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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'82 AGO 31 A11:14

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH *emp*

In the Matter of )  
 ) Docket No. 50-170  
ARMED FORCES RADIOBIOLOGY )  
RESEARCH INSTITUTE ) (Application to Renew  
 ) Facility License No. R-84  
(TRIGA-Type Reactor) )

INTERVENOR CNRS' MOTION  
FOR A PROTECTIVE ORDER

Intervenor CNRS respectfully requests that pursuant to 10 C.F.R. §2.740(c) this Board issue a protective order prohibiting the Licensee from seeking further responses from the Intervenor to certain sub-parts of some of the interrogatories promulgated by the Licensee, until such time as the Licensee provides the Intervenor with the information it needs to further supplement its responses.

The Intervenor submits that, contrary to the Licensee's stated belief in its Response to Intervenor's Motion for Leave to Further Supplement Its Responses, et al. (Docket No. 50-170 filed August 17, 1982; hereinafter "Licensee's August 17th Response") that "sufficient information is available in the Nuclear Regulatory Commission's Public Document Room or has been provided directly to the Intervenor by the Licensee ..." (id. at 3), a thorough examination by the Intervenor of the documents on public file and those provided to it by both the Licensee and the NRC Staff has failed to yield information

that is sufficient in its level of detail and complete in its years of coverage to enable the Intervenor to formulate the detailed further responses which the Licensee seeks.

Although the Intervenor does not yet have the information it needs to provide detailed further responses -- information almost entirely within the possession and control of the Licensee -- the Licensee is asking the Board to penalize the Intervenor for its inability to answer by striking a number of the Intervenor's contentions. (See Licensee's August 17th Response, and proposed order submitted therewith.) For these reasons, the Intervenor finds it necessary at this point to request a protective order.

In support of its motion for a protective order, the Intervenor is submitting: (1) a brief description of the questions posed by the Licensee that are the subject of this request for a protective order, and (2) a proffer of the kinds of information it needs in order to respond to the Interrogatories at issue.

The Interrogatories at Issue and the  
Information Intervenor Needs in Order  
to Prepare Answers

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Interrogatories 12a-d; 13a-e; 14a-c; 15b-d; 16a,b,f; 17c, d; 18a,c,d; 19,a,c,f; 20a,b,d; 21a,e; 22a,d,e; 31b,c of the Licensee's First Set of Interrogatories to CNRS: These sub-interrogatories ask the Intervenor questions pertaining to abnormal occurrences and inspection violations cited at the

reactor facility and briefly reported in Docket 50-170; e.g.

- (1) how the cited malfunction and/or error could lead to releases in excess of maximum permissible concentrations (MPC);
- (2) how much and what kinds of radiation would be released; and
- (3) what kinds of safeguards the Intervenor would recommend to insure that the mishap would not recur.

At the current time, the only information the Intervenor has upon which to base its responses to these questions is a set of very brief abnormal occurrence and inspection reports (none of which describes the amount and types of isotopes present during the mishap), and a set of license renewal application documents prepared by AFRRI and the NRC Staff, including AFRRI's Technical Specifications, Reactor Operator Requalification Program, Emergency Plan, Environmental Impact Appraisal Data, Environmental Report, Hazard Summary Report, and Safety Analysis Report, and the NRC Staff's Environmental Impact Appraisal and Safety Evaluation Report. None of these documents provides the following types of information, which are essential for the Intervenor to prepare responses to the sub-interrogatories cited above and which are currently in the exclusive possession of the Licensee:

1. a scenario describing the interplay of human error and systems malfunction that led to the occurrence;
2. detailed designs and technical specifications of the mechanism(s), system and related systems, electrical circuit(s), and safe-guard(s) that failed;

3. description of experiment in progress, if any;
4. types and levels of isotopes present;
5. rate and volume of air flow through the breach in containment, if any;
6. size and dimensions of breach, if any;
7. detailed description of how occurrence was first noted and ultimately mitigated; and
8. a complete listing and description of experiments that have been and are currently being conducted at the AFRRI TRIGA, including the level of training of the persons conducting them, the amount and types of radioactive material used in each experiment, and the level and types of isotopes generated in the course of each experiment.

Also needed in order to prepare the Intervenor's further responses to these sub-interrogatories is information available from other sources as well as the Licensee, e.g.:

1. detailed descriptions of similar occurrences in other TRIGA reactors;
2. complete listing(s) and description(s) of any risk analysis, quantitative or otherwise, undertaken for the TRIGA design reactor.

Interrogatories 26g,1; 27a-c, e,f; 28i-k; 29b,d-f; 30; 31b, c; 36a(2),a(3),a(4) of the Licensee's First Set of Interrogatories to CNRS: These sub-interrogatories pertain to routine air- and water-borne radioactive emissions and the systems and methods the Licensee employs to monitor them. There are many gaps in the information on public file and that submitted to the

Intervenor by the Licensee and the NRC Staff both as to level of detail and years covered. To provide a detailed response to questions such as: (1) what types and quantity of isotopes have been released into the environment, (2) when federal limits have been exceeded, (3) why the gas stock monitor is not reliable for particulate sampling, and (4) how AFRI's present monitoring methods and equipment could be improved, the Intervenor needs, inter alia, an environmental monitoring report for each year the reactor has been in operation, which includes:

1. a complete description of the monitoring methods, equipment, and methods of equipment calibration used, from the initial collection of field specimens through the final analysis and reduction of data;
2. the exact location of monitoring stations and specimen collection in restricted and unrestricted areas;
3. the types and levels of radioactive material released over discrete periods of time;
4. the types and levels of radioactive material released;
5. the margins for error built into measurements and mathematical methods used; and
6. identification of which specific regulations, regulatory guides, and other standards and guidance the Licensee has used and uses in conducting its environmental monitoring program.

