COTTER: The Commission has said that is
12 simply not a matter for Boards to consider. That's a
13 matter for the state ratemakers or the decision on the
14 need for power.

15 MR. IRVING: We raised the contention. Our
16 understanding is that if we make a showing that it is
17 specifically applicable to the matter under consideration
18 by the Board, that the Board can consider it, and that is
19 why we filed the affidavit, in an attempt to do so. It is a
20 particular problem.

21 To begin with, you, I am sure, are familiar with
22 the capitalization of this utility and you know that at
23 best, even with the current projected cost of it, you are
24 dealing with a company attempting to build something that is
25 going to cost more than its current capitalization, and that

ar5-3

1 in itself should make it -- should certainly warrant
2 further financial inquiry about the company. And then when
3 you add these other matters to it, I think that in this
4 case there is a particular need to consider the financing
5 of the company as an issue of safety in this case.

6 JUDGE COTTER: All right. I understand your
7 position.

8 I want to make it clear to you that you under-
9 stand where we are coming from, that we can only do what we
10 are properly authorized to do under the regulations.

11 MR. IRVING: We understand that this is a very
12 controversial contention. We feel like we are right in
13 raising it. We understand that there is jurisprudence
14 which is not advantageous to our position, but I think
15 there also are considerations that are.

16 JUDGE COTTER: Thank you, Mr. Irving.

17 MR. WETTERHAHN: Just let me say that I don't
18 wish my silence to be considered as agreement with Mr.
19 Irving's remarks about the position of the company. I do
20 not wish to respond further. I believe our position is
21 clear, but a lot has been said, most of which is not relevant
22 to this Licensing Board's consideration, and I think this
23 Licensing Board would consider it in that respect.

24 JUDGE COTTER: All right, Mr. Wetterhahn.

25 The second contention in the latest filing is

1 entitled Environmental Qualifications, and has been with-
2 drawn.

3 MR. IRVING: That is correct.

4 JUDGE COTTER: As has the third, entitled
5 Prematurity of Application.

6 JUDGE COLE: You have also withdrawn No. 3 of
7 your old filing, the seismic activity; is that correct?

8 MR. IRVING: Yes, sir.

9 JUDGE COTTER: Which brings us to Contention No.
10 4, the liquid pathway study.

11 MR. IRVING: Here we have raised the question of
12 the impact on the discharge of the plant on drinking water
13 in the Baton Rouge regional aquifer, as well as the
14 Mississippi River. The Mississippi River is the source of
15 drinking water for virtually everyone downstream of
16 Donaldsonville, as you look at the map, and for most of
17 Ascension Parish, as well.

18 We were attempting to make a similar contention
19 to those raised in the Waterford case in New Orleans, where
20 some of these matters, I think, are being considered.

21 I think the liquid pathway has also in it an
22 element of the synergism question, that being the impact of the
23 discharges on the effect on the pollutants that are already
24 in the river.

25 As you may or may not be aware, the City of New

1 Orleans has the opportunity to drink some of the most
2 polluted drinking water available in the country to such a
3 large number of people, and that is due to the fact that
4 the Mississippi River is used as a source of industrial
5 discharge, and the people of the State of Louisiana are
6 by no means innocent in polluting New Orleans' drinking
7 water. It is kind of a joint effort.

8 At any rate, there are a number of persons who
9 are members of the Louisiana Consumers League who drink the
10 water which would be impacted by these discharges, and for
11 that reason we have expressed concern, and we believe that those
12 issues -- and we were specifically concerned about synergism,
13 though we didn't do a very good job of expressing it -- those
14 issues should be addressed by this Board.

15 JUDGE COTTER: Let me understand. You
16 characterize this both in terms of water quality and
17 synergism, but there is no reference to synergism in 4.

18 MR. IRVING: That is the reason we provided
19 the amended contention on synergism.

20 JUDGE COLE: So, really, you are considering
21 14 as a part of your Contention 4?

22 MR. IRVING: Yes, that is correct, amended
23 Contention 4.

24 JUDGE COTTER: It sounds like you just amended
25 the amended contention. What we have got in front of us is 4,

1 and it doesn't mention synergism. So we should keep things
2 reasonably clean and save 14 for last.

3 MR. IRVING: I was merely explaining that that
4 was the reason that we came in with 14, is because we had
5 not made that point clear in our estimation in the original
6 Contention No. 4.

7 JUDGE COTTER: Is there anything more to add?

8 JUDGE COLE: What sort of synergistic effects
9 are you talking about, sir?

10 JUDGE COTTER: Why don't we save that until 14?

11 MR. IRVING: Okay.

12 MR. WETTERHAHN: I believe our response is
13 abundantly clear, as to the analyses and the specificity
14 with regard to liquid discharges, which is contained in the
15 application as filed. Therefore, we believe this contention
16 is nonspecific, does not assert any sort of basis. It is
17 the type of contention that should not be considered by the
18 Licensing Board, and I will stand on that.

19 JUDGE COTTER: Thank you.

20 I'm afraid I jumped past the State. Do you wish
21 to address this?

22 MR. LINDSEY: I have a couple of other questions
23 I'd like to ask the Board to clarify, Mr. Cotter.

24 We are going down the contentions right now as
25 proposed by the Joint Intervenors' amended petition, and I'd

1 like to know if you intend for the State to address similar
2 contentions at the time the Joint Intervenors do.

3 JUDGE COTTER: If you would, I think that would
4 be most efficient. Then when we have finished with those,
5 if there is anything that has to be considered in your
6 contentions, we'll turn to them. But if we can treat the
7 two together wherever they appear reasonably close, and if
8 there is no objection from either the Applicant or the Staff,
9 I will do so.

10 MR. LINDSEY: I would also like to clarify an
11 earlier question you had about joining the contentions of
12 the State and the Joint Intervenors, because that's when we
13 discussed the State's interest under 2.715 as an interested
14 state. I would like to clarify a comment I made earlier
15 and say that even though obviously the State's concerns are
16 very similar to the Joint Intervenors' concerns in a number
17 of areas -- emergency planning, liquid pathway studies and
18 several other of our similar contentions -- the State's
19 interest in these would be somewhat different because of a
20 broader constituency, and assuming the contentions are
21 admitted, and the State and the Joint Intervenors are
22 admitted as parties, the State would like to participate in
23 its own right at any further hearings, rather than having,
24 as I believe you referred to, one lead counsel.

25 JUDGE COTTER: I'm inclined to defer that question

1 because I think we could get into a can of worms there as to
2 specifically what you would want to do outside of your
3 posture as a joint party, were you admitted as such, and I
4 think it would probably be more efficient to defer that
5 question until we bump up against the specific instance.

6 MR. LINDSEY: That's fine with me. I just wanted
7 to go on record as clarifying --

8 JUDGE COTTER: I understand you want to preserve
9 your right as a party and as an interested state.

10 MR. LINDSEY: Correct.

11 JUDGE COTTER: With respect to everything you can
12 possibly preserve your right to.

13 MR. LINDSEY: Yes, with a party's interest
14 somewhat different from the Joint Intervenors, even though
15 the contentions may be very similar.

16 Now, with specific respect to the Joint Intervenors
17 so-called liquid pathways contention, that is basically the
18 State's Contention No. 3, and I have little further to add to
19 that, except to point out, Mr. Cotter, as you yourself
20 pointed out earlier, that this is basically a combination
21 of liquid pathways and of synergism issue as well.

22 There was some question as to how you were treating
23 the liquid pathways contention by the Joint Intervenors,
24 because they have a separate synergism contention which the
25 State does not.

1 I believe counsel for the Applicant has suggested
2 that the synergism question was not raised within the body
3 of the contention, but was raised as a basis, and I take
4 the position that the contention and the basis is basically
5 just one document, with two subparts to it.

6 I have nothing further.

7 JUDGE COTTER: Thank you, Mr. Lindsey.

8 JUDGE COLE: One of the criticisms of this
9 contention is that it lacks specificity. It's general. And
10 I believe in one of the filings they indicate that the
11 Applicant has addressed the liquid pathway in the FSAR, and
12 it states that no criticisms have been directed against
13 that specifically.

14 Would you like to comment on that? Is there some-
15 thing wrong with the way the Applicant has analyzed the
16 potential contamination of liquid pathways and what is
17 wrong with it?

