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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
WISCONSIN ELECTRIC POWER COMPANY)	Docket Nos. 50-266
)	50-301
(Point Beach Nuclear Plant,)	(OL Amendment)
Units 1 and 2))	

LICENSEE'S RESPONSE TO DECADE'S MOTION
CONCERNING LITIGABLE ISSUES

I. INTRODUCTION

During a January 11, 1982 prehearing conference call between the Board and the parties, the Board established a procedure for the identification of the issues for litigation in this proceeding, whereby Decade was to file a "Motion Concerning Litigable Issues". Tr. 890-92. The schedule for filing the motion, and responses thereto, was amended during a June 1, 1982 conference call between the Board and the parties (memorialized in a letter from counsel for Licensee to the Board dated June 7, 1982). Under the revised schedule,

Decade's motion was due July 19, 1982. Following a conference call with the Board on July 19, Decade filed a partial motion on July 20, and the complete motion on July 21, 1982. Licensee received the complete motion on July 22, 1982.

This document constitutes Licensee's response to Decade's late-filed "Motion Concerning Litigable Issues."

The purpose of the motion, as articulated by the Board, was to allow Decade to file a complete statement of the issues it would attempt to have litigated in this hearing (with bases) following conduct of discovery by Decade. The Board envisioned that this process would enable it to determine -- at once -- both the adequacy of the proposed contentions pursuant to 10 C.F.R. § 2.714(a) and whether the contentions raised material facts as to which there exist genuine issues to be heard under the standards set forth in the Commission's summary disposition rules at 10 C.F.R. § 2.749. The Board contemplated a two-step determination of issues advanced in Decade's motion, and recognized that the standards for the first step (admission of a contention) were perhaps less rigorous than the standards for the second step (summary disposition). Tr. 865-91.

Accordingly, in the "Motion Concerning Litigable Issues," Decade was to have (a) specified the issues it proposed to litigate; (b) provided its complete basis for those issues; (c) provided its legal arguments on why the proposed issues are material to the subject matter of the hearing; and

(d) documented the genuine issues of fact believed to exist with respect to each proposed litigable issue. Tr. 891. Licensee's response is to be in the nature of a motion for summary disposition, Tr. 892, and Decade is afforded an opportunity to reply, in accordance with summary disposition procedures at 10 C.F.R. § 2.749. Tr. 899-903.

Decade's failure to timely file its "Motion Concerning Litigable Issues" has had substantive repercussions on Licensee's ability to respond. Licensee attempted to accommodate Decade's failure amicably, by proceeding with the preparation of a response to Decade's motion even before Licensee received the written motion, relying on Decade's oral statements to the Board and the parties during the July 19 conference call. However, when Licensee received the complete written motion on July 22, Licensee learned, to its detriment, that Decade had advanced new issues and expanded others far beyond the representations Decade had made to the Board and the parties in the July 19 conference call.

In light of the foregoing, Licensee's Response is organized, for the Board's convenience, into sections addressing each of four successive determinations to be made by the Board. Thus, the first section following this Introduction, part II, presents Licensee's arguments that Decade is estopped from raising many of its proposed contentions; to the extent the Board agrees with Licensee's position

on that argument, the Board need go no further with respect to any parts of Decade's proposed issues which might thereby be eliminated. Part III discusses Decade's failure to justify the late-filing of new contentions. To the extent that issues are eliminated by a Board finding in Licensee's favor on the part III arguments, the Board need not further consider those issues. Part IV argues the relevance of certain of the proposed issues to the subject matter of this proceeding, and also touches on the adequacy of bases under the standards of 10 C.F.R. § 2.714(a) for admission of contentions. Parts V and VI consist of "Licensee's Motion For Summary Disposition of Decade Contentions 1, 2, 3(a)-(e), 4 and 5" and "Licensee's Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard With Respect To Decade Contentions 1, 2, 3(a)-(e), 4 and 5," in accordance with the Board's January 11, 1982 order and the standards of 10 C.F.R. § 2.749. Licensee's motion for summary disposition is also supported by the referenced sworn "Statement of W. D. Fletcher." To the extent an issue is eliminated by the Board on grounds of relevance or adequacy of basis, as argued in Part IV, the Board need not reach summary disposition of that issue.

Licensee would urge the Board to consider its arguments in the order presented. The instant procedure for dealing with Decade's proposed contentions leaves Licensee in the unusual position of presenting substantive responses (summary

disposition) to contentions which, for one or more reasons, should not even be admitted as issues in the first instance. The most dramatic examples are Contentions 1, 2, 4 and 5 which are clearly irrelevant to sleeving and beyond the scope of this proceeding, yet are addressed in Licensee's Motion for Summary Disposition. In Licensee's opinion, these (as well as others) are clear examples of contentions which need not even reach the stage where the Board would have to address summary disposition considerations.

II. DECADE IS ESTOPPED FROM RAISING
MANY OF ITS PROPOSED CONTENTIONS

Decade's right to raise issues for litigation in this proceeding is limited by its failure to comply with two fundamental, separate and distinct obligations to timely apprise the Board and the other parties of those issues. The two obligations -- Decade's obligation to notify the Board and the parties of its litigable issues on July 19 and July 20, 1982, and Decade's continuing obligation to keep Licensee and the Staff apprised of its contentions and the bases therefor -- and their application to the contentions proposed in Decade's July 21 Motion are discussed below.

A. Decade's Obligation to Notify Parties of Litigable Issues
To Be Raised In Late-Filed Written Motion

Pursuant to the schedule established by the Board in the January 11, 1982 conference call in this proceeding (as amended in the June 1, 1982 conference call), "Decade's Motion Concerning Litigable Issues" was to have been filed on July 19, 1982. However, when counsel for Licensee called Decade on July 19 to arrange for pick-up of the motion, counsel for Licensee was informed that the motion would not be timely filed.

A conference call was convened and, in the course of that call, Decade's representative confirmed that the issues he had identified to date for litigation were the twelve issues specified in Decade's January 18, 1982 letter to the Staff, less Issue 9 and possibly less Issue 7, with the addition of the issue of loss of experienced personnel and any new issues raised by the SER. Decade's representative explained that he had not yet read the SER, but would take it home and read it overnight, and would report any new issues raised by the SER to counsel for Licensee the next morning (July 20). See Letter, Counsel for Licensee to Chairman Bloch, dated July 21, 1982 (minutes of July 19, 1982 conference call). In accordance with the Board's instructions in the July 19 conference call, counsel for Licensee called Decade's representative on the morning of July 20, to receive notification of any new issues for litigation raised in the SER. Decade's representative

informed counsel for Licensee that Decade would raise "iodine spiking" and "generic issues from Ginna," discussed at pages 40-43 of the SER. See Letter, Counsel for Licensee to Chairman Bloch, dated July 21, 1982 (memorializing Licensee's July 20, 1982 telephone conversation with Decade).

However, when Licensee finally received a complete copy of Decade's motion on July 22, 1982, Licensee discovered that Decade had advanced numerous issues which Decade had not identified in either the July 19, 1982 conference call or in its July 20, 1982 conversation with Licensee.^{1/} Decade's motion offers no explanation whatsoever for its failure to identify such issues in the course of the July 19 conference call; indeed, Decade does not even acknowledge that some of the issues advanced in the written motion were not identified in the conference call.

Licensee does not raise this matter lightly. While Decade has had nearly a year to conduct discovery and frame its

^{1/} In the course of the July 19 conference call, Judge Bloch directed Decade to file two-thirds of its Motion on Licensee by Federal Express on July 20, and to file the remaining one-third of the Motion by Federal Express on July 21. See Letter, Counsel for Licensee to Chairman Bloch, dated July 21, 1982 (minutes of July 19, 1982 conference call). In direct contravention of the Board's explicit instructions, and without seeking leave of the Board or even agreement of Licensee, Decade filed only the first four and one-fourth pages (i. e., the first two litigable issues) of its fourteen-page Motion on July 20. Licensee received none of the lengthy "Appendix In Support of Motion Concerning Litigable Issues" until July 22.

proposed issues, Licensee had only three weeks to prepare its response, and, because of the lateness of the hour relative to the refueling outage when the sleeving must take place, Licensee could not seek an extension of time to respond. Moreover, the Board contemplated that Licensee's response would include a motion for summary disposition, which requires the preparation of extensive and detailed affidavit testimony by Westinghouse technical experts in Pittsburgh. Licensee's schedules for preparing its response to Decade's issues were planned far in advance, and contemplated having Decade's motion in hand on Monday, July 19, for a scheduled meeting with numerous Westinghouse representatives in Pittsburgh on July 20. Licensee's understanding of the issues, based, it now turns out, on Decade's misrepresentations, was to have enabled it to fruitfully meet with the Westinghouse representatives on July 20 for the preparation of affidavit testimony. Not until two days after that meeting did Licensee receive Decade's complete written motion, which included numerous new and expanded issues not previously disclosed to Licensee. Licensee has therefore been severely disadvantaged and prejudiced in its ability to respond to the new issues.

Decade should not benefit from its failure to comply with Board directives. Under such circumstances, Decade is estopped by its misrepresentations to the Board and the other parties in the course of the July 19 and July 20 telephone calls from

raising any contentions not expressly identified in those calls.

B. Decade's Continuing Obligation To Keep Licensee and Staff Apprised of Contentions and Bases Therefor

Both the Staff and Licensee propounded interrogatories to Decade, requesting that Decade identify all its issues for litigation and the bases therefor. Specifically, "Licensee's Second Set of Interrogatories and Request For Production of Documents To Intervenor Decade Relative To Full Scale Sleeving Program" (November 20, 1981) requested that Decade:

1. Identify with specificity each and every concern which Decade wishes to litigate * * * excluding those concerns explicitly identified in its Contentions 3, 4, 5 and 7 [advanced in its initial petition]. The purpose of this interrogatory is to identify any and all issues which Decade may wish to litigate relative to a full-scale sleeving program but which are not expressly identified by Decade in its Contentions 3, 4, 5 and 7.

2. State in detail the factual bases for each and every concern identified in response to Interrogatory 1, above. The purpose of this interrogatory is to ascertain the factual bases for each element of each of Decade's concerns, so that Licensee can adequately prepare its response to the contention.

