

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the Matter of)
UNION ELECTRIC COMPANY)
(Callaway Plant, Unit 1))

'82 NOV -8 A11 :27
Docket No. STN 50-483 OL

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

REED'S REBUTTAL TO STAFF RESPONSE
RELATING TO CONTENTIONS FILED 01 OCTOBER 1982

On 25 October, the NRC Staff filed its response to Reed's amended contentions, objecting to the admission of Contentions 7, 11, 12, 14, and in part to Contentions 3, 13, and 15. The undersigned does not agree with Staff recommendations or the basis for its actions. Mr. Reed will explain his disagreement with Staff comments below using the same format used by Staff to simplify identification of Contentions.

3. Staffing--Emergency Management Director

Staff objects to the part of this contention on the basis that the undersigned has provided no reason to believe that volunteers will not, in fact, accept this position with all its responsibilities. Staff counsel has offered no viable information that challenges Mr. Reed's statements, except to call them, "nothing but speculation, without basis." Staff has offered "speculation" as its basis for recommendation to disallow this portion of the contention. It is a common practice in our society for a person to receive remuneration for his or her services. Mr. Reed's contention is based upon that premise, and has been supported in part, by the recent resignation of the Gasconade County Emergency Management Director, who resigned because of the potential work-load of the position. If Staff can produce a list of names of "qualified" persons who are waiting to fill these positions in the four counties and will

perform all of the duties enumerated in the proposed plans without pay, Mr. Reed will have no further objections to Staff recommendation as regards this part of Contention 3.

7. Pre-Sited Decontamination Facilities

Staff objects to this contention because it knows of no requirement that decontamination centers be pre-sited. The undersigned sees this requirement embodied in 10 CFR, Part 50, Section 50.47(b) which mandates at (1) that "(P)rimary responsibilities - - have been assigned, - - - responsibilities - - have been specifically established - -"; at (8) that "(A)dequate emergency facilities and equipment - - are provided and maintained"; at (10) that "(A) range of protective actions have been developed for - - -the public"; at (11) (M)eaning for controlling radiological exposures - - - are established - - -"; and at (12) in that "Arrangements are made for medical services for contaminated injured individuals". The Commission has specified that the overall objective of emergency response planning is to provide dose savings and in some cases life saving for a spectrum of nuclear plant accidents. Unless it is the intent of the Commission to provide planning that excludes some consideration for the safety of those that are contaminated (externally and internally) but who have no other physical injury; the pre-siting of decontamination facilities is necessary. Identification of shower units at schools acting as relocation centers for evacuees is simple and could serve as sites for simple external decontamination. For these reasons, it is felt that Mr. Reed's Contention 7 is valid, appropriate and should not be rejected by the Board.

11. Reentry/Recovery

Staff objects to this contention as being without regulatory basis. This is based upon the undersigned's use of the word "specific" in the preparation of the contention. The regulation, at 50.47(b)(13) does, in fact, call for (G)eneral plans; however, even "general plans" must have some specificity or they are not plans, but merely a statement(s) that provides no direction to the accomplishment of a desired function. Mr. Reed's contention is based upon the lack of direction which is provided by the proposed local plans. The Commission has established the criteria for plans by stating that they should make clear "what is to be done in an emergency, how it is to be done and by whom". (NUREG 0654, J). Failure of the proposed plans to meet this criteria is due to specificity regarding reentry/recovery. It is understood that the NRC Staff may prefer not to litigate this issue for unspecified reasons, but it has not provided a valid reason to reject this contention, other than to present Mr. Reed's use of the word "specific" as its basis for recommendation. The undersigned respectfully requests that the Board disregard the Staff recommendation as relates to this contention.

12. Funding

The Staff objects to this contention based upon it being beyond the scope of this licensing proceeding. While Mr. Reed has refused to reword this contention so that it suits Staff Counsel, he feels it is suitably phrased to meet the standards for a contention and will be the basis for his presentation of a case involving the "state of offsite emergency preparedness" as it relates to local governments impacted by the Callaway Plant, Unit 1 and an absence of adequate funding.

The Commission recognizes emergency planning as equivalent to, rather than as secondary to, siting and design in public protection and that such departs from its prior regulatory approach to such planning (see 44 FR 75167, Rationale for Change, 19 Dec. '79) and must insist on the same degree of policy and regulatory compliance as it does in siting and design requirements. The Commission has recognized, repeatedly, that "funding" is an issue in providing and upgrading local government's radiological emergency response capabilities. The NRC's organic statutes provide it with an unique degree of discretion in the execution of its functions and Congress, when it enacted 42 USC 2236, must have envisioned that licensing standards, especially in the areas of health and safety regulations, would vary over time as more was learned about the hazards of generating nuclear energy. Insofar as those standards became more demanding, Congress surely would have wanted the new standards, if the Commission deemed it appropriate. With such capability, the NRC has the internal power to expand, reduce or nullify existing regulation and/or enact new regulations which supersede the previous ones. As such, emergency planning standards can be discarded in the face of inadequate funding and an alternative of double containment could be required and be found fully enforceable by the NRC. Mr. Reed is not interested in who provides funds, only that adequate funds are not available now. His contention is suitably framed to meet the legal standards of the Commission, and permits the undersigned to present a simple case which proves funding inadequacies. As such it is within the scope of this hearing, though perhaps an embarrassment to Staff, and it is requested that Staff's recommendation be rejected.