18 MR. IRVING: They have a dye study that is
19 referenced. However, it is -- I believe that that dye study
20 does not take into consideration the characteristics of the
21 radionuclide effluents that might be -- as you know, a dye
22 doesn't necessarily behave the same way, and for that reason
23 we had some problems with it, and it appeared there had been
24 no work done other than that.

25 JUDGE COTTER: Do you have a reference to the FSAR

1 for that?

2 MR. IRVING: Yes, sir, we do. The reference
3 would be 2.4-40.

4 JUDGE COTTER: Mr. Wetterhahn?

5 MR. WETTERHAHN: We are at a point beyond an
6 amendment of an amended set of contentions, where only now
7 Intervenor begins to say there is something in the applica-
8 tion which is no good because. There is no basis given for
9 it. This information is late and there is absolutely no
10 basis given for why a dye study is not appropriate for the
11 purpose to which it was put. That is a dilution ratio, if
12 you will, from some point in the Mississippi where effluents
13 would be released, to some other point. He says it's no good.
14 Why?

15 In any event, that presentation, that basis,
16 that specificity should have been presented weeks, if not
17 months, ago. We believe that this contention as stated is
18 completely lacking in specificity and should be denied.

19 JUDGE COTTER: Does the Staff wish to comment?

20 MR. REPKA: We agree with the Applicant, that it
21 is without basis or specificity. We would point out that
22 in the Draft SER, dated June 1st, the Staff's review to date
23 of the liquid pathway analysis, is documented. The section
24 numbers are 2.4.7 and 15.5.

25 Absent any specific showings by the Joint Intervenors

1 in special circumstances that the liquid pathway analyses
2 performed are not sufficient, this contention should not
3 be admitted.

4 JUDGE COLE: Mr. Repka, in the Draft SER, the
5 Staff has conducted its own evaluation of the liquid pathway
6 and as the Staff sees it, are the results of the Staff's
7 evaluation complete in the Draft, or do you anticipate any
8 revision in the Final?

9 MR. REPKA: The Draft SER states that the
10 independent analysis of radionuclide transport is complete
11 and that the plant meets the requirements of 10 CFR Part 100.

12 JUDGE COTTER: Has that study -- I believe you
13 stated earlier that the Draft SER had been furnished to the
14 Joint Petitioners.

15 MR. REPKA: That has been furnished.

16 JUDGE COTTER: Does that include the studies?

17 MR. REPKA: No, I don't believe we provided a
18 copy of the study. We just provided our write-up in the SER.

19 MR. IRVING: We did not have the benefit of that
20 information, even when the amended contention was drafted,
21 since that was the day after they were submitted.

22 MR. REPKA: I'm not asserting that -- I'm just
23 asserting that as an example, that this review is based
24 on the Staff's independent analysis, but also the information
25 in the FSAR, and there was no specific deficiency called out

1 in the original contention.

2 JUDGE LINENBERGER: Excuse me, but I think we
3 are having a bit of trouble hearing you, Mr. Repka. You are
4 speaking awfully softly, and I believe maybe even the
5 reporter is, and it's extremely important that the transcript
6 reflect your comments.

7 JUDGE COTTER: If you would use a microphone in
8 the future, that would be helpful.

9 MR. IRVING: We could certainly draft a lot
10 more specific contentions if we had the report, or the
11 results of the dye study telling us how it was done and
12 when it was which is, I think, a matter of major concern to
13 us.

14 JUDGE COLE: Is that your principal concern, the
15 dye study, or are there other concerns associated with the
16 liquid pathway?

17 MR. IRVING: There are concerns beyond that, but
18 our appreciation of what the Applicant has done right now
19 is the dye study, and we suspect that the dye study is
20 several years old, and as the river continues to change,
21 is not necessarily very applicable to current conditions.
22 At this instant in time the dilution factor might be very
23 good because the river is so high, but what about low flow
24 conditions that we might expect in the future, and as the
25 course of the river changes?

1 As you know, dilution factors can be influenced
2 greatly just by bottom configuration changes.

3 JUDGE COLE: What would you expect to be litigated
4 here? Would the Applicant come forward with a demonstration
5 that the dye study does in fact predict what the flow paths
6 would be, and the dilutions?

7 MR. IRVING: That would be fine with me. I had
8 another case where I went after the dilution study -- it's
9 not a nuclear plant -- but I went after the diffuser study
10 and they wound up having to reduce some of it, and that's
11 exactly what I'd like to do.

12 JUDGE COTTER: Is there any problem with the
13 Staff providing the Joint Petitioners with a copy of the
14 study?

15 MR. REPKA: We are unaware of any problem at this
16 point, but we'll check into it. We just don't know.

17 JUDGE COTTER: It may be that that would satisfy
18 them.

19 Yes, Mr. Wetterhahn?

20 MR. WETTERHAHN: I'm not going to drag this out,
21 but I understand that this dilution study which right now
22 became a problem, or the Intervenors say it's a problem, was
23 only designed to look at localized dilution in the vicinity
24 of the discharge. It does not reflect the calculations as
25 far as doses at some distance away from the plant.

1 JUDGE COTTER: I don't think we need to get into
2 the details. I may be a cockeyed optimist, but I do believe
3 that frequently simply the exchange of information sometimes
4 resolves matters without having to go through a formal
5 process like this.

6 I believe that completes addressing Contention 4.
7 Contentions 5, Generic Safety Issues, and 6,
8 Tracking of Materials, have been withdrawn under the
9 stipulation, and that brings us to Contention 7, which is
10 the old river control structure. I believe that is also the
11 State's Contention 4?

12 MR. LINDSEY: Correct.

13 MR. IRVING: I guess in order to give the Board a
14 feeling for what we are talking about, some time during
15 the 19th Century -- and I think it was during the Civil
16 War -- a channel was cut between the Mississippi River
17 and Atchafalaya River which lie very close together, and
18 that channel has allowed water from the Mississippi River
19 to flow down the Atchafalaya Channel since that period of
20 time.

21 JUDGE COTTER: Is that east or west of the
22 Mississippi?

23 MR. IRVING: The channel is cut -- if you look
24 at a map of the State of Louisiana and Mississippi together,
25 the channel will be near Fort Adams, Mississippi, which is

1 north of the River Bend Plant a number of miles. It is
2 cut across into the Atchafalaya Channel.

3 Now, what happened later on was that the
4 Mississippi River, which has always been known to change
5 course, attempted to change course, and in fact capture
6 the Atchafalaya River or the Atchafalaya River would
7 capture the Mississippi River.

8 At any rate, the channel of the Mississippi
9 River would be at or near Morgan City, Louisiana, rather
10 than at New Orleans where it is now, if not prevented.

11 JUDGE COTTER: Where is Morgan City in relation
12 to this?

13 MR. IRVING: Morgan City, Louisiana is west of
14 New Orleans and if you have a -- you know, I thought some-
15 body would have a full color map of Louisiana, but I guess
16 not. You do have a small map, and you will note an area
17 referred to as the Atchafalaya Basin.

18 JUDGE COLE: I don't know whether this map is
19 going to provide that kind of detail.

20 MR. IRVING: Has anybody got a highway map?

21 JUDGE COTTER: We'll go off the record for a
22 moment.

23 (Discussion off the record.)

end 5

24
25

1 JUDGE COTTER: Why don't we just proceed
2 verbally and not use exhibits or aids.

3 MR. IRVING: The net result of all that I am
4 talking about is that the Mississippi River is going to
5 move west, and it's going to move west about at the level
6 of Highway 190, about 40 miles. And Highway 190 is the
7 federal highway that goes across the state a little bit
8 north of Interstate 10.

9 Now, the question is, if this event should occur,
10 what happens to that below what is called the old river
11 control structure? The old river control structure is an
12 effort that the Army Corps of Engineers has made to keep
13 the Mississippi River in its current channel and keep it
14 from moving.

15 The old river control structure has for years
16 required continuous maintenance; every time we have a high
17 water condition, it is a top priority item for the Army
18 Corps of Engineers, and it is very, very difficult to keep
19 the Mississippi River from moving.

20 There are reports suggesting that the movement
21 of the Mississippi River to the Atchafalaya Channel is
22 an inevitable event, and they suggest that the event is
23 likely to occur during the time period that this plant
24 will be in operation during the next 30 years.