[Emphasis supplied]. Similarly, the "NRC Staff Interrogatories To Intervenor Wisconsin's Environmental Decade" (December 2, 1981) requested, inter alia:

1. Within the Board's broad contention, state the particular issues which WED intends to litigate in this proceeding, and identify the factual bases for each issue.

[Emphasis supplied]. One of the stated purposes of the Staff's interrogatories was "1. To identify the specific issues which WED seeks to litigate and to identify the basis for each issue with reasonable specificity." Decade did not object to either the interrogatories of the Staff or Licensee.

In the course of the January 11, 1982 conference call in this proceeding, Judge Bloch expressly admonished:

Decade is advised, as Applicant has argued, that the parties to this proceeding have a continuing obligation to update answers to interrogatories on a reasonable basis when new responsive information becomes available to them.

Tr. 890. See also Tr. 871 (Churchill). In its "Memorandum and Order (Concerning A Motion To Compel and Other Matters)"

(February 19, 1982), the Board further elaborated on the import and gravity of Decade's obligation to keep Licensee apprised of its contentions and the bases therefor:

We anticipate that applicant could, even given the applicability of this special procedure [Motion Concerning Litigable Issues], experience some prejudice if Decade has not responded fully to its interrogatories. This prejudice could occur if applicant is knowingly kept ignorant of grounds for a contention. Were we to find that to have occurred, we would view that particular ground in a very dim light and likely would exclude it from consideration, as applicant will have been deprived of a full and fair opportunity to prepare its response. Consequently, we

urge Decade to satisfy itself that applicant is kept informed, on an ongoing basis, of the grounds for Decade's contentions, which have been the subject of applicant's interrogatories. We intend this proceeding to be governed by principles of full disclosure and will not permit it to resemble a game of hide-and-go-seek.

Memorandum and Order, at 4-5 [emphasis supplied]. See also, "Memorandum and Order (Concerning A Motion To Reconsider)" (March 19, 1982), at 2, 4 (affirming February 19, 1982 Memorandum and Order, and reiterating Decade's continuing obligation to update its interrogatory responses).

Despite the Board's stern admonitions, Decade has totally failed to fulfill its obligation to keep Licensee and the Staff apprised of its proposed contentions and the bases therefor. Decade only twice supplemented the interrogatory responses embodied in its January 18, 1982 letter to counsel for the Staff,^{2/} and in both instances, Decade only advanced a few

^{2/} See "Decade's First Supplemental Answer To Staff's First Interrogatories and Licensee's First and Second Interrogatories Relative To Full Scale Sleeving" (certified as served on January 22, 1982) and "Decade's Second Supplemental Answer To The Licensee's and Staff's First Interrogatories Relative To Full Scale Sleeving" (certified as served on March 27, 1982). See also "Addendum To Decade's Motion For Reconsideration of Board Memorandum and Order Concerning Motion To Compel" (certified as served on May 7, 1982), at 4 (requesting permission to expand contentions listed in January 18 letter to include as an issue "(9a) Sleeve induced tube failures may cause thermal shock and reactor vessel failure," denied, "Memorandum and Order (Concerning Reconsideration of Decision Concerning Embrittlement Interrogatories)" (June 3, 1982).

additional bases for proposed contentions already identified in the January 18 letter, and did not put Licensee or the Staff on notice of any new issues for litigation beyond those raised in the January 18 letter.^{3/}

A comparison of the issues identified in the January 18 letter with the issues in Decade's July 21 Motion illustrates the full extent of the "game of hide-and-go-seek" in which Decade has engaged the other unwitting parties and the Board. As the Board predicted, Licensee has effectively "been deprived of a full and fair opportunity to prepare its response" to those issues and bases of which Licensee had no notice prior to its receipt of Decade's Motion on July 22, 1982.^{4/} Decade

^{3/} Decade never supplemented its interrogatory responses to notify the Board and the other parties of its reliance (as bases for its contentions) on: seven of the eight items now alleged as bases for proposed Contention 1; any of the five items now alleged as bases for proposed Contention 2; twelve of the thirteen items now asserted as bases for proposed Contention 3; or the sole item now asserted as a basis for proposed Contention 5.

^{4/} The Appeal Board has recently reemphasized the gravity of defaults on discovery obligations:

Not only does the failure to fulfill discovery obligations unnecessarily delay a proceeding, it is also manifestly unfair to the other parties. We reiterate the pointed comments of the Licensing Board in Northern States Power Co.
* * * (previously quoted with approval in Susquehanna * * *):

The Applicants in particular carry an unrelieved burden of proof in Commission proceedings. Unless they can effectively

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should therefore be estopped from raising any issues beyond those advanced in its January 18, 1982 letter, and from relying on any bases beyond those expressly identified in the January 18 letter, as supplemented.

C. The Proposed Contentions^{5/}

(Continued)

inquire into the positions of the intervenors, discharging that burden may be impossible. To permit a party to make skeletal contentions, keep the bases for them secret, then require its adversaries to meet any conceivable thrust at hearing [or in a motion for summary disposition] would be patently unfair, and inconsistent with a sound record [footnote omitted].

Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2), ALAB-678, 15 N.R.C. _____, _____ (June 17, 1982) (slip op. at 34-35).

^{5/} Despite Decade's extensive exposure to the Rules of Practice in NRC proceedings, and despite the benefit of the Board's extensive guidance on the timing and framing of proper contentions, each of Decade's proposed contentions is objectionable on several grounds, and -- taken as a whole -- is inadmissible. Throughout Parts II, III and IV of this Response, Licensee has attempted to parse Decade's proposed contentions, particularizing each of Licensee's various objections and arguments with respect to each element of each proposed contention. However, neither the Board nor the other parties are required to undertake such an extraordinary exercise to frame admissible contentions for Decade. Where a proposed contention, taken as a whole, is substantially defective, the Board is warranted in rejected the proposed contention in its entirety. See generally, Commonwealth Edison Co. (Zion Station, Units 1 & 2), ALAB-226, 8 A.E.C. 381, 406 (1974)(holding that, where contentions are defective -- for whatever reason -- Licensing Boards have no duty to recast them to make them acceptable).

Contention 3

The general introduction to Decade's third litigable issue is essentially two contentions -- first, that the process of sleeving itself increases the probability of tube failures generally and, second, that the process of sleeving substantially increases the risk of tube failures in the unconstrained free standing region of the steam generator (the region of the tubes above the sleeves). Decade has never before raised either of these issues -- neither in its January 18 letter or either of the supplements, nor even in the July 19 conference call in this proceeding. Decade has thus effectively deprived Licensee of a "full and fair opportunity to prepare its response" to these issues; accordingly, Decade should be barred from litigating the issues.

Decade Contention 3(a) is also objectionable, for the same reasons. That contention alleges generally that "present inspection methods" are inadequate to detect defects, and that the presence of the sleeve will exacerbate the alleged difficulties in detecting defects. Further, Decade asserts that the alleged inability to detect defects "that can lead to primary-to-secondary or secondary-to-primary pathways for leakage will exacerbate the problems indicated in ¶ (b), ¶ (c), ¶ (d) and ¶ (e)." These allegations bear a limited resemblance to the Contention 5 advanced in Decade's January 18 letter.

However, Decade's proposed Contention 3(a) significantly expands the issues for litigation. The new contention encompasses "inspection methods" generally, whereas Decade's prior Contention 5 was limited to eddy current inspection.

Similarly, Decade's proposed Contention 3(a) is no longer limited to the allegation that difficulty in interpreting eddy current test results will increase the probability that tubes will "rupture during a loss-of-coolant-accident" (as was Decade's prior Contention 5). Decade never gave notice to the Board and the other parties -- either in a supplement to its January 18 letter or even in the July 19 conference call -- of its intent to expand its prior Contention 5 beyond its express limitations to eddy current inspectability and its impact on the potential for rupture during a LOCA.

Decade also asserts that detection capability will continue to degrade "over time." That issue was not raised in the Contention 5 included in Decade's January 18 letter, nor was it raised in a supplement to the letter, nor was it even raised in the July 19 conference call. In short, Decade has never raised that issue in this proceeding prior to the Motion received by Licensee on July 22. Finally, Decade Contention 3(a) raises issues related to all-volatile water chemistry treatment, scaling, and other conductive impurities. None of these matters has ever before been raised or identified by Decade as an issue for litigation in this proceeding.

Accordingly, Decade is estopped to litigate these new and expanded issues in this proceeding, having seriously defaulted on its obligations to give the Board and the other parties the required prior notice of the issues.

Decade Contention 3(b) is similarly objectionable. That contention alleges generally that the annulus between the original tube and the sleeve "may give rise to a corrosive environment in the unconstrained free standing region of the steam generator" (emphasis supplied). This allegation, at first blush, bears a resemblance to the proposed Contention 4 listed in Decade's January 18 letter. However, while Decade's proposed Contention 3(b) asserts the existence of a corrosive environment in the "unconstrained free standing region of the steam generator," Decade's prior Contention 4 focused exclusively on the alleged "unexpectedly corrosive environment" to be formed in the annulus itself. Thus, the new Contention 3(b) is an entirely new issue of which Licensee has had no notice. Until the Motion, received by Licensee on July 22, Decade had never alleged that sleeving would give rise to a "corrosive environment" in the "unconstrained free standing region" -- not in the January 18 letter, nor in a supplement to that letter, nor even in the July 19 conference call. Decade is therefore estopped to raise the issue at this late date, having utterly failed to give the Board and the other parties the requisite notice of its intent to raise the issue.

Decade Contentions 3(d) and 3(e) raise issues concerning "under expanded" and "over expanded" sleeves, respectively. Decade has never raised either of these issues, prior to its July 21 Motion -- neither in its January 18 letter or either of the supplements, nor even in the July 19 conference call in this proceeding. Decade has thus effectively deprived Licensee of a "full and fair opportunity to prepare its response" to those issues, and should therefore be barred from litigating the issues.

