

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)
LOUISIANA POWER & LIGHT) Docket 50-382
(Waterford Steam Electric Station,) December 27, 1982
Unit #3))

JOINT INTERVENOR'S EXCEPTIONS
TO PARTIAL INITIAL DECISION OF NOVEMBER 3, 1982

UNCONTESTED ISSUES

A. Unresolved Generic Safety Issues

1. The Board erred in finding 11 of the 13 unresolved generic safety issues to have a reasonable assurance that the facility could be operated before these issues were resolved without undue risk to the health and safety of the public (PID, p.5).
2. The Board erred in finding that they cannot substitute their judgement for that of the staff on the issue of SHUT-DOWN HEAT DECAY REMOVAL (A-45) (PID, p. 10).
3. The Board erred in finding that an attempt on their part to obtain the evidence necessary to resolve this issue would be violative of Commission mandates and issuances (PID, p.5).
4. The Board erred in not obtaining evidence and seeking to adequately resolve the issue of Emergency Core Coolant (ECC) inadequacy found in Board Notification 82-12 (pp.7&8 of Attachment III; Rowsome and Murphy).
5. The Board erred in finding that SEISMIC QUALIFICATION OF EQUIPMENT (A-46) is inapplicable as an unresolved generic safety issue in the instant case (PID, p.11).
6. The Board erred in failing to impress on the Staff its inadequate performance in the area of SHUTDOWN HEAT DECAY REMOVAL (PID, p. 10).
7. The Board erred in its administrative and judicial function by accepting a justification "with great reluctance" and "of which we are personally skeptical" for A-45(PID, p.10)

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CONTENTIONS

Joint Intervenors' contention 17/26(1) and (2) are discussed in PID Findings of Fact 7 thru 98 (FF) and Joint Intervenors Proposed Findings of Fact 1 thru 26 (PF).

Joint Intervenors exceptions to Contention 17/26(1) and (2) are as follows:

8. The Board erred in classifying the four 'ommissions' outlined by the Joint Intervenors in their Memorandum on Contention 17/26(1) and (2) as relating to 17/26 (1)(b) exclusively (PID, p. 13; footnote 13).
9. The Board erred in relying on the unsupported opinion of Civil Defense Director Lucas that few people would refuse to evacuate (FF 15).
10. The Board erred in finding that there would be no diversion of Parish resources for dealing with people who refuse to evacuate (FF 15).
11. The Board erred in not allowing a direct question by Joint Intervenors on the amount of Parish resources to be used to extricate people who refuse to evacuate (Transcript (TR) 2724--18).
12. The Board erred in not allowing Joint Intervenors to question the evacuation officials about the consequences of severe accidents at Waterford III][Tr. 2190--17;2236--15; 2253--14;2253--18;2276--9;2279--14;2279--25;2279--10;2280--15; 2280--25;2710--12]
13. The Board erred in using the concept of post-hearing verification and predictive findings to deny Joint Intervenors their right of due process concerning the following litigable issues:
 - a. siren warning system
 - b. agreements with surrounding parishes for buses, ambulances, and vans.
 - c. installation of communication systems
 - d. all implementing procedures
 - e. evacuation tests
14. The Board erred in not allowing cross-examination con-

cerning the present command structure and its possible conflicts of interest [Tr. 2966--15&16;2962 thru 2966; 2234].

15. The Board erred in failing to require Potassium iodide (KI) to be available for distribution to school children in the event sheltering is recommended or the evacuation is delayed.

16. The Board erred in giving weight to a mathematical evacuation model that excluded many groups of individuals (FF 11).

17. The Board erred in failing to consider that the parish evacuation officials had never informed the FEMA officials of their requests for additional roads (Tr. 2875 thru 2877).

18. The Board erred in not requiring an expert to be available to sponsor the licensee's siren system study (Tr. 2345--5)

19. The Board erred in failing to consider that the FEMA experts never visited the siren location (Tr. 2879),

20. The Board erred in not allowing the Joint Intervenors to question state officials on the adequacy of the phone system during a crisis (Tr. 2820).

21. The Board erred in failing to consider that CD Director Lucas testified that he would recommend evacuation only on the advice of the licensee without an independent assessment from the state (Tr. 2954),

22. The Board erred in not allowing Joint Intervenors to probe CD Director Madere's doubts about NUREG-0654 (Tr. 2572--2).

23. The Board erred in failing to consider that CD Director Madere had grave doubts about NUREG-0654. (Tr. 2570--3&4).

24. The Board failed to consider that the licensee and the state have substantial differences concerning protective action recommendations for pregnant women and children (Tr. 3107--11 thru 13) (Tr. 3141--14).

25. The Board erred in failing to consider that Lucas and Madere made uncontradicted statements that increased numbers of automobile collisions would result from an evacuation (Tr. 2840 thru 2843).