25 Now the question is --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE COTTER: Who says that?

MR. IRVING: A report authored by a professor at LSU, a Mr. Kazmann, and his associate, Mr. Johnson, and that was a study of the economic impact of what would happen if the river did move.

If the river moves, the flow characteristics past this plant will be very different because the plant, instead of being located on a flowing freshwater river, will be on what amounts to a salt water estuary.

The water characteristics past the plant will be different.

Now the Applicant has addressed this by referring to what amounts to the record low flow of the Mississippi River at this point in time which is some 100 cfs -- I'm sorry, 100,000 cfs -- the day is getting long and I'm getting hungry, I guess. The 100,000 cfs is a completely different ballpark from the situation that would exist if the river moves, and we think it is when the river moves.

And the obvious impact upon the plant can come in a number of ways:

We think there will be a change in the salinity characteristics of what is now the Mississippi River Channel because the water will be different. The water will probably be saltier, and if the event is as likely as we believe that it is, as a very likely event during the

1 existence of this plant, then the Board should take it
2 into consideration.

3 Thank you.

4 JUDGE LINENBERGER: Why?

5 MR. IRVING: It makes no sense to build a plant
6 when you know a very high probability incident is going to
7 occur within the lifespan of the plant that is going to
8 greatly change the design for the plant that you need, and
9 the economics of it.

10 JUDGE COTTER: Why does it change the design?

11 MR. IRVING: There are aspects of the plant that
12 are not designed to handle salt water that probably will be
13 handling salt water if the Mississippi River changes course.

14 JUDGE COTTER: Which aspects?

15 MR. IRVING: The water intakes. You know, we
16 certainly agree that the water within the reactor is going
17 to be provided from wells, and we understand that, but
18 there is still going to be intakes of Mississippi River
19 water which are going to be used within the plant, they are
20 going to be used in piping that is not designed to handle
21 salt water.

22 Now you are not talking about creating an
23 immediate emergency at the plant, but you are talking about
24 an event that could be very significantly -- could very
25 significantly impact the economics of the plant, and also

1 could very significantly impact the lifespan of the plant.

2 JUDGE LINENBERGER: Mr. Irving, I am just curious
3 about your reference several times to salt water which
4 would cause me to think there must have been some hydrological
5 studies of some sort that would indicate that tidal intrusion
6 might come up as far as River Bend, if there was such a
7 shift. Are you referring to anything explicit?

8 MR. IRVING: Yes, sir. Our understanding is
9 that the Corps of Engineers already has studies where salt
10 water intrusion has been identified as high up as Vicksburg.
11 This is under the current flow regime of the river which
12 would be vastly different if the river moved. We think
13 the chances of the water being salty at this point are
14 very great if the river should move down a different channel.

15 JUDGE LINENBERGER: Thank you.

16 JUDGE COLE: So, Mr. Irving, I guess you agree
17 that this is not really a safety issue, it's an economic
18 issue?

19 MR. IRVING: It's not a safety issue in the
20 sense that this event is going to immediately trigger a
21 Class 9 accident at the plant. That is obviously not the
22 case. But it is an impact on the operation of this plant.
23 If the plant is not properly designed at this point in time,
24 it is very likely to shorten its lifespan by many years,
25 and it is also very, very possible that you could create

1 an undesirable operating condition at the plant because,
2 you know, you really get down to splitting hairs. Once
3 the water gets salty, how long can we operate this plant
4 before we have got a problem?

5 JUDGE COLE: I understand.

6 JUDGE COTTER: Mr. Lindsey, do you want to add
7 to that?

8 MR. LINDSEY: I have little to add to it, except
9 I'd like to point out that the reason why the State raised
10 the issue is apparently nobody else had raised this issue.

11 It received virtually no treatment in the FSAR, and
12 the State wanted the Board to know that this structure did
13 exist, that there was a strong possibility that the
14 Mississippi River would divert its course, and that is a
15 potentially significant event, and it was apparently not
16 addressed by the Applicants or their contractors in
17 preparing the FSAR.

18 JUDGE COTTER: If I understand the allegation,
19 the earliest timeframe for expecting such a shift might be
20 20 years?

21 MR. LINDSEY: No, no. I think that is incorrect.
22 I think that as stated, there is a 50-50 chance that the
23 old river control structure could fail within 20 to 40
24 years.

25 JUDGE COTTER: But that is the operative event

1 that would shift the river?

2 MR. LINDSEY: Correct.

3 JUDGE COTTER: That makes it a 50-50 chance that
4 the old river control structure would not fail within 40
5 years.

6 MR. LINDSEY: That's correct, but my point is
7 this was not discussed at all by the Applicant. I think
8 it is significant enough in light of many of the items
9 which are in the FSAR that the question needs to be
10 addressed.

11 There may be no safety issues related to it,
12 but I don't think the question has been looked into, and I
13 think it needs to be looked into.

14 JUDGE LINENBERGER: Well, let me understand what
15 both of you are saying here in the following respect:

16 Are you both saying that you consider Applicant
17 is making a wrong business judgment with respect to locating
18 the plant where he is locating it, since you are not concerned
19 about safety? You think that such a catastrophe might
20 shorten the life of the plant; therefore, you must be -- it
21 seems to me you must be questioning the business judgment
22 of the Applicant. Is that the thrust, Mr. Lindsey?

23 MR. LINDSEY: I would style my reason for raising
24 the issue as safety-related.

25 JUDGE LINENBERGER: You do consider it safety-related?

1 MR. LINDSEY: Safety-related as opposed to safety.
2 I think there appears to be a distinction between those
3 two types of issues.

4 JUDGE COTTER: What distinction do you make between
5 safety-related and safety?

6 MR. LINDSEY: Well, I personally don't have
7 enough expertise to answer that question. If I had some
8 documentation in front of me, I might be able to answer that
9 a little bit better.

10 There appears to be an awful lot of documents
11 drawing a distinction between safety issues and safety-
12 related issues.

13 JUDGE LINENBERGER: All right, now, you have
14 seen some documents that made that distinction, but I'm
15 asking what it is that the State is concerned about. You
16 are here speaking for the State, and you say you don't
17 really know how to make that distinction, so what is the
18 State's concern here?

19 MR. LINDSEY: The State's concern is simply to
20 put the issue before this Board and apparently this Board
21 would not even know of the existence of the structure and
22 the possibility of failure to assess it on its own, unless
23 the State or the Joint Intervenors brought it to your
24 attention, which is what we are seeking to do.

25 JUDGE COTTER: Have you-all communicated outside

1 this proceeding that information to the Staff?

2 MR. LINDSEY: Excuse me?

3 JUDGE COTTER: Have any of you communicated that
4 information outside of this proceeding to the Staff? Has
5 there been any discussion of it, or has it solely arisen
6 through this proceeding?

7 MR. LINDSEY: That is the extent of my communica-
8 tion with the Staff, was in my amended petition.

9 JUDGE COLE: This figure you mentioned of a 50
10 percent chance of failure in the next 20 or 40 years, the
11 basis for that is if nothing is done, that's what the
12 probability is?

13 MR. LINDSEY: Well, something is always being
14 done. The Corps of Engineers, it is my understanding, is
15 dumping truckloads of rocks into the scour holes almost
16 daily and are constantly maintaining the old river control
17 structure. It's an ongoing process. They don't just make
18 the structure and then do nothing. It's constant
19 monitoring and constant maintenance.

20 JUDGE COLE: I want to try to get a better
21 feel for the number. There are some numbers that come up
22 when people try to get funds to do something, and say if
23 we don't do something, there is a 50 percent chance of
24 failure within 20 to 40 years. You told me the Corps of
25 Engineers is working continuously on this. Is their

1 estimate of failure, or whoever is the author of the
2 estimate -- does it take into account the continued work
3 of the Corps of Engineers, and is it in fact the estimate
4 that if we don't do something drastic, there is a 50
5 percent chance of failure within the next 20 to 40 years?
6 Or was that generated for some other purpose?

7 MR. LINDSEY: I don't have the information. The
8 sense is that it's somewhere between those two positions;
9 that it's not quite if we don't do something drastic there
10 is a 50 percent chance.