Contention 5

Decade's proposed Contention 5 alleges generally that "loose parts left behind from steam generator repair work may impact upon and rupture tubes in the unconstrained free standing region," increasing "the leakage rates which worsen the problems identified in the First and Second Litigable Issues." Decade never raised this issue prior to its July 21 Motion -- not in the January 18 letter or either of the supplements, nor even in the July 19 conference call. Having completely failed to fulfill its obligations to give the Board and the other parties timely notice of such issues, and having deprived Licensee of its "full and fair opportunity to prepare its response" to the issue, Decade should be precluded from litigating the issue.

"Alternative Litigable Issue"

Decade has conceded (as it must) that the Board has repeatedly ruled the "thermal shock" issue to be beyond the scope of this proceeding. Further, Decade clearly stated, in the course of the July 19 conference call, that its written Motion would not raise Issue 9 of its January 18 letter (the "thermal shock" issue).^{6/} Nevertheless, the written Motion received by Licensee on July 22 includes a "thermal shock" contention. Indeed, the contention on "thermal shock" included in the July 21 Motion is much fuller than Decade's prior statements of the contention. Compare, e.g., Decade's January 18 letter, Issue 9. Given Decade's affirmative and unequivocal representation to the Board and the other parties in the course of the July 19 conference call, and particularly in light of the Board's prior rulings on the matter, Decade is estopped to raise the "thermal shock" issue in this proceeding.

^{6/} Decade makes reference to an understanding of the Board's implicit position on this issue derived from a July 21, 1982 "pre-hearing telephonic conference." Licensee has no knowledge of a conference call in this proceeding on that date. A conference call did take place on July 19, 1982, but, contrary to the implication of Decade's introductory comments on its "Alternative Litigable Issue," the Board made no representations as to the status of the "thermal shock" issue in the course of the conference call.

III. DECADE HAS FAILED TO JUSTIFY LATE-FILING
OF NEW CONTENTIONS

At the commencement of this proceeding in August 1981, Licensee's plans included a sleeving demonstration program in November 1981, and full-scale sleeving in the spring of 1982. To redress the perceived time pressures on Decade, the Board initially admitted a broad, generalized contention, so that Decade was not required to move separately for the admission of new contentions uncovered in the course of discovery. However, after the demonstration program, and after Licensee informed the Board and the other parties that full-scale sleeving would not take place in the spring of 1982, the Board ordered:

[C]onsiderable time pressure has been removed from this proceeding. Consequently, it is no longer appropriate to admit new contentions freely, under the broad contention admitted by the Board. We therefore rule that Decade may properly raise all matters already submitted on the record of this proceeding * * *. However, as of this date, late contentions will be admitted only if they comply with the criteria for the admission of late contentions. 10 C.F.R. § 2.714(a)(1).

"Memorandum and Order (Concerning A Motion To Compel and Other Matters)" (February 19, 1982), at 6-7 [emphasis supplied], affirmed, "Memorandum and Order (Concerning Motion To Reconsider)" (March 19, 1982).

As discussed in Part II above, Decade's July 21 Motion raises numerous issues beyond those specified in Decade's January 18, 1982 letter. Yet, in contravention of an explicit

Board directive, Decade has not even attempted to make the showing required by 10 C.F.R. § 2.714(a)(1) with respect to the issues not included in the letter. Accordingly, the Board should emphatically reject those issues for litigation in this proceeding.

IV. DECADE'S PROPOSED CONTENTIONS LACK BASES
AND/OR ARE UNRELATED TO SLEEVING

A threshold requirement for an admissible contention is that it address a matter which is within the scope of the issues set forth in the Commission's notice of opportunity for hearing in this proceeding. See Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear 1), ALAB-619, 12 N.R.C. 558, 565 (1981); Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 N.R.C. 287, 289-90, n.6 (1979); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 N.R.C. 167, 170-71 (1976).

As the Board in this proceeding has correctly pointed out, the Board's jurisdiction "is limited to issues legitimately before it and is not plenary." "Memorandum and Order (Concerning A Motion To Compel)" (April 22, 1982), at 2-3, 4-5. In this proceeding, "applicant requests permission to sleeve corroded steam generator tubes but not to alter any other aspect of the facility * * *." Id., at 2. Thus, the Board

must determine -- with respect to each of Decade's proposed contentions -- whether the contention advanced "is relevant to an application for an amendment to authorize the sleeving of steam generator tubes." Id. All contentions which are not relevant to sleeving must be rejected.

Further, the Commission's Rules of Practice, at 10 C.F.R. § 2.714(b), require that Decade state "the bases for each contention set forth with reasonable specificity." There are several purposes which underlie this requirement:

A purpose of the basis-for-contention requirement in Section 2.714 is to help assure at the pleading stage that the hearing process is not improperly invoked. For example, a licensing proceeding before this agency is plainly not the proper forum for an attack on applicable requirements or for challenges to the basic structure of the Commission's regulatory process. Another purpose is to help assure that other parties are sufficiently put on notice that they will know at least generally what they will have to defend against or oppose. Still another purpose is to assure that the proposed issues are proper for adjudication in the particular proceeding. In the final analysis, there must ultimately be strict observance of the requirements governing intervention, in order that the adjudicatory process is invoked only by those persons who have real interests at stake and who seek resolution of concrete issues.

Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 A.E.C. 13, 20-21 (1974) [footnotes omitted].

The notice aspect of the requirement is a natural outgrowth of fundamental notions of fairness applied to the

party with the burden of proof. As the Atomic Safety and Licensing Appeal Board has observed:

The applicant is entitled to a fair chance to defend. It is therefore entitled to be told at the outset, with clarity and precision, what arguments are being advanced and what relief is being asked . . . So is the Board below. It should not be necessary to speculate about what a pleading is supposed to mean.

Kansas Gas and Electric Co. (Wolf Creek Generating Station, Unit No. 1), ALAB-279, 1 N.R.C. 559, 576 (1975) [emphasis supplied; footnote omitted]. Given the extraordinary burden of proof imposed upon the applicant in an NRC proceeding, the requirement for statement of bases with reasonable specificity goes beyond the "notice pleading" permitted in federal courts (which has been found to be insufficient for NRC licensing proceedings). See Wolf Creek, supra, ALAB-279, 1 N.R.C. at 575, n.32 (1975).

There are several practical elements which also merit consideration in the Board's application of the "bases with reasonable specificity" standard to a particular proposed contention, beyond the question of whether the contention provides clear and precise notice of the issues on which Licensee may bear the burden of proof. First, the contention (with bases) should refer to, or -- at a minimum -- address the available documentation which is relevant to Point Beach. This applies with special force to documents such as the "Point

Beach Steam Generator Sleaving Report," as well as the SER and other applicable NRC Staff published reports. Second, there should be either a reasonably logical and technically credible explanation, or a plausible and referenced authority for the factual assertions in the contention. In other words, the bases provided must factually support the contention. See generally, Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 & 2), LBP-81-24, 14 N.R.C. 175, 181-84 (1981).

As discussed more specifically below, each of the contentions proposed in Decade's July 21, 1982 "Motion Concerning Litigable Issues" fails to meet one or both of the requirements outlined above and, accordingly, must be rejected.

Contention 1

Decade's proposed Contention 1 alleges that degradation of steam generator tubes could induce essentially uncoolable conditions in the course of a loss-of-coolant accident ("LOCA"). The contention on its face -- including the bases provided by Decade at pages 2 and 3 of its motion -- bears no relationship to the sleaving of steam generator tubes at Point Beach. It is therefore beyond the limited scope of Licensee's amendment request for permission to sleeve tubes, and is thus not cognizable by the Board in this proceeding.

This very same contention has already been rejected by the Board as a separate issue for litigation in this proceeding. See "Memorandum and Order (Concerning The Admission of A Party and Its Contentions)" (October 13, 1981), at 7; "NRC Staff Brief on Wisconsin Environmental Decade's Proffered Contentions 1, 2 and 10" (September 25, 1981); "Licensee's Brief on Proposed Contentions 1, 2 and 10" (September 25, 1981). Decade has provided no rationale -- either by way of legal argument or further statement of bases -- to support the acceptance of Contention 1 for litigation now. Accordingly, Decade's proposed Contention 1 must be rejected by the Board as an issue in this proceeding.

Contention 2

In this proposed contention, Decade alleges that rupture of steam generator tubes may release secondary side radiation in excess of maximum permissible doses. The proposed contention bears no relationship to sleeving, in that it neither relates the potential for rupture to the presence of a sleeve, nor does it suggest that the presence of a sleeve will exacerbate off-site releases from a ruptured tube. It merely alleges certain potential consequences of a tube rupture, irrespective of whether or not sleeving has occurred.

This contention is essentially identical to the Contention 2 advanced by Decade in its July 20, 1981 petition for leave to

intervene in this proceeding. That contention was rejected by the Board. See "Memorandum and Order (Concerning The Admission of A Party and Its Contentions)" (October 13, 1981), at 7; "NRC Staff Brief on Wisconsin Environmental Decade's Proffered Contentions 1, 2 and 10" (September 25, 1981); "Licensee's Brief on Proposed Contentions 1, 2 and 10" (September 25, 1981). The only difference between the instant proposed Contention 2 and the original Contention 2 is that Decade now cites three reasons why it believes excess secondary side radiation would be released as a result of a tube rupture. However, none of these reasons relates to sleeving.

Decade's basic citation (page 4 of Decade's motion) to the Staff's SER for the Point Beach sleeving program is misleading and taken out of context, and does not relate Decade's contention to sleeving. The Staff's accident evaluation, at pages 40-43 of the SER, begins with the observation that "the only mechanism to increase potential offsite radiological consequences would be increased primary-to-secondary leakage." Examination of the evaluation makes it abundantly clear that the Staff is referring to the effects of allowable primary-to-secondary leakage associated with sleeved tubes during normal and accident situations, not tube rupture, which is the subject of Decade's proposed contention. The point of the Staff's evaluation is that, considering the allowable leakage specified for sleeved tubes, there should be limitations placed on the

Iodine-131 concentrations. At the end of the Staff's evaluation (the portion cited by Decade), the Staff notes in passing that its proposed Iodine-131 limits would serve the additional purpose of limiting off-site doses in the event of a tube rupture; the Staff in no manner suggests that tube rupture is related to sleeving.

