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BEFORE THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
CHAIRMAN

In the Matter of)

UNITED STATES DEPARTMENT OF ENERGY)
PROJECT MANAGEMENT CORPORATION)
TENNESSEE VALLEY AUTHORITY)

) Docket No. 50-537

(Clinch River Breeder Reactor Plant))

INTERVENORS' MOTION TO STRIKE AND
MOTION TO AMEND APPLICANTS' EXHIBIT 1 TO
CONFORM WITH THE LICENSING BOARD'S APRIL 22, 1982, ORDER

At the final prehearing conference of August 23, 1982, Intervenor Natural Resources Defense Council, Inc., and the Sierra Club submitted "Intervenors' Motion to Strike Portions of the Testimony and Exhibits of Applicants." The grounds for the Motion to Strike were that the cited exhibits and passages from Applicants' testimony presented detailed, design-specific information on the Clinch River Breeder Reactor, which the Board ruled beyond the scope of this LWA-1 proceeding in its April 22, 1982, Order.

After hearing arguments of the parties, the Board ruled that Applicants' detailed, design-specific exhibits would be admitted "for the limited purpose of being illustrative of the, quote, reactor of the general size and type proposed, close quote." Tr. at 1349. The Board also directed Applicants to the effect that

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"insofar as any of the testimony appears to go beyond the illustrative or limited nature ... we would expect you, if you can, in any way to reword it or it will be subject to appropriate modification." Id. The Board granted the Motion to Strike "to the extent there are matters which are not so limited, and appropriate changes and amendments will be made in the testimony -- or will be the subject of appropriate motion by the Intervenors." Id. at 1350. The balance of the Motion was denied. Id.

Intervenors continue to believe that the Board's rulings on the scope of this proceeding are unworkable. Changing operative verbs from "demonstrates" to "illustrates" and replacing "CRBR" with "reactor of the general size and type proposed" does not alter the inescapable reality that detailed, design-specific data and analyses are offered as evidence that CRBR safety systems will work. Intervenors have maintained since the beginning of this scope dispute that Applicants would indeed need to rely on details of their knowledge of the proposed plant. We were forbidden, however, to enquire into the reliabilities of the systems in question on the grounds that such design detail was unnecessary at the LWA-1 stage.

Now, as we predicted, Applicants have come forward with an affirmative case based almost exclusively on detailed, design-specific analyses of CRBR. The limitation to "illustrative" purposes is transparently hollow. Applicants are in fact

supporting their conclusions about the "adequacy or "feasibility" of CRBR safety systems with minutely-detailed analyses of those very systems -- after Intervenors have been denied the ability to make our case around inadequacies in those detailed systems and analyses.

Nevertheless, in attempting to live with the Board's rulings, Intervenors hereby move to strike portions of the prefiled testimony of Applicants (see instructions of the Board at Tr. 1958-59) and move to amend portions of that testimony (see Tr. at 1349-50, 2096, 2112).

Motion to Strike

Intervenors hereby move to strike the following passages from Applicants' Exhibit 1 on the grounds that they present conclusions about the adequacy of CRBR safety systems that are based on detailed, design-specific data and analyses of CRBR. Such use of the design details of CRBR at this stage is inconsistent with the Board's April 22, 1982, Order and August 23, 1982, ruling and, as shown below, is also inconsistent with Applicants' amended proffer concerning its exhibits. As elicited during cross-examination, infra, it is obvious that the detailed design data and analyses in those exhibits are not here being used for merely illustrative purposes, or to show the state of technology or design feasibility. Rather, the passages cited below present conclusions about the adequacy and performance of

specific CRBR safety features that are based on detailed, design-specific data and analyses. Those data and analyses have been admitted in evidence only for the limited purpose of "illustrating" design feasibility for a reactor of the general size and type and the state of technology. They have not been admitted as evidence of the adequacy of specific CRBR features, so conclusions concerning adequacy from those materials may not be admitted in evidence.

Accordingly, Intervenors hereby move to strike the following passages from Applicants' Exhibit 1 on the grounds that they are conclusions concerning the performance of detailed design features based on exhibits that have not been admitted for their truth as regards the adequacy of CRBR design details:

1. Tr. 2043, 1st ¶: Strike the fourth, fifth, sixth, seventh, and eighth sentences ("Realistic assessments ..." to the end of the paragraph). Rationale: Conclusions based on detailed, design-specific analyses in CRBRP-3. See Tr. 1797-98.