11 JUDGE COTTER: Do you know if the Corps has an
12 estimate?

13 MR. LINDSEY: I do not know.

14 JUDGE COTTER: Mr. Wetterhahn.

15 MR. WETTERHAHN: If there is any question in the
16 Board's mind, I want to separate the question of safety
17 from the other questions. This facility can be safely
18 shut down and maintained in safe shutdown condition without
19 reliance on Mississippi River water. There is sufficient
20 water in the emergency cooling water basin, plus makeup from
21 wells, such that there is no reliance for safe shutdown as
22 far as this facility is concerned.

23 I don't think this could possibly be an issue of
24 safety.

25 With regard to the probability or lack of it, I

1 don't think anything that has been said changes the fact
2 that such an occurrence as the loss of the old river
3 control structure is other than remote and speculative.

4 We have the Corps of Engineers, as admitted by
5 the Petitioners -- it is their number one or highest
6 priority. There is no estimate in the record that it is
7 other than of low probability.

8 It is up to the Joint Petitioners or the State
9 to bring before this Licensing Board the basis of their
10 contention. I don't think there is anything in the record
11 to show that this is speculative.

12 By way of comparison, by way of background, this
13 control structure is not only important for the River
14 Bend Station; it is so important to the livelihood of the
15 entire Baton Rouge-New Orleans area, that the Corps will
16 give it the proper treatment.

17 I understand that there would be no drinking water,
18 as an example, for the City of New Orleans, if this were
19 allowed to fail, just to give the Board some perspective
20 as to why the Corps will continue to keep the structure
21 up, and why we believe that this event of a failure is remote
22 and speculative.

23 MR. IRVING: I might point out that is the reason
24 the City of New Orleans and the State has under considera-
25 tion several eventualities of providing another source

1 of drinking water to the City of New Orleans.

2 JUDGE COTTER: Does the Staff have a comment?

3 MR. REPKA: Just a couple of comments.

4 First, to the extent that the concerns are
5 economic, they are clearly outside the Commission's
6 jurisdiction.

7 Second, to the extent they are safety, I think
8 again they have to draw the distinction between safe
9 shutdown vs. continued safe operation after a failure of
10 the old river control structure.

11 There is adequate evidence in the FSAR that a
12 failure would not prevent safe shutdown. If there are
13 problems of continued operation after such an event, this
14 is something the Commission would want to look at, at that
15 time. It is not necessarily appropriate to go forward
16 now, speculating as to what might happen and what safety
17 concerns there might be in that event.

18 Mr. Lindsey states that he brought the contention
19 as a vague concern, and a feeling that maybe nobody was
20 looking at this. There is ample case law and ample
21 Commission precedent for the position that it is insufficient
22 for a contention to vaguely set out a vague concern with
23 the hope of more specific problems being turned up later.

24 JUDGE COTTER: Is there any more to be added to
25 Contention 7?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

It is now 12:30. Why don't we take a luncheon recess until a quarter of 2:00, if that is agreeable with everyone.

(Whereupon, at 12:30 p.m., the hearing was recessed, to reconvene at 1:45 p.m., this same day.)

- - - - -

AFTERNOON SESSION

(1:45 p.m.)

JUDGE COTTER: We'll go on the record.

For the purposes of the record, a short moment ago the Joint Petitioners provided the Board with a copy of a map of Louisiana which pointed out the location of the Atchafalaya River and the old river control structure and the penitentiary at Angola.

Mr. Irving, you said you had another housekeeping matter?

MR. IRVING: We caucused over the lunch hour and reviewed some material that we received from New Orleans this morning and also the legal arguments presented by the Applicant, and we have concluded that his legal arguments are probably correct as to the potassium iodide contention, which would be the next one up, which is No. 9, and therefore we would withdraw that contention. We would like to see the potassium iodide contained in the state evacuation plan, but after review, I think we are satisfied that the state has the option to do or not do, and it is their option.

The other matter is Contention No. 13, and as unlucky 13 would be, we are satisfied we have a technical error in our Contention No. 13, that being the reference to the emergency service water, that there are in fact wells on the site for emergency service water, and for that

1 reason -- I wish it were otherwise, because I think there
2 is some merit to Contention No. 3, but that is not the
3 problem, so I would also withdraw Contention No. 13.

4 JUDGE COTTER: Thank you very much, Mr. Irving.

5 Now it is my understanding that you-all have
6 agreed upon language for a stipulation during the luncheon
7 hour, and that that is now available to be read into the
8 record.

9 MR. WETTERHAHN: I will do it on behalf of the
10 parties, the Joint Petitioners, the Staff and the Applicants.

11 The stipulation is as follows:

12 "Joint Petitioners will withdraw and not seek to
13 again raise in this proceeding the matters encompassed by
14 their Contentions Nos. 2, 3, 5, 6 and 10, as identified
15 in 'The First Amended and Supplemented Contentions by
16 Joint Intervenors Louisiana Consumers League, Inc.,
17 Louisianians for Safe Energy, Inc., and Gretchen Reineke
18 Rothschild,' which pleading is dated May 31, 1983.
19 Applicants and Staff agree not to object to the
20 admissibility or timeliness of Joint Petitioners'
21 Contention 12 related to the effect of the asiatic clam
22 on the River Bend Station. If the State of Louisiana
23 withdraws its Contention 6, which is contained in the
24 Supplemental Petition of the State of Louisiana, dated
25 March 15, 1983, the Joint Petitioners will at that time

1 withdraw their Contention 12."

2 And that is the end of the stipulation.

3 JUDGE COTTER: Is there any operative event
4 that governs the State of Louisiana's decision to withdraw
5 its contention which would then affect Joint Petitioners'
6 action on Contention 12?

7 MR. LINDSEY: No, there is no specific event
8 that would trigger it.

9 JUDGE COTTER: Do we wait until the bitter end
10 to find out what happens to it? I'm not sure I understand.

11 MR. IRVING: The Applicant's concern was that they
12 might satisfy the State of Louisiana with the contention
13 and they would withdraw it, and if we were left as
14 Intervenors, then we would not be satisfied and would pursue
15 it, and we have assured the Applicant that we have for
16 some period of time been working with the State of
17 Louisiana, and that as a practical matter the State of
18 Louisiana is not going to withdraw the contention if we
19 don't also agree to it, and so this provision, in essence,
20 is merely a recognition of what already exists.

21 JUDGE COTTER: All right.

22 JUDGE COLE: So you didn't really need that added
23 to that?

24 MR. IRVING: No, sir, we didn't need that added
25 to it, but the Applicant felt that layer of safety would

1 be provided, so we let them. It's like wearing a belt
2 and suspenders.

3 (Laughter.)

4 JUDGE COTTER: Are there any other preliminary
5 matters before we proceed?

6 All right, then, we completed Contention 7 before
7 lunch, which brings us to Contention 8, and it is my under-
8 standing, with the exception of the question about the
9 prison, that Contention 8 will be deferred pending issuance
10 of the emergency plan at the end of this year.

11 MR. WETTERHAHN: That is correct.

12 JUDGE COTTER: Is that your understanding, Mr.
13 Wetterhahn?

14 MR. WETTERHAHN: Yes.

15 JUDGE COTTER: Staff concurs in that, I take it?

16 MR. REPKA: That is correct.

17 JUDGE COTTER: And the State of Louisiana concurs
18 in that?

19 (Mr. Lindsey nodding.)

20 JUDGE COTTER: All right, then, pursuant to the
21 statement by Mr. Irving a moment ago, Contentions 9 and 10
22 have been withdrawn.

23 That brings us to Contention 11, Construction of
24 River Bend Unit 2, and I believe that it was earlier agreed
25 that that, too, is to be deferred. What is the status of

1 that?

2 MR. IRVING: I don't think an agreement was ever
3 reached on that contention. We are prepared to argue it.

4 JUDGE COTTER: All right, if you will proceed.

5 MR. IRVING: At this point in time, I would say
6 that our position with regard to this contention was
7 probably much better stated this morning by the Board than
8 I could state it at this point in time.

9 I note that a number of questions were raised
10 about how exactly this was going to be accomplished, and
11 we suggest that is completely unreasonable to assume at this
12 point in time that Unit 2 will have no effect on the
13 operation of Unit 1. Things might be different if the
14 Applicant were not asking for a construction permit for
15 that unit -- I'm sorry, for an operating license for that
16 unit at this point in time, with it less than 1 percent
17 complete.