Similarly, Decade's citations to the Ginna SER with respect to the consequences of, and the mechanism for, tube failure bear no relationship to sleeving.^{7/}

For the foregoing reasons, Decade's proposed Contention 2, alleging consequences of steam generator tube rupture, bears no relationship to the proposed sleeving program at Point Beach, which is the sole subject matter of this proceeding. Therefore, Decade's proposed Contention 2 must be rejected for lack of relevance.

Contention 3

Decade's proposed Contention 3 encompasses two broad allegations. Decade alleges that the process of sleeving steam generator tubes will (1) increase the probability of tube failures generally, and (2) substantially increase the risk of failures in the "unconstrained free standing region of the

^{7/} The Ginna incident, which prompted the issuance of the Ginna SER for restart of that plant, was not related to sleeved tubes.

steam generator." The latter point, the risk of failures in the free standing region of the steam generator, merits only brief discussion. No basis whatsoever has been provided by Decade for this extraordinary allegation.

Sleeving occurs at the ends of the tubes within and extending a little above the 22"-thick tubesheet, wherein the tubes are anchored. The "free standing region of the steam generator" can only refer to the extensive lengths of tube extending above the part of the tubes which will be sleeved. No portion of the tube, other than short length of tube which contains the sleeve, will in any way be affected by the sleeving process.

Part (a) of the contention, captioned "Inspectability," does not even include an allegation that inspectability of the free standing portion of the tubes will be affected by sleeving. That part of the contention alleges only that inspectability is decreased for the sleeved portion of the tube.

In part (b), "Annulus," no explanation is given as to why or how secondary water impurities within the tube-sleeve annulus could possibly "give rise to a corrosive environment in the unconstrained free standing region of the steam generator." The bases for part (b) given by Decade at pages 8-10 of its motion make no mention of corrosion in the free standing region, and certainly do not explain how a corrosive environment in the tube-sleeve annulus could affect the unsleeved portion of the tube.

Part (c), "Quality Assurance," makes no mention of the free standing region, and nothing in either that part of the contention, or the bases given at page 10 of the motion, provides a clue as to how the use of "transient workers" would increase the risk of failures in the unsleeved portion of the tubes.

Parts (d) and (e), alleging consequences of improperly expanded sleeves at the upper joint, deal only with the sleeves. No mention is made, either in the contention or the cited bases at page 10, of effects on the free standing region.

The portion of Contention 3 (including all of its sub-parts) alleging increased risk of failure in the unsleeved portion of the steam generator tubes must therefore be rejected for lack of basis.

Each of the five subparts of Contention 3 dealing with the allegation that the process of sleeving steam generator tubes increases the probability of tube failures generally is discussed below.

(a) Inspectability. The first allegation of the first sentence, "present inspection methods in unsleeved tubes have been shown to be inadequate to detect defects," is both misleading and irrelevant to this proceeding. If a tube is not sleeved, its inspectability is beyond the scope of this proceeding. If a tube is sleeved, the relevant issue is the inspectability of sleeved tubes, not the inspectability of unsleeved tubes.

In any event, the only basis provided by Decade is misleading. Decade quotes the SER at page 7 of its motion as stating that intergranular corrosion of an unsleeved tube is not detectable. However, the quote is taken out of context. Reference to the document itself (the third page of Appendix III-A of Decade's motion) shows that in the sentence following the quoted sentence, the NRC stated, "Significant ([greater than] 20 percent through-wall) cracks or tube wall penetrations in the tubesheet area are, however, detectable by eddy current testing." The plugging limit at Point Beach is 40% degradation. The NRC did not say inspection methods in unsleeved tubes are inadequate; thus, Decade's allegation must fail for lack of basis as well as lack of relevance to the subject matter of this proceeding.

Decade has also failed to provide a basis for the second part of the first sentence, which must be read in conjunction with the basic allegation as follows:

The process of sleeving steam generator tubes increases the probability of tube failures generally. . . in, among other things, the following manner: . . .
(a). . . the complicating presence of the sleeve inside the tube will make detection of degradation, especially at the joints, even more difficult.

Decade has provided no basis for the allegation that difficulty in inspecting sleeved tubes will "increase the probability of tube failures generally." In Decade's cited bases for part (a)

of the contention at page 7 of its motion, Decade quotes the NRC Staff as stating that the amplitude of eddy current signals was decreased at and above the upper sleeve joints, and that it will be more difficult to discriminate sleeve or tube wall defects at certain sleeve transition locations. Nowhere, however, did the Staff say that this limited decrease in eddy current sensitivity would increase the probability of tube failures or in any other way adversely affect safety. In fact, what Decade failed to point out was that the Staff, in that same document (at pages 33 and 34 of the Point Beach sleeving SER), went on to say that defects smaller than those of concern could indeed be detected by eddy current techniques at the transition locations.

Decade also cites a letter from G. H. Neils to S. Burstein. However, that letter does not say that sleeving interferes with inspectability; it only offers conjecture as to the possible consequences "if" sleeving were to interfere with inspectability.

Thus, the second half of the first sentence of part (a) must fail for lack of basis.

In the second sentence of part (a), Decade alleges that "[o]ver time, the detection capability will continue to degrade." Decade provides no basis whatsoever for that statement.

The third, fourth and fifth sentences deal with "scaling" and other impurities. Decade provides no basis (or explanation) to support its allegations that scaling and other impurities will impede inspectability.

In summary, Decade has provided no basis for the various statements comprising its proposed Contention 3(a). That contention must therefore be rejected in its entirety.

(b) Annulus. In this contention, Decade has alleged that, because impurities may seep into the tube-sleeve annulus, a corrosive environment in the unconstrained free standing region of the steam generator may result. Decade's ostensible bases for the allegation, at pages 8-10 of its motion, are entirely devoid of any factual basis, or explanation or discussion, to support the allegation. None of Decade's bases even attempts to relate the annulus to corrosion in the free standing region.

Accordingly, proposed Contention 3(b) must be disallowed for lack of basis.

(c) Quality Assurance. Decade is here alleging that the use of "transient workers" in the sleeving program will be deleterious to the quality of the work. The basis cited is nothing more than reports that at another reactor site in California, unrelated to Point Beach, some sleeves were not fully inserted, and there were indications of use of alcohol and narcotics at the job site. None of this has any bearing on

the sleeving program at Point Beach; there is simply no basis for assuming that sleeves will not be fully inserted, or that drugs and alcohol will be used, during the Point Beach sleeving program. It is inconceivable that an allegation of employee error at one nuclear plant could even be sustained as a basis for a contention of error at another nuclear plant in any NRC licensing proceeding without at least some reason alleged for assuming that the error would be repeated. Decade has provided none, even after opportunity to contact Point Beach channel head personnel who participated in the Point Beach sleeving demonstration program.

Beyond that, the cited basis for what is actually being alleged -- installation problems -- bears further scrutiny. Again, Decade's quotes are misleading because of incomplete citations. The document quoted, an NRC inspection report (attached as Appendix III-K of Decade's motion), did not say that inadequate work had been performed. The failure of a very small number of tubes to be fully inserted was anticipated and satisfactory corrective action was taken. Similarly, indications of alcohol or drug use were non-specific and definitely not prevalent. In any event, corrective actions were taken, and there were no indications that unsatisfactory work by channel head workers resulted. Of perhaps greater significance is that the NRC inspection report identified no items of noncompliance or deviations, and no evidence of improperly installed sleeves or shoddy workmanship of any kind.

Thus, no basis for the allegations in Contention 3(c) has been provided, and the contention must be dismissed.

(d) Under Expanded Sleeve. Decade here alleges that an "undetected insufficiently expanded sleeve" would lead to either (1) in-leakage in excess of allowable leak rates or (2) in-leakage sufficient to retard reflood of the core. Decade has provided no bases for these allegations.

First, Decade has provided no basis or explanation for the proposition that an "undetected insufficiently expanded sleeve" would be present. The Point Beach Sleeving Report, WCAP-9960, Revised February 1982, describes the procedures, automatic sleeve expansion equipment, and inspection programs which assure that all sleeves will be properly expanded; Decade cites no basis for assuming that sleeves might not be properly expanded.

Second, Decade cites no basis for the implied allegation that the tube-sleeve assembly somehow relies on primary side pressure for joint integrity or leak tightness, or that primary side pressure would in any way affect joint integrity or leak tightness.

Third, Decade cites no basis for the allegation that an under-expanded tube would result in leakage "in excess of the allowable leak rates for model 44 steam generators." In any event, each tube is hydrostatically tested to assure the leakage is within allowable leak rates. If leakage beyond

allowable rates is detected, corrective action is taken. The only bases cited are an NRC report that two sleeved tubes with mechanical joints were found (by hydrostatic testing) to be leaking, at San Onofre, and a letter stating that leakage of sleeved tubes would be an "operating nuisance." As to the cited NRC report, which happens to be the Point Beach sleeving SER, Decade failed to note the statement, at the bottom of page 32, that leaks of that kind "are not unexpected and present no safety significance in view of the inherent leak limiting configuration of these joints." Thus Decade has provided no basis for linking "under-expanded sleeves" with unacceptable leaks (or leaks of any kind) or with any safety concerns.

And finally, Decade provides no basis for its allegation that under-expanded sleeves could cause leakage "sufficient to retard reflood of the core."

Proposed Contention 3(d) must therefore be rejected for lack of provide basis.

(e) Over Expanded Tubes. Decade has provided no bases whatsoever for this contention.

Contention 4

Decade's proposed Contention 4 alleges that pre-existing explosive plugs may "rock loose" during a LOCA and cause secondary-to-primary leakage. This contention is in no way related to sleeving, nor does Decade even attempt to relate it

to sleeving. Accordingly, it must be disallowed on the grounds that it is beyond the scope of this proceeding.