13. Organizations Requiring SOP's

Counsel objects to the part of this contention as relates to local governments and cites the requirement of NUREG 0654, Planning Standard A.1.b as non-regulatory. The standards enumerated in NUREG 0654 are those specified in 10 CFR, Section 50.47(b) and are addressed by the specific criteria by which the standard was and is formulated (see footnote #1, Section 50.47(b) of 10 CFR). Under the authority of the basic regulation, the planning standards in NUREG 0654 have legal standing and must be deemed to be additional clarification of the basic, generalized standards listed in 50.47(b).

Local plans are being prepared by the Applicant (albeit without the formal permission of the local governments involved) and the Applicant is controlling the detail in such plans in a manner which appears to be directed toward reducing any potential expense it might be expected to incur in the response efforts of local governments and encouraging local officials to accept such plans without full knowledge of all of the actions included in maintenance and operations contained therein.

Said incorporated towns are legally constituted local governmental entities, under Missouri law, and must be included in the planning process; as such, they must have some formal standard operating procedure by which they can be guided in protecting their citizens in the event of a radiological emergency at the Callaway Plant, Unit 1.

Additionally, a response capability is based upon the use of people, and said towns have that resource. Mr. Reed believes Staff comments and recommendations are not applicable and are in contradiction to Commission

regulation and policy intent, therefore, this contention should be retained.

14. Incorporated Cities, Towns and Villages

Staff Counsel claims that this contention is without basis and should be rejected. His selective determination that the incorporated towns of Mokane, Chamois, Morrison, Gasconade, and Rhineland can be eliminated from the planning process because of a lack of equipment and formally organized response forces is completely without basis in Commission regulations. The regulations specifically call for the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway EPZ (see 50.33(g)). Nowhere in regulations is a provision made to exclude a local governmental entity on the basis of lack of equipment or response capability, quite to the contrary, the Commission has recognized that just such a situation may have the potential to restrict plant operations (see 45 FR 55402)(- - the operation of some reactors may be affected by this rule through inaction of State and local governments or an inability to comply with these rules.) Mr. Reed's contention is within the scope of this hearing and is supported by Commission regulation; it should be retained and Staff recommendations should be rejected as without legal basis, since all towns are legally incorporated local governmental entities as required by regulation.

15. Letters of Agreement

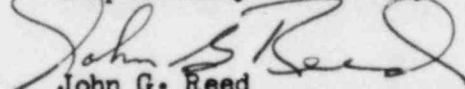
In regards to this contention, Staff claims it is not supported by regulation. Staff give no indication of how participation by any person or group of individuals will be assured, if letters of agreement (the generally accepted method of validating an agreement to perform an

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act) are not required during the planning process. Staff is taking the same stance as has the Applicant, in past meetings; that in the event of an actual emergency, a large number of people will magically appear (all fully trained and equipped to function within a radiological environment, if needed) to fulfill the many tasks required by the plans. Staff has failed to indicate what force exists in law to give civil/government employers the powers to make an employee perform duties outside the functions of the job for which the person was hired or in an environment that is dangerous to said employees health and safety. In the absence of such force in law, or an effective alternate to the personnel availability count provided by letters of agreement, Staff recommendation to drop this contention has neither basis in law or fact and should be rejected by the Board.

Additionally, Staff has not indicated how personnel to be trained in specific response roles will be identified, or how evaluations of plans can be adequately performed without accurate manning figures. Instead, he relies upon a nebulous belief that a trained response force will sprout from the earth, like mushrooms, to fulfill all of the tasks incident to an emergency response effort if there is an accident at the nuclear power plant. Such concepts indicate a blindness to facts and a non-professional approach to an effective planning effort.

Dated this 03 day
of November, 1982
at Kingdom City, MO.

Respectfully submitted,



John G. Reed
Citizen of the United States
of America

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CERTIFICATE OF SERVICE

I hereby certify that the document attached hereto was served this
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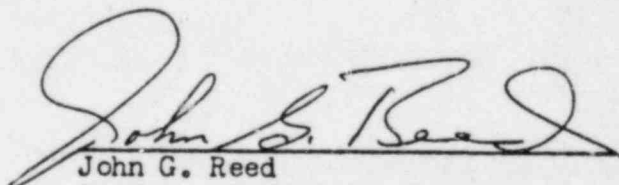
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