26. The Board erred in failing to consider that witness Twine disagreed (without contradicting) with Lucas and Madere's assertion that increased numbers of accidents would occur and planned rescue vehicles for the lesser number of accidents (Tr. 3003) in the ETE.

27. The Board erred in not allowing Joint Intervenors to pursue a line of questioning relative to the 'hysteria' question concerning the 'evacuation shadow phenomenon' (Tr. 2920--9).
28. The Board erred in failing to require more than one method of evacuating St. John and St. Charles parishes. Instead, they baldly assert that the two risk parishes could and would determine to evacuate in various directions other than strictly east and west depending upon conditions without the barest plan for doing so.
29. The Board erred in not considering that The initial linkage and transmittal of information concerning an accident must come from utility employees (FF 42).
30. The Board erred in failing to question the necessity for a representative of the utility to be present at the EOC in the risk parishes. (FF 47).
31. The Board erred in denying Joint Intervenors the right to question the state and parish evacuation officials on their familiarity with the radioactive materials potentially released from nuclear power plants (2282--16;2237--20;2237--22).
32. The Board erred in not allowing Joint Intervenors the opportunity to clarify what level of emergency response is necessary to forcibly remove people from their homes .
33. The Board erred in denying Joint Intervenors Motion (Cross-Motion) of September 29, 1982(Memorandum and Order, October 18, 1982).
34. The Board erred in granting the Applicant's motion of September 23, 1982 (Memorandum and Order, October 18, 1982).
35. The Board erred in limiting the'Joint Intervenors Request for the Production and Copying of Documents'to simply "correspondence" (Memorandum and Order, October 18, 1982, p. 4, footnote 4).
36. The Board erred in not allowing Joint Intervenor's request for documents relating to the Indian Point evacuation proceeding (Memorandum and Order, October 18, 1982).
37. The Board erred in granting Applicant's motion for reconsideration of its PID (Nov. 3, 1982) in respect to allowing letters of agreements with agencies or political subdivisions of the support parishes (Memorandum and Order, December 14, 1982, p. 7).

- Joint Intervenors exceptions to contention 8/9:
38. The Board erred in considering the synergistic effects of carcinogens with the estimated emissions from Waterford III rather than emissions allowable under the license. (Tr. 461, p. 13 & 14, Tr. 735, p. 10-15) (FF 107-111)
 39. The Board erred in relying upon Dr. Goldman's testimony concerning the DiPaoli study (Tr. 735--10; FF 107-111).
 40. The Board erred in relying upon the biased testimony of professional witnesses whose financial interests are aligned with the nuclear industry (tr. 461--13&14; 735--10 thru 15; 942-945; 987; and 3656 and 3657) rather than the unbiased expert testimony of Drs. Campbell, Pandit, Johnson, and Bross who have no pecuniary interest in the advance nor demise of nuclear power (FF 107-111).
 41. The Board erred in relying upon Dr. Goldman's evasive, contradictory testimony concerning synergism which was unsupported by any credible evidence (FF 107-108).
 42. The Board erred in relying upon the lay testimony of Dr. Fabrikant concerning synergism. (ff 107-108; Tr. 3656-3657)
 43. The Board erred in permitting Dr. Fabrikant to testify as an expert concerning epidemiology and Dr. Bross' testimony.
 44. The Board erred in finding that Fabrikant was an expert in epidemiology.
 45. The Board erred in permitting Dr. Fabrikant to testify concerning Dr. Bross' beliefs and mental impressions.
 46. The Board erred in placing the burden upon Joint Intervenors to prove the existence of synergistic effects from estimated levels of radiation from Waterford III (FF 107-108)
 47. The Board erred in failing to consider un rebutted credible evidence concerning the nature and limitations of cancer research by placing the burden upon Joint Intervenors to prove the existence of studies showing synergism between estimated low-level emissions levels from Waterford III and chemical carcinogens (tr. 988).
 48. The Board erred in placing the burden upon Joint Intervenors to prove the existence of scientific evidence providing an adequate basis for extrapolation from synergistic effects at high doses to doses estimated from Waterford III (FF 108).
 49. The Board's finding that there was no existing scientific evidence presented to the Board that provided an adequate basis for extrapolating from synergistic effects at high dose to doses estimated from Waterford III is false and unsupported.
 50. The Board erred at FF 108 in failing to apply the method-

ology of the BEIR I, II, and III report to synergism between chemical carcinogens and ionizing radiation.

51. The Board erred in finding that levels of radioactivity to be released by Waterford III during routine operation are a small fraction of the doses individuals will receive from background exposure (tr. 879,880) (FF 109).

52. The Board erred in failing to consider relevant expert testimony of Dr. Epstein proffered by Joint Intervenors via a telephone deposition or via sponsorship by Dr. Johnson or Bross. (tr. 363-365)

53. The Board erred in ruling that Dr. Epstein's testimony could not be introduced and sponsored by Dr. Johnson or Dr. Bross without granting Joint Intervenors an opportunity to lay a predicate for the introduction of such testimony by direct testimony of Dr. Johnson or Bross (tr. 365).