It is of interest to note that Licensee objected, on the grounds of relevance, to interrogatories propounded by Decade on the subject of leaking plugs. The Board, in a Memorandum and Order dated April 22, 1982, ordered Licensee to respond to those interrogatories. However, the Board noted, at page 7, that Decade's stated reason for exploring the issue, i.e., secondary-to-primary leakage during a LOCA, was "without merit because it is unrelated to the safety of sleeving." This is the same -- and sole -- reason Decade now cites to support litigation of Contention 4. Thus, denial of proposed Contention 4 would be in accordance with the Board's April 22, 1982 ruling.8/

Contention 5

Proposed Contention 5, which alleges that "loose parts left behind from steam generator repair work" may rupture steam generator tubes, is unrelated to sleeving. Decade's allegation is simply that loose parts may cause damage to tubes; there is no allegation that sleeving will exacerbate, or in any way affect, the damage that might be caused by loose parts.9/

8/ The Board granted Decade's motion to compel for other reasons, none of which have been raised by proposed Contention 4.

9/ Loose parts could not be left behind inside the steam generator secondary side, where they would be in proximity to the

(Continued Next Page)

Thus, this proposed contention is unrelated to the subject matter of Licensee's amendment request, and is therefore not cognizable by the Board in this proceeding.

Alternative Contention (Interrelationship With Thermal Shock)

This proposed contention, like proposed Contentions 1, 2, 4 and 5, simply alleges certain consequences of secondary-to-primary flow without in any way attempting to relate the allegations to sleeving. Measures taken to alleviate thermal shock to the reactor vessel bear no relationship to sleeving, the subject matter of this proceeding, and the contention must therefore be disallowed.

The Board, in its "Memorandum and Order (Concerning A Motion To Compel)" of April 22, 1982, at pages 3-5, ruled unequivocally that Decade had failed to show how the sleeving program would cause problems in the reactor pressure vessel. Decade's motion includes nothing to call into question the wisdom of the Board's April 22, 1982 ruling.

(Continued)

tubes, as a result of the sleeving work, because sleeving tubes place solely on the primary side, inside the channel head below the tubesheet. In any event, that is not what the contention alleges, and there is no basis provided for such an allegation.

V. LICENSEE'S MOTION FOR SUMMARY DISPOSITION
OF DECADE CONTENTIONS 1, 2, 3(a)-(e), 4 and 5

A. INTRODUCTION

Wisconsin Electric Power Company ("Licensee") hereby moves the Atomic Safety and Licensing Board pursuant to section 2.749 of the Commission's Rules of Practice, 10 C.F.R. § 2.749, for summary disposition in Licensee's favor of Decade Contentions 1, 2, 3(a)-(e), 4 and 5.

As shown below, there is no genuine issue to be heard as to any fact material to Contentions 1, 2, 3(a)-(e), 4 and 5, and Licensee is entitled to a decision in its favor on those contentions. The sworn "Statement of W. D. Fletcher" filed herewith demonstrates the complete absence of any factual basis for Decade's contentions, and Decade has not come forward with any evidence to support its allegations. Accordingly, the contentions are ripe for summary disposition.

This motion is based upon "Licensee's Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard With Respect To Decade Contentions 1, 2, 3(a)-(e), 4 and 5," (Part V hereof), upon the attached "Statement of W. D. Fletcher," and "Affidavit of W. D. Fletcher," and upon all the pleadings and other papers previously filed in this proceeding.

B. ARGUMENT

The standards governing summary disposition motions in an NRC proceeding are now well established and are quite similar to the standards applied under Rule 56 of the Federal Rules of Civil Procedure. Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2), ALAB-182, 7 A.E.C. 210, 217 (1974); See Tennessee Valley Authority (Hartsville Nuclear Plant, Units 1A, 2A, 1B and 2B), ALAB-554, 10 N.R.C. 15, 20, n.17 (1979). . . Where, as here, a properly supported motion for summary disposition is made, the party opposing the motion may not simply rely upon the bare allegations of its contentions. Rather, it must come forward with substantial facts in the form of admissible evidence establishing that a genuine issue of fact remains to be heard. 10 C.F.R. § 2.749(b); Virginia Electric & Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-584, 11 N.R.C. 451, 453 (1980).

A party cannot avoid summary disposition on the basis of guesses or suspicions or on the hope that at the hearing the Licensee's evidence may be discredited or that "something may turn up." Gulf States Utilities Co. (River Bend Station, Units 1 and 2), LBP-75-10, 1 N.R.C. 246, 248 (1975). If the party opposing the motion fails to make the proper showing, summary disposition must be granted. 10 C.F.R. § 2.749(b). As the Appeal Board has emphasized, "summary disposition procedures provide in reality as well as in theory, an efficacious means

of avoiding unnecessary and possibly time-consuming hearings on demonstrably insubstantial issues * * *." Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 N.R.C. 542, 550 (1980). Similarly, the Commission itself has recently issued its Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, instructing Licensing Boards to "encourage the parties to invoke the summary disposition procedure on issues where there is no genuine issue of material fact so that evidentiary hearing time is not unnecessarily devoted to such issues." 46 Fed. Reg. 28,535 (May 27, 1981).

Applying the foregoing standards to this case, it is clear that Licensee's motion for summary disposition of Decade's Contentions 1, 2, 3(a)-(e), 4 and 5 should be granted. Licensee addresses each contention individually below.

Contention 1

Decade's Contention 1 alleges that degradation of as few as one to ten steam generator tubes could induce essentially uncoolable conditions in the course of a LOCA. However, the sworn "Statement of W. D. Fletcher" filed in support of this motion establishes that Westinghouse has performed evaluations which demonstrate that unsleeved steam generator tubes will maintain their integrity for all postulated design basis accidents, including the LOCA. For a LOCA, the maximum steam

generator tube stresses occur in the U-bend region of the steam generator, which is not affected by the sleeving process. The stresses near the tubesheet, where the sleeving takes place, are lower.

A steam generator tube rupture (as postulated by the group reporting to the American Physical Society, referenced by Decade) is generally considered to be an open-ended guillotine break or its equivalent. However, the pressure forces during a LOCA are not consistent with a break of that type or magnitude. During a LOCA, the primary-secondary pressure boundary is depressurized, producing a tendency toward tube collapse, rather than rupture. Moreover, most of the sleeved length of the tube is within the tubesheet, which provides additional resistance to the potential for rupture. Thus, as the Statement of Fletcher points out, rupture of a tube in the vicinity of the tubesheet, where the sleeve would be installed, would not occur as a result of a LOCA, irrespective of whether or not the tube is sleeved.

The Statement of Fletcher further explains that postulated tube collapse has only a small potential for creating a leak path between the secondary and primary sides of the steam generator. Any leak resulting from a tube collapse would be significantly lower than a double-ended break or rupture, and would not affect ECCS performance. In fact, sleeving a steam generator tube provides even greater margin against tube rupture along the sleeved length of the tube during a LOCA.

Even if, for the sake of argument, one were to assume a tube rupture in the sleeved region during a LOCA, leakage would be prevented or limited by the presence of the sleeve and the sleeve-to-tube joints. Moreover, even if the tube were to sever completely around its circumference above the upper joint (a region where corrosion has not been significant at Point Beach), the sleeve would hold the end of the tube in place, and would not allow a double-ended, unobstructed leak path, and leakage would be significantly limited by the small annulus between the sleeve and the tube. The Statement of Fletcher thus establishes that over 100 sleeved tubes would have to fail simultaneously and circumferentially, in a region where corrosion has not been significant, to even begin to affect the ability of the ECCS to cool the core.

These facts contradict Decade's unsubstantiated allegation that "essentially uncoolable core conditions [will occur] in the course of a * * * [LOCA]" as a result of sleeving steam generator tubes at Point Beach. To the contrary, the Statement of Fletcher establishes that -- because of the added structural integrity of the tube-sleeve assembly, and the more restricted secondary-to-primary pathway due to the presence of the sleeve in the hot leg end of the tube -- sleeving would actually mitigate the consequences alleged in Contention 1. Under these circumstances, Decade's Contention 1 is clearly one of those "demonstrably insubstantial issues" that should be decided on a

summary disposition motion and should not be the subject of unnecessary and time-consuming hearings.

Contention 2

Decade's Contention 2 alleges that rupture of steam generator tubes during normal operation may release secondary side radiation in excess of maximum permissible doses. However, the "Statement of W. D. Fletcher" filed in support of this motion establishes unequivocally that sleeving steam generator tubes does not increase the probability of tube rupture during normal operation. Accordingly, Decade's Contention 2 should not be the subject of a hearing.

Contention 3

Decade's Contention 3 alleges that sleeving steam generator tubes increases the probability of tube failures generally, and substantially increases the risk of failures in the "unconstrained free standing region of the steam generator," in that (a) detection of tube degradation will be difficult, (b) the annulus between the original tube and the sleeve may give rise to a corrosive environment in the "unconstrained free standing region of the steam generator," (c) transient workers will adversely affect the quality of the sleeving work, (d) under-expanded sleeves in the upper joint may leak unacceptably, and (e) over-expanded sleeves in the upper joint will cause increased potential for tube degradation.

However, as the sworn Statement of Fletcher explains with respect to Contention 3 generally, sleeving in no way affects inspectability, corrosion, leakage, structural integrity, or ability to withstand accidents in the "unconstrained free standing region" of the steam generators. Sleeving is performed to repair steam generator tubes and to provide resistance to the future potential occurrence of primary pressure boundary degradation. There is no mechanism in the sleeving of tubes which increases the probability of tube rupture generally, or which increases the probability of tube rupture in the "unconstrained free standing region" of the steam generators.

The Statement of Fletcher also describes the extensive evaluations of the structural integrity of the sleeved tube under normal and accident conditions, which have demonstrated that the sleeve-tube assembly is well within design limits. As noted in the Statement of Fletcher, the sleeve material is of higher strength than the original tube material, and the tube-sleeve assembly has a higher structural capability than the original unsleeved tube and meets the requirements of the ASME Code.

With respect to Contention 3(a), the Statement of Fletcher reiterates that tube rupture along the sleeved length of a tube will not occur as a result of LOCA forces; accordingly, eddy current inspection of the sleeved length of a tube is not

necessary for the purpose of avoiding that particular event. (Of course, eddy current inspections will be performed on the sleeved tubes.)