2. Tr. 2043, 2nd ¶: Strike the second sentence.
Rationale: Conclusions based on CRBRP-3. See Tr. 1797-98.

3. Tr. 2044: Strike first paragraph, second paragraph, and first sentence of third paragraph. Rationale: Conclusions of adequacy based on CRBRP-3. See Tr. 1801.

4. Tr. 2047: Strike the 2 full paragraphs at the bottom of the page. Rationale: Conclusions based on CRBRP-3. See Tr. 1805-06.

5. Tr. 2049: Strike first and second paragraphs.
Grounds: Conclusions based on CRBRP-3. See Tr. 1808-09.
6. Tr. 2052: Strike last paragraph. Grounds: conclusions based on CRBRP-3. See Tr. 1810.
7. Tr. 2054: Strike first paragraph. Grounds: Conclusions of adequacy based on CRBRP-3. See Tr. 1811.
8. Tr. 2054, 1st ¶ under heading "Accommodation of Whole Core Melting": Strike "Margin has been provided ..." to end of paragraph. Grounds: Conclusions of adequacy based on CRBRP-3. See Tr. 1812-13.
9. Tr. 2056, 1st ¶: Strike the sentence ("The full range ... day."). Grounds: Conclusion of adequacy based on CRBRP-3. See Tr. 1814.
10. Tr. 2056: Strike last paragraph. Grounds: Conclusion based on CRBRP-3. See Tr. 1815.
11. Tr. 1061: Strike Table 5-2. Grounds: Results based on CRBRP-3. See Tr. 1824. Also, columns 2 and 3 of this table are taken from WASH-1400, which was ruled beyond the scope of this proceeding. Transcript of Meeting with Parties and Counsel, April 20, 1982, at pp. 554-557.
12. Tr. 2031: Strike numbered paragraphs 2, 3, and 4. Rationale: Based on detailed, design-specific evaluations, analyses, and testing in Applicants' Exhibit 24, WARD-D-0185. See Tr. 1559.
13. Tr. 2011: Strike last paragraph. Rationale: Based on PSAR Appendix C, which is beyond the scope. See Tr. 1665, 1674.

Motion to Amend Applicants' Exhibit 1 to Conform With the
Licensing Board's April 22, 1982, Order

On August 25, 1982, Applicants submitted a copy of their Exhibit 1 with hand-written changes in language that constituted Applicants' proposals for bringing their Exhibit 1 into compliance with the Board's April 22 Order and the August 23 ruling. It is that marked-up version of Applicants' Exhibit 1 which was provisionally admitted and which is bound into the transcript at pages 1989-2071.

The instant Motion responds to Applicants' proposed reformation of the language of their Exhibit 1, insofar as it satisfies the limitations of the Licensing Board's April 22 Order. Intervenors concur in proposed language which is not specifically addressed below. Intervenors hereby move that the following passages of Applicants' Exhibit 1 be reformed as suggested below, rather than as suggested by Applicants, to bring them into compliance with Board's April 22 Order:

1. Tr. 2006, last sentence, should read: "PSAR Section 15.3 is illustrative of the general design features of Reactor Shutdown and Shutdown Heat Removal Systems." Rationale: The cited PSAR section describes in detail specific proposed design features of CRBR. Applicants' proposed language change does not remedy the fact that those design details are used in the testimony to support conclusions about the adequacy of those systems to accomplish their intended purpose. The adequacy of those systems to accomplish their intended purpose cannot be

considered apart from the reliability of those systems -- their failure rates. As the reliabilities have been explicitly ruled outside the scope of the LWA-1 proceeding because they require analysis of CRBR design details, conclusions about the adequacy of those systems may not be either "demonstrated" or "illustrated" in Applicants' testimony on the basis of that detailed, design-specific data. If use of the detailed, design-specific Reliability Program as evidence of the performance or adequacy of those systems is beyond the scope of the proceeding, then use of other detailed, design-specific data and analyses as evidence of performance or adequacy are also beyond the scope. Merely changing the operative verb from "demonstrates" to "illustrates" is not sufficient to bring the language within the proper scope as long as the predicate is the adequacy of the systems under discussion. Intervenors urge that the appropriate use of these detailed, design-specific data under the Board's April 22 Order and August 23 ruling is to illustrate the feasibility of designing systems or means to deal with various safety and environmental problems at a reactor of the same general size and type as that proposed, or to illustrate the state of technology. Detailed, design-specific data may not be used, consistent with the Board's scope rulings, as any kind of evidence of the adequacy of those systems to accomplish their intended purpose.