18 Since they are, the matter is germane and I
19 think has to be considered.

20 Furthermore, I would like to point out, if I
21 understand the Applicant's position this morning, in answer
22 to the questions from the Board, the decision to go or stop
23 River Bend Unit 2 is independent of the decision of finishing
24 River Bend Unit 1; right? That was my understanding in
25 response to the question, and I am having a lot of trouble

1 squaring that position with the financial documents
2 that have been submitted by the Applicant to the Securities
3 & Exchange Commission where their position is that a
4 decision regarding construction of River Bend 2, a 940
5 megawatt boiling water nuclear reactor, has been deferred
6 at least until the completion of River Bend Unit 1. I
7 have to interpret this language as saying that the decision
8 to go or no-go with River Bend Unit 2 is in fact not
9 independent of completion of Unit 2, but rather a subsequent
10 event to the completion of Unit 1, according to these
11 documents.

12 JUDGE COTTER: Of course, there is another
13 possible interpretation of this; they could be using
14 the completion of Unit 1 as a benchmark to relate to.

15 MR. IRVING: There is another possible interpreta-
16 tion which I think is most likely, and that is upon the
17 completion of Unit 1, if they can, that will be an incident
18 that will be looked upon favorably by the financial
19 regulators, and they will take that opportunity to announce
20 the cancellation of Unit 2, which is likely not to be
21 looked upon with great favor.

22 But, in any case, as long as we are seeking in
23 this proceeding an operating license for Unit 2, then I
24 think the impact of that plant and the people that are
25 going to be onsite as a result of construction of that

1 plant, has to be taken into consideration in the operation
2 of Unit 1.

3 Thank you.

4 JUDGE COLE: I'd like to hear what the Applicants
5 say about that, and then I have a question.

6 JUDGE COTTER: Does the State have any comment
7 on Contention 11?

8 MR. LINDSEY: That is State's Contention 5. No,
9 no lengthy comment, except as I read 10 CFR 50.34(b)(6)(vii)
10 it requires the Applicant to consider the effect of
11 construction of Unit 2 on the safe operation of Unit 1.
12 It's mandatory language.

13 JUDGE COTTER: Anything else, Mr. Lindsey?

14 MR. LINDSEY: No, that's it.

15 JUDGE COTTER: Mr. Wetterhahn?

16 MR. WETTERHAHN: The Applicants do not disagree
17 that the effect of Unit 2 on Unit 1, and Unit 1 on Unit 2
18 during its construction, do have to be considered. What
19 we are talking about here is merely the timing of such
20 considerations. No doubt this matter must be considered
21 before Unit 2 construction resumes.

22 However, we do not see any need to go ahead with
23 it in the hypothetical. It will proceed. We think the
24 economy of time and judicial economy and everyone's time
25 is best served by waiting until the decision is made, and

1 at that time considering the effect of Unit 2 if the
2 decision is made to proceed. That is our only contention.
3 We don't see why we have to consider it in the hypothetical
4 now. It has to be considered before construction goes
5 forward, but there is no reason why it can't be considered
6 at that time. This is a discrete issue which can be
7 considered in this manner, and we believe as a matter of
8 discretion the Board should defer this matter until the
9 decision is made.

10 JUDGE COTTER: Procedurally speaking, you are
11 suggesting that this proceeding be held open indefinitely
12 until the decision is made?

13 MR. WETTERHAHN: I think there are various
14 procedural ways of doing it, but that is one way. At
15 the appropriate time, if the Board were able to make all
16 the findings for Unit 1, certainly it could sever that,
17 make its findings and lose jurisdiction. It could retain
18 jurisdiction for Unit 2 and specifically condition the
19 operation of Unit 2 on this matter. There are a number
20 of procedural ways it could be handled. We wouldn't object
21 to any reasonable way of doing it.

22 JUDGE COLE: Like holding up the operating license
23 for Unit 2 until such time as that issue was resolved?

24 MR. WETTERHAHN: Until such -- at least the
25 Joint Petitioners were given an opportunity to set forth

1 contentions after the information required by the regulations
2 was submitted. I don't think it need be open to begin, but
3 certainly I don't see how we could object to these Joint
4 Petitioners here being given the opportunity to review
5 the technical information required by the regulations, and
6 only in passing would I note that the decision on Unit 2 is
7 a complicated one, involving cash flow, of course, but also
8 involving need for power. And you really would have to see
9 whether you needed the plant in 1985 for its future completion
10 date before you could make that decision. So it is not all
11 dependent on completion of Unit 1. There are various factors.
12 I could not put any comparative weight, but it is a
13 complicated decision, and I can only say that won't be made
14 until the end of 1985.

15 JUDGE COLE: It would seem to me to be less than
16 desirable to litigate a contention like that now. It would
17 also seem to me that it would not be reasonable to address
18 that contention in some way and give an operating license
19 to Unit 2.

20 MR. WETTERHAHN: We recognize that, too, and we
21 believe there are various procedural avenues which will allow
22 the Joint Petitioners in this case and the State -- I don't
23 want to leave the State out -- their procedural rights
24 under the regulations. There are a number of ways that
25 could be fashioned. Perhaps when the time comes for the

1 issuance of an initial decision on Unit 1 and Unit 2, the
2 parties could be asked either to agree or to propose
3 various mechanisms for doing so.

4 JUDGE COLE: Maybe you could stipulate something.

5 MR. WETTERHAHN: Perhaps.

6 MR. IRVING: I think it is the general consensus
7 among us that, you know, certainly the litigation of the
8 issues involving Unit 2 can be postponed until the point
9 where that happens. It just looks to us like under the
10 currently existing regulatory framework, if we don't
11 raise it right now, we lose it, and the problem that you are
12 mentioning will in fact happen to us and we don't want to
13 give up our rights to raise very significant issues as to
14 Unit 2 by not speaking up and saying our piece right now.

15 JUDGE COLE: We are only speaking about one issue
16 with respect to Unit 2 right now. The plan is now to
17 litigate all these contentions with respect to both Unit 1
18 and Unit 2.

19 MR. IRVING: Right. I understand. But I think we
20 recognize that the construction aspects of Unit 2 may be
21 irrelevant if Unit 2 is cancelled, as you gather we suspect
22 is going to happen.

23 JUDGE COTTER: I take it then there is no
24 objection to simply deferring ruling on this contention
25 and perhaps even going the additional step and making

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

provision in whatever order is issued as a result of this proceeding, that that issue is reserved for consideration at a later date.

MR. IRVING: As long as our rights are fully protected to litigate it at that point.

JUDGE COTTER: All right. That sounds like a very reasonable resolution.

end 6

AR:ki 07:01 1

(Pause.)

2 JUDGE COTTER: The next contention is contention
3 12, Asiatic clams. And I understand that has been stipulated,
4 and the new Petitioners have hereby become parties to it
5 being an admissible contention. Is that right?

6 MR. IRVING: Right.

7 JUDGE COTTER: There is no objection on the part
8 of the Applicant on the Staff to the admission of contention
9 12?

10 MR. WETTERHAHN: There is none. I would hope
11 perhaps the Board could order further specificity with regard --
12 either now or shortly after the prehearing conference -- with
13 regard to the exact concerns of both the State and joint
14 Petitioners.

15 JUDGE COTTER: All right. We'll keep it in mind.

16 JUDGE COLE: Why don't you try to work out a stipu-
17 lated contention?

18 MR. IRVING: We have not had ready access to the
19 FSAR at this point, because its location is very inconvenient
20 to where we are, because of the traffic problem around LSU.
21 My understanding is that we're going to be provided with a
22 copy. We've been provided with the amendments, but when we
23 get the copy, I think we can get a little more into addressing
24 the adequacy of the proposed mechanism that the Company has for
25 dealing with the Asiatic clam, which is kind of a novel problem

AR:ki 07:02 1 to the industry generally.

2 JUDGE COTTER: Do you have any sense of how soon
3 you would get an FSAR to them?

4 MR. WETTERHAHN: In the next week.

5 JUDGE COTTER: All right, after they have gotten
6 the FSAR, I would appreciate it if both parties would make
7 an effort to work out a stipulated contention on the clam
8 question.

9 MR. IRVING: It would be greatly expedited if the
10 amendments were also inserted.

11 (Laughter.)

12 MR. WETTERHAHN: Off the record.

13 (Discussion off the record.)