Moreover, the Statement of Fletcher notes that -- contrary to Decade's bald assertions -- sleeving will not increase the potential concentration of impurities, and dissolved solids in the steam generator are not more prevalent because of the use of all-volatile water chemistry treatment. The Statement of Fletcher further establishes that the presence of impurities will not significantly affect eddy current inspectability of the sleeve and tube. Nor will eddy current inspectability be degraded over time as a consequence of sleeving.

Fletcher's Statement also notes that the standard eddy current inspection techniques presently used to periodically inspect Point Beach steam generator tubes are sufficiently sensitive to comply with current NRC licensing requirements to identify and plug tubes exhibiting 40% or more wall penetration. Sleeving does not prevent inspection of the unsleeved portions of the tube above the sleeve in satisfaction of the NRC's requirements. And, as the Statement of Fletcher points out, the sleeve constitutes the primary pressure boundary below the upper tube-sleeve joint; the eddy current inspectability of that portion of the sleeve is enhanced relative to the inspectability of the unsleeved tube.

The Statement of Fletcher establishes beyond question that, even at the geometric transitions and at the upper tip of the sleeve, standard eddy current techniques can detect degradation smaller than that which could cause a tube rupture during normal operation or postulated accidents. As Fletcher's Statement points out, the region of the tube where the upper joint is located has virtually been free of corrosion degradation in the past at Point Beach, and the pre-sleeving eddy current inspection will be employed so that a joint will not be placed where degradation is indicated to exist. In any event, undetected degradation in the upper joint region would not be a significant safety concern, since leakage resulting from 100% through-wall degradation around the entire circumference at the joint would be limited by the small annulus between the sleeve and the tube. Such leakage could be detected by normal radiation monitoring systems and would allow for an orderly shutdown if technical specification limits were exceeded.

Thus, the Statement of Fletcher concludes that -- contrary to the unsupported allegations of Decade -- sleeved tubes can be inspected, and sleeving does not increase the probability of tube rupture generally, nor does it increase the risk of tube rupture in the unconstrained free standing region of the steam generator.

As to Contention 3(b), the sworn Statement of Fletcher establishes that there is no mechanism by which secondary water

impurities entering the tube-sleeve annulus through a degraded tube could conceivably give rise to a corrosive environment in the unconstrained free standing region of the steam generator. Nor is there a mechanism by which such impurities entering the annulus would be concentrated to a greater extent, or produce a more corrosive environment, since the temperature in the sleeve annulus is not significantly different from that in a crevice of an unsleeved tube. In any event, as Fletcher's Statement notes, the sleeving material to be utilized provides greater protection of the primary-secondary pressure boundary from a corrosive environment than the original tube material. Thus, the Statement of Fletcher concludes that the presence of an annulus in the tube-sleeve region is not expected to increase the probability of tube rupture generally and is not expected to increase the risk of rupture in the unconstrained free standing region of the steam generator.

The Statement of Fletcher also completely undermines Decade's broad allegations in its Contention 3(c). As Fletcher's Statement explains, installation of nearly all of the sleeves will be performed remotely, from outside the channel head, through the use of computerized automated equipment operated by trained technicians and engineers who are employees of Westinghouse. The duties of channel head workers are limited to installation and removal of the automated equipment within the channel head, performance of manual

sleeving operations for those tubes, if any, which are not accessible by the remotely operated equipment, and performance of the unskilled, non-sleeving activities which are required within the channel head. Even the manual sleeving operations performed by channel head workers are performed with tools which are precalibrated. The proper placement and applied forces are automatically accomplished by the tools used, and do not require any judgment or discretion from the worker using the tools. No work performed by channel head workers has any effect on the unconstrained free standing region of the steam generator.

The Statement of Fletcher conclusively establishes that the channel head workers do not perform any activities requiring skill or discretion to effect proper installation of a sleeve, no do they conduct inspections or make decisions or exercise judgment on the adequacy of the sleeving operations performed. All work performed by channel head workers is observed by a trained Westinghouse platform supervisor. In addition, Westinghouse engineers are in voice communication with both the platform supervisor and the channel head workers inside the channel head, and closely monitor the work through closed-circuit television. All sleeving operations are performed in strict compliance with the quality assurance programs of Licensee and Westinghouse.

Fletcher's Statement also points out that, in addition to the constant monitoring and control of all operations within the channel head, each sleeved tube is eddy current inspected for proper sleeve expansion and hard rolling of the joints, a sleeve diameter inspection program is utilized, and all sleeved tubes are subject to differential pressure tests. This total monitoring, control, inspection and testing assures that all sleeves are fully inserted within the tubes, and that all quality standards are met for the work performed by the channel head workers.

The Statement of Fletcher further notes that all channel head worker applicants must pass both mechanical aptitude and psychological tests, and are screened for character, stability and aptitude. Whether initially hired by ANS or Westinghouse, all channel head workers are trained extensively and supervised solely by Westinghouse. The use of alcohol or drugs is strictly prohibited, and channel head workers who violate the prohibition are immediately dismissed.

Thus, the Statement of Fletcher concludes that all reasonable measures have been taken to assure the quality of the sleeving work to be performed by the channel head workers, and the use of channel head workers in the sleeving program will neither increase the probability of tube ruptures generally nor will it increase the risk of ruptures in the unconstrained free standing region of the steam generator.

The Statement of Fletcher also establishes that, contrary to the premise of Decade Contentions 3(d) and 3(e), the sleeving procedures, the automatically calibrated equipment used in expanding the sleeve in the tube, and the observations and inspections conducted will assure that sleeves will be neither under-expanded nor over-expanded. Moreover, as Fletcher's Statement notes, testing and analysis of the sleeve-tube assembly has demonstrated that it will withstand the stresses of normal operation and accident conditions including the LOCA. Further, sealing of the sleeve-tube assembly does not depend upon the primary side pressure within the tube, either for structural integrity or leak limiting capability at the joints, so that depressurization of the primary side during a LOCA would have no significant effect on the leak tightness of the sleeve-tube assembly.

The Statement of Fletcher also points out that hydrostatic leak tests conducted at the completion of the sleeving program will detect any leakage prior to resumption of operation. If, nevertheless, one were to postulate leakage in excess of allowable leak rates during subsequent operation due to an under-expanded sleeve installed in a leaking tube, the leakage would be detected, and the tube would be repaired or plugged in accordance with the technical specifications.

The Statement of Fletcher concludes that leakage during a LOCA (even assuming both breach of the original tube and no

expansion of the sleeve in the upper joint) would be small, in that it would be limited by the presence of the sleeve. Over 100 tubes would have to leak simultaneously in that manner to potentially affect the capability of the ECCS to cool the core. It is not credible to postulate that post-sleeving hydrostatic tests, process control, sleeve joint diameter inspections, and eddy current inspections would fail to detect that number of tubes with under-expanded joints. Thus, under-expansion of the sleeve would not create a credible threat to ECCS performance.

The Statement of Fletcher similarly establishes that over-expansion of the sleeve would be unlikely to increase the likelihood of degradation. Westinghouse test results demonstrate that resistance of the thermally treated Inconel 600 sleeves to stress corrosion is not significantly affected by residual stresses due to sleeve expansion. And, in any event, the consequences of tube degradation at an over-expanded sleeve would be similar to those of the under-expanded case (described above).

In sum, the Statement of Fletcher concludes that there is no known mechanism by which under-expansion or over-expansion of the sleeve at the upper joint could either significantly affect tube integrity in the unconstrained free standing region of the steam generator, or increase the probability of tube rupture generally or in the unconstrained free standing region of the steam generator.

The sworn Statement of Fletcher thus completely undermines the numerous allegations of Decade's Contention 3. Under these circumstances, there is no genuine issue to be heard as to any material fact related to Decade's allegations, so that Decade's Contention 3 should not be the subject of a hearing.

Contention 4

Decade's Contention 4 alleges that pre-existing explosive plugs may "rock loose" during a LOCA and cause secondary-to-primary leakage. However, the sworn Statement of Fletcher establishes unequivocally that pre-existing explosive plugs will not be removed or in any way affected during the sleeving program, nor will the sleeving program in any way affect the leak tightness of pre-existing explosive plugs. Accordingly, Decade's Contention 4 should not be the subject of a hearing in this proceeding.

Contention 5

Decade's Contention 5 alleges that "loose parts left behind from steam generator work" may rupture steam generator tubes. However, the sworn Statement of Fletcher explains that no sleeving-related operations are performed in the secondary side of the steam generator. Thus, sleeving will not result in loose parts or other debris in the tube bundle which could impact upon or rupture the tubes during subsequent operation. And, even assuming the presence of a foreign object in the

secondary side of the steam generator, the likelihood or degree of steam generator tube degradation by the foreign object would in no way be affected by the presence of the sleeve, which is inside the tube on the primary side.

Under these circumstances, Decade's Contention 5 should not be the subject of a hearing in this proceeding.

CONCLUSION

For all the reasons stated above, Licensee submits that its motion for summary disposition should be granted and that Decade's Contentions 1, 2, 3(a)-(e), 4 and 5 should be dismissed.

VI. LICENSEE'S STATEMENT OF MATERIAL
FACTS AS TO WHICH THERE IS NO GENUINE
ISSUE TO BE HEARD WITH RESPECT TO DECADE
CONTENTIONS 1, 2, 3(a)-(e), 4 and 5

Pursuant to 10 C.F.R. § 2.749(a), and in support of "Licensee's Motion For Summary Disposition of Decade Contentions 1, 2, 3(a)-(e), 4 and 5," Licensee states that there is no genuine issue to be heard with respect to the following material facts:

Contention 1

Decade's Contention 1 alleges that degradation of as few as one to ten steam generator tubes could induce essentially uncoolable conditions in the course of a LOCA.

1. Westinghouse has evaluated the increased loads on steam generator tubes during postulated design basis accident sequences. Statement of W. D. Fletcher ("Statement of Fletcher"), ¶ 6.

2. The Westinghouse evaluations demonstrate that unsleeved steam generator tubes will maintain their integrity for all postulated design basis accidents, including the LOCA. Statement of Fletcher, ¶ 6.

3. For a LOCA, the maximum steam generator tube stresses caused by rarefaction waves, blowdown and vibration forces occur in the U-bend (upper) region of the steam generator. This region is not affected by the sleeving process. The stresses near the tubesheet, where the sleeving takes place, are lower. Statement of Fletcher, ¶ 7.