Interrogatory 32b of the Licensee's First Set of

Interrogatories to CNRS: This sub-interrogatory pertains to a loss-of-cooling-accident (LOCA) scenario hypothesized by the

Licensee in its license renewal application. In order to formulate a detailed further response, the Intervenor needs detailed information from the Licensee regarding the temperature, metallurgical, and other physical parameters of the Licensee's LOCA scenario.

The Licensee Had Previously Indicated Its Willingness to Allow the Intervenor to Provide Further Answers After Obtaining the Information Necessary to Prepare Those Answers.

Following the filing by the Licensee of its Motion to Compel Answers to Licensee's First Set of Interrogatories (Docket No. 50-170, January 15, 1982), counsel for the Licensee, the Intervenor, and the NRC Staff met and reviewed in detail the Interrogatories and Responses that were the subject of this Motion. At that time, the problem of insufficient information from which to formulate further, more detailed responses was discussed. Counsel for the Intervenor indicated that CNRS might seek a protective order for those Interrogatories where information was insufficient, and stated that CNRS wished to reserve the right to elicit more information on those subjects in its second round of interrogatories to the Licensee. Counsel for the Licensee expressed a concern that by proceeding in this way, the Licensee might lose the ability to ask the Intervenor further and yet narrower questions (i.e. "follow-up" questions) on these subjects in the second round of interrogatories.

Therefore, counsel for the Licensee stated it would reserve the right to submit follow-up questions in those areas in which it had both propounded interrogatories initially and had provided information during the second round necessary to enable CNRS to more fully answer its interrogatories.

Counsel for the Intervenor agreed on CNRS' behalf to this procedure and remains willing to proceed in this manner (as proposed in February, 1982 by the Licensee). At no time prior to filing its August 17th Response did the Licensee notify or inform CNRS of its unwillingness to proceed according to the understanding reached at that February, 1982 meeting; i.e. that where sufficient information was lacking to respond to the Licensee's First Set of Interrogatories, the Intervenor would elicit such information from the Licensee in its second round of interrogatories, would formulate responses based on that information, and would respond to any follow-up questions promulgated by the Licensee based on those responses. Since the Licensee itself proposed proceeding with discovery in this manner, it is unclear why it now characterizes the plan as "troublesome" and subversive of the discovery process. (See Licensee's August 17th Response at 3-4.)

For these reasons, the Intervenor respectfully requests that the Board decline to impose the severe and unwarranted sanctions requested by the Licensee in its August 17th Response and proposed order. The Intervenor further requests

that the Board issue a protective order prohibiting the Licensee from seeking any further responses from the Intervenor to those Interrogatories sub-parts listed by number in this motion until such time as the Intervenor can, through its second set of interrogatories, elicit from the Licensee the information necessary to prepare further responses.

A proposed Order consistent with the relief requested accompanies this Motion.

Respectfully submitted,

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NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )  
ARMED FORCES RADIOBIOLOGY ) Docket No. 50-170  
RESEARCH INSTITUTE ) (Application to Renew  
(TRIGA-Type Reactor) ) Facility License No. R-84

ORDER

Having considered the Intervenor CNRS' Motion for Leave to Further Supplement Interrogatory Responses ("Intervenor's Motion" hereinafter), the Licensee's Response to Intervenor's Motion ("Licensee's Response" hereinafter), the Intervenor CNRS' Reply to Licensee's Response, the Intervenor CNRS' Motion for a Protective Order, and the entire record herein, the Board finds that the Intervenor is without sufficient information to further respond at this time to the following sub-parts of Licensee's First Set of Interrogatories: 12a, 12c, 12d, 13a, 13b, 13c, 13d, 13e, 14a, 14b, 14c, 15b, 15c, 15d, 16a, 16b, 16f, 17c, 17d, 18a, 18c, 18d, 19a, 19c, 19f, 20a, 20b, 20d, 21a, 21e, 22a, 22d, 22e, 26g, 26l, 27a, 27b, 27c, 27e, 27f, 28b, 28e, 28f, 28g, 28h, 28i, 28j, 28k, 29b, 29d, 29e, 29f, 30, 31b, 31c, 32b, 36a(2), 36a(3), and 36a(4).

The Board further finds most of the information necessary for the Intervenor to prepare a further, more detailed response is within the exclusive possession and control of the Licensee.

The Board further finds that the interests of: (1) conducting this proceeding with complete information on matters germane to the public health and safety; and 2) proceeding fairly, logically, and in a manner contemplated by the parties hereto, will be served by allowing each party an opportunity to seek information before being required to formulate a position based on it.

Accordingly, it is hereby ORDERED that the Licensee refrain from requesting any further response from the Intervenor with respect to the interrogatories listed above until the Intervenor has had an opportunity to elicit in its second set of Interrogatories the information necessary to formulate further responses.

It is further ORDERED that the Licensee shall have an opportunity to promulgate one additional set of questions regarding any further responses the Intervenor submits with respect to the interrogatory sub-parts listed above.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

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Certificate of Service

I hereby certify that copies of Intervenor CNRS' Reply to Licensee's Response to Motion for Leave to Further Supplement Responses, the proposed order attached thereto, the Motion for Leave to File said reply, and Intervenor CNRS' Motion for a Protective Order, and the proposed order attached thereto have been served on the following by deposit in the United States mail, first class, this 20th day of August, 1982:

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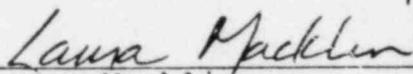
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