14 JUDGE COTTER: The next contention is contention
15 13, which is, according to Mr. Irving's representation,
16 withdrawn. And that leaves contention 14 of the joint
17 Petitioners, the contention on synergistic effects.

18 JUDGE COLE: Isn't this really part of your conten-
19 tion 4, Mr. Irving?

20 MR. IRVING: Yes. The liquid part of it certainly
21 is. You know, as I mentioned previously, we intended -- what
22 we intended to do when we put these two together was to raise
23 the issue that was admitted in the Waterford case on the
24 synergistic effects. And when we discovered that we hadn't
25 put the words "synergistic effects" in the liquid pathway

AR:ki 07:03 1

2 contention, we came back and put it in No. 14 to cover the
3 waterfront. And then on the second part of it, section B
4 dealing with ionizing radiation released into the air, that
5 particular contention was suggested by some advertising that
6 some of the utilities have been given, suggesting that the
7 radiation emissions from coal plants, in fact, exceed those
8 from nuclear plants.

9 And, of course, if this is the case, then you're
10 going to get a synergistic effect, to some degree, between
11 the radiation emissions from the coal plants which are across
12 the river, and the radiation emissions from the river bed
13 plant on the east side of the river.

14 JUDGE COLE: I don't understand what you mean by
15 synergistic in that context.

16 MR. IRVING: A reinforcing. The sum of the whole
17 is greater than the parts. This particular area has got
18 the highest cancer rates in the country. The death rate from
19 cancer is very high, and in parts of this area the death rates
20 are very high from cancers; for instance, pancreatic cancer,
21 which has been linked both to radiation and water pollution.

22 And we suggest to you that the effects, the long-
23 term effects of low levels of exposure to radiation are not
24 well understood and are a matter of continuing study. And when
25 you're dealing with a population that already has a higher-
than-normal incidence of cancer, that is not a matter to be

AR:ki 07:04

1 looked over when you already have a problem and may, in fact,
2 be contributing to the problem. You may, in fact, be inducing
3 an incident which in itself will aggravate the already-existing
4 condition.

5 JUDGE LINENBERGER: If I understand you correctly,
6 you seem to have indicated you have a basis for believing that
7 the effects are not just additive, but more severe than
8 additive.

9 MR. IRVING: Yes, sir. They are more severe than
10 additive.

11 Right now, of course, there is a lot of medical
12 controversy about what is and what is not synergistic. But I
13 have tried lawsuits involving synergism issues, and have
14 gotten courts, in connection with industrial pollutants, to
15 find a synergistic effect between smoking and exposure to
16 industrial pollutants. So we're not dealing with an abstract
17 thing. This is at the forefront of medical science, but is
18 coming into litigation also.

19 JUDGE COLE: Well, what are you going to litigate
20 here? It's fairly general chemical effluents.

21 MR. IRVING: The chemical constituents of the
22 Mississippi River -- some of them are reasonably well known.
23 The river contains thousands of chemical compounds in small
24 amounts, but some of them are known carcinogens which have
25 appeared in the drinking water in New Orleans and also some

AR:ki 07:05 1 places downstream of Baton Rouge that use that water for
2 drinking purposes.

3 What we're suggesting is to have the Board consider
4 the cumulative impact and the synergistic impact from the
5 emissions from the plant and the chemicals which are already
6 in the water, which we believe there are a number of studies
7 that suggest induced cancers in the people that drink it.

8 JUDGE COLE: Well, I don't know what we'd litigate
9 here. If the Applicant complies with the discharge standards
10 and stays within the limits of 10 CFR 20 and the regulations
11 of the Commission, what are to do here?

12 How would we consider it -- under a cost/benefit con-
13 sideration or what?

14 MR. IRVING: It would certainly have to be considered
15 in terms of the benefits of the plant, and certainly in terms
16 of the safety of the plant. Again, this is something that
17 has to be considered in some framework, and it really isn't
18 anywhere else.

19 You can wind up in a situation where you don't
20 create enough pigeon holes to get everything in, and I don't
21 think that's what is envisioned by the regulations.

22 Thank you.

23 JUDGE COTTER: Mr. Lindsey, I believe you have taken
24 that as a part of your contention 3.

25 MR. LINDSEY: Correct.

AR:ki 07:06 1

JUDGE COTTER: Do you have anything to add to it?

2

MR. LINDSEY: I have nothing to add.

3

4 JUDGE COLE: You're not concerned with any chemical
5 discharges from the plant, only the ionizing radiation aspects
6 of it. For example, chlorine or something like that. You
7 don't mention any of that.

7

8 MR. IRVING: We don't mention the chemical discharges
9 from the plant. And the reason we did that was, we didn't
10 feel like we had the technical expertise readily available to
11 handle that problem.

11

12 You know, the ionizing radiation is at least being
13 studied. The synergistic impact of all these different chemi-
14 cals in water is even behind that.

14

JUDGE COLE: Okay. Thank you.

15

16 MR. IRVING: I wouldn't drink New Orleans water, and
17 if you knew what was in there, you probably wouldn't drink it
18 either. But the thing is, I can't sit down and show you a
19 study that, in fact, proves conclusively that this is what's
20 causing it. It's merely the statistics suggest that there is
21 a problem.

21

JUDGE COTTER: Mr. Wetterhahn.

22

23 MR. WETTERHAHN: First of all, this contention is
24 late. I emphasize that again. There is no basis given for
25 why this could not have been submitted on time.

25

I understand the joint Petitioners consider it part

AR:ki 07:07

1 of another contention. Certainly the words don't say that.
2 And if it were part of another contention, I don't see why
3 they would have seen the need to submit a specific contention
4 which should be rejected on a timeliness basis by itself.

5 In any event, this is so general and lacking in
6 basis, I wouldn't know what evidence we would have to present
7 or what we would need. This is lacking in the specificity
8 required for admissible contentions, and it should be denied.

9 With regard to, I guess the cumulative effects of
10 radiation from this facility, with a coal-fired plant nearby,
11 I don't see any basis for saying it's other -- that it could
12 possibly be synergistic. Maybe additive, but not synergistic.

13 In any event, the Commission's regulations regarding
14 the emissions control would lead us to say there's no issue
15 here to litigate.

16 MR. REPKA: The Staff also objected to the
17 admissibility of this contention on the grounds of basis and
18 specificity. We think Mr. Irving's comments this morning
19 just underscored that lack of basis and specificity in the
20 written contention. The written contention said nothing about
21 cumulative effects of coal-firing plants, and that's a new
22 concern we heard for the first time this morning.

23 The fact that the contention is that vague, that the
24 parties are being asked to litigate a moving target, just
25 makes it that much more difficult to litigate, and therefore

AR:Ki 07:081

is good reason to not admit the contention.

2 MR. IRVING: First, we previously set our pace on
3 the timeliness of the contention. Our belief at the time this
4 amendment was made was we were completely timely, because of
5 the 50-day requirement in the regulation. With regard to
6 hitting to a moving target, you know, we're doing the best
7 we could to frame these things, and we didn't have ready
8 access to the FSAR. We're going to have it now, and we would
9 be happy to try to amend the contention again to make it
10 sufficiently specific to satisfy them.

11 But I think the point that we were trying to raise
12 is here, and I think given the location of this plant, as we
13 explained it this morning, the reason for it is clear.

14 JUDGE LINENBERGER: Mr. Repka, I did not really
15 understand your moving target comment. If indeed there is a
16 target, and the target is fair game to addressed in a pro-
17 ceeding such as this, then the mere fact that it's a moving
18 target -- I guess I missed your point.

19 MR. REPKA: The point is that the requirement for
20 basis and specificity is intended to put the parties on notice
21 as to what the issues are for litigation. We have the conten-
22 tion, which is a very vague and general one, and a suggestion
23 that there may be synergistic, cumulative effects out there.
24 The parties are not on notice as to what those effects might
25 be. Therefore, you have a moving target for litigation.

AR:ki 07:09

1 Today, the effect may be the cumulative effects of
2 radiation, and tomorrow it may be radiation plus chemical
3 effluents. That presents a very difficult problem for litiga-
4 tion where the testimony will be unfocused, and therefore
5 won't address the issues and the concerns at the time.