4. The stresses present during a LOCA do not cause ruptures or double-ended breaks in steam generator tubes. This is because depressurization of the primary side produces a tendency toward tube collapse, rather than break or rupture. Statement of Fletcher, ¶ 8.

5. Any leak resulting from a tube collapse would be significantly lower than a double-ended break or rupture due to the reduction in steam generator tube flow area. Such a leak would not be enough to affect ECCS performance. Statement of Fletcher, ¶ 9.

6. Sleeving a steam generator tube provides even greater margin against tube rupture along the sleeved length of the tube during a LOCA. The presence of the sleeve inside the tube strengthens the tube-sleeve assembly along the sleeved length of the tube, and provides additional support in that region, including added resistance to tube collapse. Statement of Fletcher, ¶ 10.

7. Sleeving a steam generator tube does not increase the probability that the tube will rupture during a loss-of-coolant accident (LOCA). In fact, because of the added structural integrity of the tube-sleeve assembly, and the more restricted secondary-to-primary pathway due to the presence of the sleeve in the hot leg end of the tube, sleeving would actually mitigate the consequences alleged in Contention 1. Statement of Fletcher, ¶¶ 3, 12.

8. Even if, for the sake of argument, one were to assume a tube rupture in the sleeved region during a LOCA, leakage would be prevented or limited by the presence of the sleeve and the sleeve-to-tube joints. Statement of Fletcher, ¶ 11.

9. Moreover, even if the tube were to sever completely around its circumference above the upper joint (a region where corrosion has not been significant at Point Beach), the sleeve would act as a restraint, and thus would not allow a double-ended, unobstructed leak path, by holding the end of the tube in place. Leakage would be limited by the small annulus

between the sleeve and tube to approximately 5% (approximately 12.5 gpm) of the rate which would be expected from the unobstructed leak path of a double-ended break. The NRC Staff concluded in the "Safety Evaluation Report Related to Point Beach Unit 1 Steam Generator Tube Degradation Due to Deep Crevice Corrosion," November 30, 1979, at page 21, that "critical overheating of the fuel during a LOCA could only occur for leakage rates in excess of 1300 gpm." Therefore, over 100 sleeved tubes would be required to fail simultaneously and circumferentially, in a region where corrosion has not been significant, to even begin to affect the ability of the ECCS to cool the core. Statement of Fletcher, ¶ 11.

10. It is not considered credible to postulate "essentially uncoolable core conditions in the course of a . . . [LOCA]" as a result of sleeving steam generator tubes at Point Beach. Statement of Fletcher, ¶ 12.

Contention 2

Decade's Contention 2 alleges that rupture of steam generator tubes during normal operation may release radiation to the environment from the plant's secondary side, in excess of maximum permissible doses.

1. Sleeving steam generator tubes does not increase the probability of tube rupture during normal operation. Statement of Fletcher, ¶ 14.

Contention 3

Decade's Contention 3 alleges that sleeving steam generator tubes increases the probability of tube failures generally, and substantially increases the risk of failures in the "unconstrained free standing region of the steam generator," in that (a) detection of tube degradation will be difficult, (b) the annulus between the original tube and the sleeve may give rise to a corrosive environment in the "unconstrained free standing region of the steam generator," (c) transient workers will adversely affect the quality of the sleeving work, (d) under-expanded sleeves in the upper joint may leak unacceptably, and (e) over-expanded sleeves in the upper joint will cause increased potential for tube degradation.

Contention 3 (General)

1. The Point Beach steam generator tubes are vertically configured in an inverted U-shape, with each end placed into holes bored into a 22"-thick metal plate, called the tubesheet, at the bottom of the steam generator. Statement of Fletcher, ¶ 13.

2. The sleeves, which are either [^{a,c,e}] in length, are installed in the ends of the tubes which are anchored in the tubesheet, and extend upward beyond the top of the tubesheet no more than [^{a,c,e}] respectively. The sleeves help to constrain the tubes. Statement of Fletcher, ¶ 13.

3. Thus, the "unconstrained free standing region" of the steam generator is that portion of the tube above the sleeved region. Statement of Fletcher, ¶ 13.

4. Sleeving in no way affects inspectability, corrosion, leakage, structural integrity, or ability to withstand accidents in the "unconstrained free standing region" of the steam generators. Statement of Fletcher, ¶ 13.

5. Sleeving is performed to repair steam generator tubes and to provide resistance to the future potential occurrence of primary pressure boundary degradation. There is no known mechanism in the sleeving of tubes which would increase the probability of tube rupture generally, or increase this possibility in the "unconstrained free standing region" of the steam generator tubes. Statement of Fletcher, ¶ 14.

6. The structural integrity of the sleeved tube (i.e., the sleeve-tube assembly) for maintaining the primary-to-secondary pressure boundary under normal and accident conditions has been extensively evaluated, by both testing and analytical verifications. These tests have demonstrated that the sleeve-tube assembly is well within the design limits for both normal operating conditions and postulated accident conditions, including the LOCA. Statement of Fletcher, ¶ 15.

7. The sleeve-tube assembly meets the requirements of the ASME Boiler and Pressure Vessel Code. The Code specifies the allowable limits of material stresses. Statement of Fletcher, ¶ 16.

8. The sleeve material is of higher strength than the original tube material, and the sleeve and tube assembly has a higher structural capability than the original unsleeved tube. Statement of Fletcher, ¶ 16.

Contention 3(a)

9. Because tube rupture along the sleeved length of a steam generator tube will not occur as a result of LOCA forces, eddy current inspections of the sleeved length of the tube are not necessary for the purpose of avoiding that event. Statement of Fletcher, ¶¶ 6-8, 17.

10. Eddy current inspections will be performed on the sleeved tubes. Statement of Fletcher, ¶ 17.

11. The potential concentration of impurities, including scaling, is not expected to be increased by the presence of the sleeve. Since the temperature in the tube-sleeve annulus is not significantly different from that in a crevice of an unsleeved tube, the upper limit of concentration of impurities remains essentially the same. Statement of Fletcher, ¶ 18.

12. Dissolved solids in the steam generator are not more prevalent because of the use of all-volatile water chemistry treatment. To the contrary, the objective of all-volatile chemistry is to minimize the concentration of solids in the steam generator. In any event, the feedwater portions of the secondary systems at Point Beach have utilized all-volatile

control since initial start up, regardless of the steam generator chemistry control method. Statement of Fletcher, ¶ 19.

13. Deposition of impurities has not, and is not expected to, interfere significantly with eddy current inspectability. Signals from conductive deposits such as copper or magnetite which might enter the annulus or be present on the tube are small, and can be eliminated by the use of the same multi-frequency data processing techniques used for unsleeved steam generators. Statement of Fletcher, ¶ 20.

14. The presence of impurities will not significantly affect eddy current inspectability of the sleeve and tube and, in any event, any effect will be no different than the effect on inspectability of unsleeved tubes. Statement of Fletcher, ¶ 20.

15. Eddy current inspectability is not expected to be degraded over time as a consequence of sleeving. Statement of Fletcher, ¶ 21.

16. Steam generator tubes at Point Beach are inspected routinely, on a periodic basis, for tube degradation by standard eddy current inspection techniques. These inspection techniques enable the location of tube degradation with sufficient sensitivity to comply with the current NRC licensing requirements to identify and plug tubes exhibiting 40% or more wall penetration. Statement of Fletcher, ¶ 22.

17. Sleeving does not prevent inspection of the unsleeved portions of the tube above the sleeve in satisfaction of the NRC's 40% degradation limit. Statement of Fletcher, ¶ 22.

18. The sleeve constitutes the primary pressure boundary below the upper tube-sleeve joint. Eddy current inspectability of this portion of the sleeve is enhanced relative to the unsleeved tube. The unsleeved tube inspection produces a lower "signal-to-noise" ratio because the tubesheet is closer to the tube than it is to the sleeve. Statement of Fletcher, ¶ 24.

19. Degradation of the primary pressure boundary can be detected at all points along the sleeved length of the tube by means of standard eddy current techniques with the standard bobbin-type eddy current probe. At the geometric transitions, and at the upper tip of the sleeve, these standard eddy current techniques can detect degradation smaller than that which could cause a tube rupture during normal operation or postulated accidents. Statement of Fletcher, ¶ 25.

20. Eddy current probes consisting of "cross-wound" coils can provide inspectability of the transition regions comparable to that of non-transition regions with the standard bobbin-type probe. Sensitivity can be further enhanced by the use of multi-frequency data processing techniques. Statement of Fletcher, ¶ 26.

21. Thus, eddy current inspection of sleeved tubes is expected to provide adequate sensitivity for the detection of

tube degradation before it becomes a safety concern. Eddy current inspectability of sleeved tubes is sufficient to locate degradation with the potential for tube rupture during normal or postulated accident conditions. Statement of Fletcher, ¶ 27.

22. The region of the tube where the upper joint is located has virtually been free of corrosion degradation in the past at Point Beach. In addition, the pre-sleeving eddy current inspection will be employed so that a joint will not be placed where degradation is indicated to exist. Thus, degradation is not expected to occur at or in the immediate vicinity of the upper joint. Statement of Fletcher, ¶ 28.

23. Undetected degradation in the upper joint region would not be a significant safety concern. Leakage resulting from 100% through-wall degradation around the entire circumference at the joint would be limited by the small annulus between the sleeve and the tube to approximately 5% of the rate to be expected from the unobstructed leak path of a double-ended break. This leakage could be detected by normal radiation monitoring systems and would allow for an orderly planned shutdown if technical specification limits were exceeded. Statement of Fletcher, ¶ 29.

24. Sleeved tubes can be inspected, and sleeving does not increase the probability of tube rupture generally, and does not increase the risk of tube rupture in the unconstrained free

standing region of the steam generator. Statement of Fletcher, ¶ 30.

Contention 3(b)

25. There is no mechanism by which secondary water impurities entering the annulus between the tube and the sleeve through a degraded tube could conceivably give rise to a corrosive environment in the unconstrained free standing region of the steam generator, i.e., the portion of the tube above the sleeve. Statement of Fletcher, ¶ 31.