2. Tr. 2007, 2nd ¶, last sentence should read: "PSAR

Section 15.3 is illustrative of the general design features of Reactor Shutdown and Shutdown Heat Removal Systems."

Rationale: same as item 1, supra.

3. Tr. 2008, 2nd ¶, last sentence should read: "PSAR Section 15.3 is illustrative of general means intended to deal with pipe leaks." Rationale: The detailed design data in the PSAR may not be used as evidence that any particular leak size can be accommodated. See item 1, supra.

4. Tr. 2009, 2nd full sentence should read: "PSAR Section 15.3 is illustrative of the general design features of Reactor Shutdown and Shutdown Heat Removal Systems." Rationale: same as item 1, supra.

5. Tr. 2012, 1st ¶, last sentence should read: "PSAR Section 15.2 is illustrative of features intended to reestablish the balance between heat removal and heat generation." Rationale: See item 1.

6. Tr. 2014, 3rd full ¶, last sentence should read: "PSAR Sections 15.1.4 and 15.2 illustrate general means intended to reestablish the balance between heat removal and heat generation." Rationale: See item 1.

7. Tr. 2024, 1st ¶, 2nd sentence should read: "See PSAR Sections 15.2 and 15.3 for illustrations." Rationale: See item 1.

8. Tr. 2034, 2nd full ¶, 2nd sentence should read: "PSAR Section 15.4 discusses these features and illustrates general

means intended to prevent fuel failure propagation."

Rationale: same as item 1.

9. Tr. 2034, 3rd full ¶ should read: "PSAR Section 7.5.4 illustrates general means intended to detect fuel failures. Fission gas detectors are intended to detect a single fuel rod failure. Delayed neutron detectors are intended to detect fuel contact with sodium at levels below those that could result in local blockages." The last sentence can be left as is.

Rationale: See item 1.

10. Tr. 2044, 1st sentence (if not stricken per above Motion to Strike) should read: "'Hypothetical Core Disruptive Accident Considerations in CRBRP' (CRBR"-3), Volume 1, Section 5.2 is generally illustrative of means intended to handle potential mechanical challenges from HCDAs." Rationale: That those mechanical challenges "can feasibly be accommodated" is not a permissible inference from the detailed, design-specific data in CRBRP-3. See item 1.

11. Tr. 2044, 2nd ¶ (if not stricken per above Motion to Strike) should read: "CRBRP-3, Volume 2, Section 2.1 illustrates means intended to accommodate potential thermal challenges from HCDAs" Rationale: See item 10.

12. Tr. 2044, 3rd ¶, 1st sentence (if not stricken per above Motion to Strike) should read: "Design approaches intended to meet the HCDA requirements and the state of technology are illustrated in CRBRP-3, Volume 2, Section 2.2." Rationale: See

item 10.

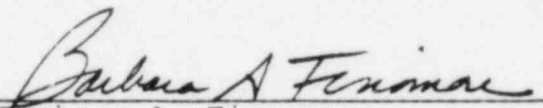
13. Tr. 2045, the hand-written addition under the heading "HCDA Energetics" should read: "Examples of HCDA energetics phenomenology and evaluations can be found in Sections 4 and 5 of CRBRP-3, Volume 1. These evaluations are illustrative of the state of technology and features intended to accommodate HCDA energetics in CRBRP. The evaluations are summarized below."

Rationale: See item 10.

14. Tr. 2054, the hand-written addition under the heading "Accommodation of Whole Core Melting" should read: "Examples of whole core melting phenomenology and evaluations can be found in Section 2 and 3 of CRBRP-3, Volume 2. These evaluations are generally illustrative of the state of technology and means intended to accommodate HCDA energetics in CRBRP. The evaluations are summarized below." Rationale: See item 10.

Respectfully submitted,

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Dated: September 9, 1982

CERTIFICATE OF SERVICE

I hereby certify that copies of INTERVENORS' MOTION TO STRIKE AND MOTION TO AMEND APPLICANTS' EXHIBIT 1 TO CONFORM WITH THE LICENSING BOARD'S APRIL 22, 1982, ORDER were served by hand this 9th day of September 1982 upon:

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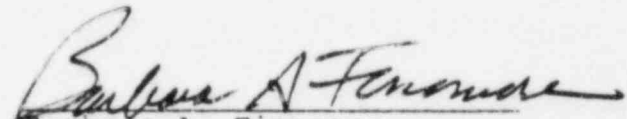
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