6 That's why you have basis and specificity require-
7 ments for admissibility for contentions.

8 JUDGE LINENBERGER: Thank you.

9 JUDGE COTTER: Is there anything further to add on
10 contention 14?

11 JUDGE COLE: Mr. Irving, do you have anything to
12 add to this, to demonstrate as to why this is a problem? What
13 is your real basis for raising this issue? That it's a problem
14 that has to be addressed here.

15 MR. IRVING: Well, we did not include in the conten-
16 tion the data about the cancer rates and the different kinds
17 of cancers in this area. But that is the concern. And I might
18 add that this is not the first time that I've had to stand
19 before a regulatory body and raise that concern; that has been
20 raised by numerous groups that I represent in a variety of
21 licensing and industrial proceedings. It is a major concern
22 of people in this area about the long-term low-level effect
23 of the things that they're being exposed to in the environment.

24 Probably if you had to pick a No. 1 environmental
25 issue on the minds of the people today in this area, and maybe

AR:ki 07:10 1

2 in the country, it is what are the long-term low-level effects
3 of the things that we're being exposed to every day in our
4 environment.

5 JUDGE LINENBERGER: Are you saying thereby that you
6 kind of wish you had written the contention differently?

7 MR. IRVING: Yes, sir, I do. I wish that we had
8 put more of the data in about the cancer studies, some of
9 which we didn't have at the point where the contention was
10 written, and we have now.

11 The FSAR, we haven't had real good access to, because
12 of the logistics of getting to it. If we put those two
13 together, I think we could do a much better job of priming
14 the contention. We did not intend to create a moving target
15 for somebody to shoot at.

16 What we intended to do was to raise the identical
17 issue that had been raised in the other proceeding, which is
18 the Waterford case in this state.

19 JUDGE COTTER: One of the reactions I guess I have
20 on the way you've phrased this most immediate statement -- yes,
21 it sounds a little bit like what you had in mind -- was litigating
22 the question of long-term effects of low level ionizing radia-
23 tion. And if that's the case, that troubles me substantially,
24 because this kind of forum does not lend itself to resolution
25 of that kind of an unresolved question.

MR. IRVING: Well, I recognize the generic nature

AR:ki 07:11 1

of a consideration of the long-term effects of ionizing
radiation.

3 My point is that there is a specific problem with
4 this area because of the cancer rate that we already have
5 and the industrial concentration that we have, and just the
6 fact that there's a coal plant right across the river, and
7 the attendant emissions from the coal plant, and all the
8 petrochemical industries that we have here. We have a unique
9 situation.

10 There is only one other place in the country that
11 has a concentration of petrochemical industries like we've
12 got here -- maybe two other places -- over in the Lake Charles
13 area and the Houston area. We have a unique situation as part
14 of our geography, and I think it's a matter that has to be
15 considered.

16 We're not trying to open the waterfront up to a
17 complete litigation of the long-term low-level effects of
18 ionizing radiation, though in the proper forum that might not
19 be a bad idea. We recognize this isn't the place for that.

20 JUDGE COLE: I think a valid criticism is lack of
21 specificity, and I just wonder what would the Applicant come
22 forward with? What kind of information would you expect him
23 to come forward with to satisfy this contention?

24 If you had specific chemicals, you could measure
25 concentrations, and if you had information on the effects of

AR:ki 07:12 1 combinations of that chemical and radiation, that's something
2 to go on. But this is something that's very difficult to
3 get a handle on. How would you litigate it?

4 MR. IRVING: I think you'd have to look at what the
5 data is on the low-level, long-term effects of ionizing
6 radiation, and that's changing every day.

7 JUDGE COTTER: That's the part that bothers me.
8 I understand your concern with the industrial concentration
9 here, and your representation concerning the level of cancer
10 deaths and so forth, but it seems to me there would be no way
11 of addressing this issue without getting into the generic
12 issue of the long-term effects of low-level ionizing radiation
13 for which, as I understand it, there are substantial studies
14 going on now, but there is no conclusive data on the subject.

15 MR. IRVING: But when you have a particular problem
16 already in an area, and you may have a synergistic impact with
17 a new activity that you're undertaking, it would seem to me
18 reasonable to have a look at that, to see if you're going to
19 make your existing problem worse.

20 JUDGE COLE: But the Applicant's radioactive dis-
21 charges -- if they're below the level that are specified in
22 part 20, and are considerably below that, what are we going
23 to do with that kind of information? If it meets the require-
24 ments, do we change the requirements?

25 MR. IRVING: You may have to change the discharges.

AR:ki 07:131

I don't know. But it's something you've got to address.

2 It may be that you can do it with monitoring. It may be that
3 the level of contaminants in the river is going to have to be
4 monitored, and at certain times the plant not operated. There
5 are a lot of things that could be done.

6 JUDGE COLE: You've alleged that there are synergistic
7 effects. What is your basis for making the statement that
8 there are synergistic effects between these chemicals and
9 ionizing radiation?

10 MR. IRVING: There are a number of studies, and
11 what I have here -- the same question was asked in answer to
12 interrogatories in the Waterford case. I have their response
13 to it here, where they reference a number of studies.

14 Rather than going through all this, it might be
15 better if I reduced it to writing and sent a copy of it out
16 to everyone. There are studies coming out every day.

17 (The Board conferring.)

18 JUDGE COTTER: Well, obviously, we're having difficulty
19 with this one. I think perhaps one way, one possible way to
20 deal with it, is the issue as it was litigated in the Waterford
21 proceeding as a matter of public record. And I suppose we
22 could take notice of what was in that proceeding.

23 And, absent some kind of a significant objection,
24 I guess what we would propose to do would be that this conten-
25 tion -- rule on this contention, having taken notice of whatever

AR:Ki 07:14

1 was in the Waterford proceeding.

2 MR. WETTERHAHN: I guess I'm going to have to object.
3 Having only skimmed that proceeding, all I recall from it
4 is the Board authorized the issuance of an operating license
5 where the issue of synergistic effects was considered. But I
6 really cannot say that the conditions are the same.

7 JUDGE COTTER: We're certainly not asking you to,
8 but we would have to, presumably.

9 JUDGE COLE: If they were the same, we wouldn't have
10 to litigate it, would we?

11 MR. WETTERHAHN: I don't know, and I think I'm going
12 to have -- that record is not part of this proceeding, nor
13 until three seconds ago was it mentioned by the Petitioners
14 and I don't think it should form part of the basis for ruling.

15 The contention as submitted, with basis or lack
16 thereof, is what the Board must find as far as specificity is
17 concerned.

18 JUDGE COTTER: All right. I think the position is
19 clear.

20 MR. REPKA: The Staff would note that if the Board
21 considers the record of Waterford when judging the admissibility
22 of this contention, that they shall so consider the conclusions
23 of the Waterford Board. We ask that the Board make sure that
24 they consider the conclusions of the Waterford Board in consider-
25 ing the record of the Waterford case in judging the admissibility

AR:ki 07:15 1

of this contention.

2 JUDGE COTTER: If we go the route taking official
3 notice of the record, we certainly can't do it selectively.

4 MR. REPKA: I understand.

BU 6

5 JUDGE COTTER: I believe that concludes all of the
6 joint Intervenors' petitions -- contentions, I'm sorry.
7 And that leaves us to ensure that we have given full consider-
8 ation to the State of Louisiana's contentions as set forth
9 in the March 15 file. And I suppose the first question that
10 arises is that I cannot recall for sure whether contention 1,
11 which basically, I think, raises the Table S-3 question, has
12 been withdrawn, or is that still being advanced?

13 MR. LINDSEY: The State of Louisiana is withdrawing
14 contention 1 at this time. That's the Table S-3 contention.

15 I'd like to state for the record in this proceeding
16 that the State continues to be very interested in the un-
17 resolved and highly controversial issue of the long-term
18 storage and/or disposal of high-level radioactive waste.

19 However, in light of last week's Supreme Court
20 decision in Baltimore Gas & Electric versus National Resources
21 Defense Council, the State of Louisiana recognizes that this is
22 the wrong forum to advance its concerns and will continue to
23 express its concerns in other forums.

24 JUDGE COTTER: Thank you, Mr. Lindsey.

25 For the record, the Supreme Court decision referred

AR:ki 07:161

1 to is entitled Baltimore Gas & Electric Company et al. v
2 Natural Resources Defense Council, Inc., docket no. 82-524,
3 Supreme Court of the United States, argued April 18, 1983 and
4 decided June 6, 1983.