26. There is no known mechanism whereby such secondary water impurities entering the annulus would be concentrated to a greater extent, or produce a more corrosive environment, because the temperature in the tube-sleeve annulus is not significantly different from that in a crevice of an unsleeved tube. Statement of Fletcher, ¶ 32.

27. In any event, the sleeving material to be utilized provides greater protection of the primary-secondary pressure boundary from a corrosive environment than the original tube material. Results of the Westinghouse corrosion testing program have demonstrated that, compared to the mill annealed Inconel 600 tube, the thermally treated Inconel 600 sleeve provides additional resistance to stress corrosion cracking by caustic impurities. Statement of Fletcher, ¶ 33.

28. The presence of an annulus in the tube-sleeve region is not expected to increase the probability of tube rupture generally and is not expected to increase the risk of rupture in the unconstrained free standing region of the steam generator tubes. Statement of Fletcher, ¶ 34.

Contention 3(c)

29. Sleeving of the Point Beach steam generator tubes will be performed by the trained technicians and engineers who are employees of Westinghouse Electric Corporation, the contractor for the Point Beach sleeving program. They are assisted by trained temporary employees known as "channel head workers." Statement of Fletcher, ¶ 35.

30. Installation of nearly all of the sleeves, which includes decontamination, plug removal, inspections, honing of tubes to be sleeved, cleaning of tubes, insertion of sleeves, sleeve expansion, and hard rolling the joints is not done by channel head workers; these activities are performed remotely, from outside of the channel head, by the use of computerized automated equipment operated by the trained technicians and engineers who are employees of Westinghouse. Statement of Fletcher, ¶ 36.

31. The duties of the channel head workers are primarily to install and remove the automated equipment within the channel head, perform manual sleeving operations for those

tubes, if any, which are not accessible by the remotely operated equipment, and to perform the unskilled, non-sleeving activities which are required within the channel head.

Statement of Fletcher, ¶ 37.

32. In no cases do the channel head workers perform any activities which require skill or discretion to effect proper installation of a sleeve, nor do they conduct inspections or make decisions or exercise judgment on the adequacy of the sleeving operations performed. Statement of Fletcher, ¶ 37.

33. No work performed by channel head workers has any effect on the unconstrained free standing region of the steam generator. Statement of Fletcher, ¶ 38.

34. Manual sleeving operations performed by channel head workers are done with tools which are precalibrated. The proper placement and applied forces for tube honing, sleeve insertion, sleeve expansion, and hard rolling of joints are automatically accomplished by the tools used, and do not require any judgment or discretion from the worker using the tools. Statement of Fletcher, ¶ 39.

35. All work done by the channel head workers is observed by a trained Westinghouse technician (platform supervisor) who stands on the work platform at the entrance to the channel head. In addition, Westinghouse engineers in the on-site control trailer are in voice communication with both the platform supervisor and the channel head workers inside the

channel head, and closely monitor the work through closed-circuit television. Statement of Fletcher, ¶ 45.

36. The procedures, equipment used, and inspections provide that all sleeves are fully inserted within the tubes. For both automatic remotely-controlled operations and manual operations, the equipment used is designed such that the sleeves must be fully inserted before the equipment will allow the next step -- sleeve expansion -- to take place. In addition, each sleeve is visually inspected by qualified Westinghouse technicians or engineers by remote closed-circuit television. Statement of Fletcher, ¶¶ 40-42.

37. All sleeving operations are performed in strict compliance with the Wisconsin Electric and Westinghouse quality assurance programs. In addition to the constant monitoring and control of all operations within the channel head during performance, each sleeved tube is eddy current inspected for proper sleeve expansion and hard rolling of the joints, a sleeve diameter inspection program is utilized, and all of the sleeved tubes are subject to differential pressure tests. This total monitoring, control, inspection, and testing provides that all quality standards are met for the work performed by the channel head workers. Statement of Fletcher, ¶ 46.

38. Channel head workers generally are not permanent employees of Westinghouse, the contractor which is performing the sleeving at Point Beach. The channel head workers are

recruited either by Atlantic Nuclear Services (ANS), who acts as a recruiting contractor for Westinghouse, or by Westinghouse itself. Channel head workers recruited by ANS are not hired unless approved by Westinghouse. Applicants must pass both a mechanical and psychological aptitude test, and are screened for character, stability, and aptitude. Whether initially hired by ANS or Westinghouse, all channel head workers are trained and supervised solely by Westinghouse. Statement of Fletcher, ¶ 47.

39. Channel head workers must satisfactorily complete an extensive training program in all aspects of the sleeving activities including a full dress rehearsal in a full-scale channel head mockup, before they are permitted to work in the sleeving program. Statement of Fletcher, ¶ 48.

40. Channel head workers will be under close supervision and observation by qualified Westinghouse training instructors or supervisors. The use of alcohol or drugs is strictly prohibited; channel head workers who violate this restriction are immediately dismissed. Statement of Fletcher, ¶ 49.

41. All reasonable measures have been taken to provide for the quality of the sleeving work to be performed by the channel head workers. Statement of Fletcher, ¶ 50.

42. The use of channel head workers in the sleeving program does not increase the probability of tube ruptures generally and does not increase the risk of ruptures in the

unconstrained free standing region of the steam generator.
Statement of Fletcher, ¶ 50.

Contentions 3(d) and (e)

43. The sleeving procedures, the automatically calibrated equipment used in expanding the sleeve in the tube, and the observations and inspections conducted will provide that the sleeves will be neither under-expanded nor over-expanded.
Statement of Fletcher, ¶¶ 37, 39, 40, 43-46, 50, 51.

44. Testing and analysis of the sleeve-tube assembly has demonstrated that it will withstand the stresses of normal operation and accident conditions, including the LOCA, and that the assembly meets the material stress limits of the ASME Boiler and Pressure Vessel Code. Statement of Fletcher, ¶ 52.

45. Sealing of the sleeve-tube assembly does not depend upon the primary side pressure within the tube, either for structural integrity or leak limiting capability at the joints. Primary side pressure within the sleeved tubes during normal operation has no effect on the physical leak limiting characteristics of the sleeve-tube assembly. Thus, depressurization of the primary side during a LOCA would have no significant effect on the leak tightness of the sleeve-tube assembly.
Statement of Fletcher, ¶ 52.

46. Hydrostatic leak tests conducted at the completion of the sleeving program will detect any leakage prior to

resumption of operation. If, nevertheless, one were to postulate leakage in excess of allowable leak rates during subsequent operation due to an under-expanded sleeve installed in a leaking tube, the leakage would be detected, and the tube would be repaired or plugged in accordance with the Technical Specifications of the Point Beach licenses. Statement of Fletcher, ¶ 53.

47. Leakage during a LOCA (even assuming both breach of the original tube and no expansion of the sleeve in the upper joint) would be small, in that it would be limited by the presence of the sleeve (i.e., the small tube-sleeve annulus) to no more than 5% of the flow which would occur through the maximum double-ended break, or about 12.5 gpm. Over 100 tubes would have to leak simultaneously in this manner to potentially affect the capability of the ECCS to cool the core. It is not credible to postulate that post-sleeving hydrostatic tests, process control, sleeve joint diameter inspections, and eddy current inspections would not detect this number of tubes with under-expanded sleeve joints. Thus, under-expansion of the sleeve would not create a credible threat to the ECCS performance. Statement of Fletcher, ¶ 53.

48. Over-expansion of the sleeve would be unlikely to increase the likelihood of degradation. Reference to the Westinghouse test results presented in Figures 6.1-1 and 6.1-3 show that resistance of the thermally treated Inconel 600

sleeves to stress corrosion is not significantly affected by residual stresses due to sleeve expansion. Statement of Fletcher, ¶ 54.

49. The consequences of tube degradation at an over-expanded sleeve would be similar to those of the under-expanded case, as discussed in statements 46 and 47 above. Statement of Fletcher, ¶ 54.

50. There is no known mechanism by which under-expansion or over-expansion of the sleeve at the upper joint could significantly affect tube integrity in the unconstrained free standing region of the steam generator. Statement of Fletcher, ¶ 54.

51. Under-expansion or over-expansion of the sleeve at the upper joint would not increase the probability of tube ruptures generally, or increase the risk of ruptures in the unconstrained free standing region of the steam generator. Statement of Fletcher, ¶ 55.

Contention 4

Decade's Contention 4 alleges that pre-existing explosive plugs may "rock loose" during a LOCA and cause secondary-to-primary leakage.

1. Pre-existing explosive plugs will not be removed, or in any way affected, during the sleeving program. Statement of Fletcher, ¶ 56.

2. The sleeving of steam generator tubes will in no way affect the leak tightness of pre-existing explosive plugs. Statement of Fletcher, ¶ 56.

Contention 5

Decade's Contention 5 alleges that "loose parts left behind from steam generator repair work" may rupture steam generator tubes.

1. Preparation of the steam generators for sleeving, installation of sleeves in the steam generator tubes and post-sleeving inspections and tests are performed entirely from the channel head (primary side) of the steam generator. There are no sleeving operations which are performed in the secondary side of the steam generator. Statement of Fletcher, ¶ 57.

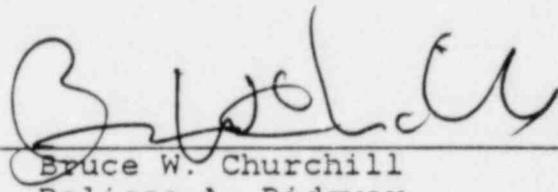
2. Repair of the steam generators by sleeving will not result in loose parts or other debris in the tube bundle which could impact upon or rupture the tubes during subsequent operation. Statement of Fletcher, ¶ 57.

3. Even assuming the presence of a foreign object in the secondary side of the steam generator, the likelihood or degree of steam generator tube degradation by the foreign object would in no way be affected by the presence of the sleeve, which is inside the tube on the primary side. Statement of Fletcher, ¶ 58.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By



Bruce W. Churchill
Delissa A. Ridgway

Counsel for Licensee

1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

Dated: August 9, 1982