5 Does that result -- are there any contentions
6 unresolved?

7 MR. LINDSEY: There are no additional contentions
8 that have been proposed by the State which were not addressed
9 at the time the joint Intervenors' contentions were addressed

10 JUDGE COTTER: All right. Is there anything else
11 that you'd like to add at this time, Mr. Lindsey?

12 MR. LINDSEY: Nothing at this time.

13 JUDGE COTTER: All right. Thank you very much.

14 JUDGE LINENBERGER: Mr. Wetterhahn, while there is
15 a lull here, let me comment that I think we may have uninten-
16 tionally short-changed ourselves this morning when we requested
17 one copy for the Board of the FSAR. At this point, I think
18 we would also like the environmental report and the OL phase.

19 MR. WETTERHAHN: We will send you, and intended to
20 send you, a complete copy of the application for the operating
21 license.

22 JUDGE LINENBERGER: Fine, thank you.

23 JUDGE COTTER: At this point, would it be of benefit
24 to discuss the party views on how we proceed after the Board
25 has ruled on the matters that have been under review and

AR:ki 07:17 1

discussion today.

2 I guess principally what we discussed and had in mind
3 was that after we had issued our ruling, it might be useful
4 if the parties were to propose a schedule for proceeding with
5 discovery on whatever matters are admitted to the proceeding.

6 And, absent objection at this point, we would
7 include a direction in whatever memorandum and order that we
8 issue, setting a time for the parties to get together and
9 establish some sort of schedule of proceeding for submission
10 to the Board.

11 Is there any objection to that?

12 MR. WETTERHAHN: No objection.

13 MR. IRVING: No objection.

14 MR. REPKA: No objection.

15 JUDGE COTTER: The only item I have left is a couple
16 of housekeeping items. I thought now that we had softened
17 you up a little bit, we might mention a couple of things that
18 we have in mind, the most significant perhaps of which is,
19 we have under consideration, and should you wish to express
20 your views on it, we would like to hear them, a procedure whereby
21 we would ask you to file your findings of fact and conclusions
22 of law at or about the time you file your testimony, before
23 the hearing. And we would contemplate that we would get a
24 number of benefits from that. One of them, hopefully, would
25 be to better focus the evidence which comes into the proceeding.

AR:Ki 07:181

2 The second would be to better focus the cross-
3 examination which takes place during the course of the hearing
4 itself.

5 And then finally, there might be some saving of
6 time after the proceeding, after the trial portion was complete.
7 We would also contemplate that should the direct evidence or
8 the cross-examination modify the record or evidence in the
9 record in a particular issue as it develops, that consequently
10 the findings which had been proposed would be modified as we
11 went along.

12 Any comments on that at this point?

13 MR. CONNER: We would agree to that as an interesting
14 approach, given no schedule problems that might arise at the
15 end. I mean, I would assume the Board would want prefiled
16 testimony roughly 30 days before the hearing. And it would
17 seem that there might be a problem preparing findings until
18 you had seen the other side's testimony which tends to put you
19 in a little bit of a schedule bind right before the hearing.

20 Now, it might not exist. I'm just thinking out loud,
21 since you asked for comments, and this could be a bit of a
22 problem. Given the rather long-range we have here and now,
23 it would appear to be something worth considering, absent
24 such a problem.

25 In other words, it's just another version of a trial
brief in effect, something we should all be familiar with.

AR:ki 07:19

1 JUDGE COTTER: That's what I would expect. It would
2 be somewhat more finely tuned than a trial brief, because
3 presumably it would be an instrument that would be used in
4 issuing the initial decision. But we certainly would be
5 sympathetic to any scheduling problems that might arise, and
6 we could adjust as we went along.

7 MR. REPKA: The Staff would greatly appreciate the
8 schedule being established so that the testimony would be
9 filed first, and we would have the testimony of all the parties
10 before us before we wrote the findings.

11 We might propose something like 60 days prior to the
12 hearing for testimony, and 30 days for a proposed findings,
13 or something like that.

14 JUDGE COTTER: That might be feasible.

15 Mr. Irving?

16 MR. IRVING: I don't foresee that we would have any
17 difficulty in submitting findings of fact concurrent with the
18 testimony. We don't usually submit findings of fact that
19 rely on the other guy's testimony anyway. If you do, you
20 may crawfish.

21 JUDGE COTTER: Mr. Lindsey?

22 MR. LINDSEY: I have no objection to that approach.

23 JUDGE COTTER: Very good.

24 The only other procedural advice that occurs to me
25 is that we would also contemplate the use of cross-examination

AR:ki 07:20 1

2 plans, but I think we can reach that as we proceed through
3 things. And presumably, we are going to end up, to a certain
4 degree, with a segmented hearing. Some issues, I think, will
5 clearly be ready before others, which may make the burden a
6 little easier on the counsel preparing the cases.

7 MR. CONNER: As in most cases, we would assume that
8 if there are other issues, the emergency plan would undoubtedly
9 be the last. So anything that could be heard prior to any
10 emergency plan, issues that might still exist, having
11 discrete handling of contentions would be highly desirable.

12 JUDGE COTTER: We expect to proceed on contentions
13 as they arrive. And, of course, with all this reasonableness
14 going on in here, we see a slim chance of emergency planning
15 contentions.

16 (Laughter.)

17 Is there anything further that we need to address
18 at this time?

19 MR. LINDSEY: Mr. Cotter, I have one clarification.
20 I am assuming that the phrase, "joint Intervenor" does not
21 include the State of Louisiana. Is that a correct assumption?

22 JUDGE COTTER: Is there any question about that?

23 MR. WETTERHAHN: In our pleadings, we only meant
24 it to speak to the nongovernmental Intervenor or Petitioners
25 at that time.

MR. LINDSEY: In that connection, I'd like to ask

AR:Ki 07:211

1 the Applicants if they have any objection to providing the
2 State of Louisiana with an FSAR.

3 MR. WETTERHAHN: It's my understanding of the usual
4 practice that the State is provided with a number of copies
5 and --

6 MR. LINDSEY: My office doesn't have one.

7 MR. WETTERHAHN: If we can't get you one from the
8 supply the State has, we will supply you with a copy of the
9 application.

10 JUDGE COTTER: Where is the public document room in
11 this area? Does anybody know?

12 MR. IRVING: There are two public document rooms --
13 no, one. The one in St. Francisville has been closed. LSU
14 has some 30,000 students, I guess, during normal classes, and
15 of course maybe a third of that during the summer. And the
16 logistics of getting out to LSU and getting back are almost
17 impossible during those parts of the day when the students
18 are there, and it makes it very difficult for us to get there
19 and get the document.

20 We can't get the document any way, but we can look
21 at it.

22 JUDGE COLE: I understand.

23 JUDGE COTTER: Is there anything further?

24 MR. WETTERHAHN: I understand the State Nuclear
25 Energy Division has a complete copy of the application, and

AR:Ki 07:22

1 they are physically located within a mile or so of the
2 Attorney General's office, and perhaps they could use the same
3 document.

4 MR. LINDSEY: No. It's more than a mile.

5 MR. WETTERHAHN: Fine. Then we'll investigate.

6 We'll get in touch with you.

7 JUDGE COTTER: Mr. Wetterhahn, all things considered,
8 why don't you just give them a copy?

9 (Laughter.)

10 MR. WETTERHAHN: We'll give them a copy.

11 MR. IRVING: You see what I mean about my contention
12 about saving money?

13 JUDGE COLE: Is that an objection?

14 (Laughter.)

15 JUDGE COTTER: Is there anything further then?

16 (No response.)

17 All right. On behalf of the Board, I want to thank
18 all of the parties. I think this has been an efficient and
19 effective proceeding, and I personally put a high price on
20 intelligent counsel's presentation. So I thank you all very
21 much.

22 The proceeding is adjourned.

23 (Whereupon, at 2:45 p.m., the proceeding was
24 adjourned.)

25

CERTIFICATE OF PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the
NRC COMMISSION

In the matter of: River Bend Prehearing Conference

Date of Proceeding: Tuesday, June 14, 1983

Place of Proceeding: Baton Rouge, Louisiana

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

Ann Riley

Official Reporter - Typed



Official Reporter - Signature