54. The Board erred in ruling that logistics of telephone depositions are 'just too impossible'. (tr.363-365).

55. The Board erred in ruling that Epstein's telephone deposition would not be permitted because it is important that 'expert witnesses' dealing with 'technical subjects must be seen by the Board. (tr. 365).

56. The Board's finding (FF100) that staff and Applicant's projections agreed within narrow limits is not supported by the evidence (tr. 773-775).

The Board erred in denying Joint Intervenors motion to strike the testimony of Dr. Branagan (tr. 763).

57. The Board erred in denying Joint Intervenors motion to strike changes in Branagan's testimony (tr. 793)

58. The Board erred in permitting staff attorneys to not advise Joint Intervenors and the Board of false sworn testimony (tr.780 781)

59. The Board erred in granting credence to the non-expert testimony of Applicant witness Kenning concerning measurements of radiation levels (tr. 472)

6060. The Board erred in crediting the testimony of Mauro who is biased in favor of the nuclear industry and economically dependent upon it (tr. 488,503).

61. The Board erred in relying upon the Gale Code which was developed by the nuclear industry (tr. 491)

62. The Board erred in permitting Mauro to testify dose and release calculations when he has never testified at an operating license hearing (tr. 518) and has never confirmed emissions (tr. 511) at any operating plant.

63. The Board erred in crediting Mauro's testimony and allowing

him to testify as an expert and health effects of estimate-releases when he has never taken a biology course (tr. 481), did not include chemical exposures in estimates of health effects (tr. 527) to maximally exposed individuals, took no account of the existing cancer rate in Louisiana (tr. 530) and his calculations for radiation intake for maximally exposed infants 0-1 do not include eating radioactive vegetables.

64. The Board erred in crediting Hamilton's testimony when Hamilton's employer received 66% of its funds from the DOE which is charged with promoting nuclear power (tr. 533), has always testified on behalf of utilities at licensing hearings, and displayed selective amnesia under cross-examination (tr. 537 and 544).

65. The Board erred in relying upon the testimony of Hamilton who attempted to mislead the Board by selectively recalling his past services for the nuclear industry.

66. The Board erred in crediting and relying upon the inaccurate and false testimony of Hamilton concerning the amount of radiation which will be emitted from Waterford III and absorbed by the maximally exposed individual as a percentage of background radiation (tr. 715-717)

67. The Board erred in crediting Hamilton's inaccurate and false testimony concerning his criticism of Dr. Maurice Gottlieb's studies (tr. 652-672)

68. The Board erred in allowing Hamilton who is not qualified to state the risk to the Louisiana public from drinking water

69. The Board erred in crediting Hamilton's baseless statement concerning the upper limits of synergism.

70. The Board erred in failing to coincide the expert unrebutted testimony of Dr. Carl Johnson that LP&L has poorly evaluated the most important pathways of exposure to radiation.

71. The Board erred (FF 103-105) in failing to coincide unrebutted expert testimony of Dr. Velma Campbell concerning the burden of carcinogens in Louisiana and the linkage between Louisiana's carcinogens and Louisiana's high cancer rate.

72. The Board erred (FF 103-105) in failing to consider unrebutted Joint Intervenors exhibits 1 thru 27, concerning the burden of carcinogens in Louisiana's environment and its high cancer rate.

73. The Board erred in striking the word 'high' from Dr. Velma Campbell's unrebutted expert testimony concerning La.'s high cancer rate.

74. The Board erred in excluding all non-witness authored medical references.

75. The Board erred in failing to consider the expert unrebutted

testimony of Dr. Carl Johnson that actual emissions of nuclear power plants exceed predicted releases including predicted releases from Waterford III (tr. 1902,1903,1907)

76. The Board erred in giving sufficient weight to the unrebutted expert testimony of Dr. Bross concerning genetic degradation of cancer and supporting material contained in Appendix IV, the Greenstock and Ruddock article.

77. The Board failed to consider the unrebutted expert testimony of Dr. Bross concerning the effects of low-level radiation and unrebutted evidence in Appendix V, p. 425 of Allen Brodsky's article.

78. The Board failed to consider expert unrebutted evidence contained in articles by Upton, Wilson, Stannard, and the expert unrebutted evidence of testimony of Dr. Irwin Bross regarding the increased sensitivity of children, infants, and fetuses to radiation.

79. The Board failed to consider the expert unrebutted testimony of Dr. Bross concerning the synergistic effects of low level radiation and the cumulative health and genetic effects of radiation and chemical exposures.

80. The Board failed to consider the unrebutted expert testimony of Dr. Bross regarding the parallels between river systems in the Soviet Union and the lower Mississippi and the unrebutted expert evidence contained in the U.S. Dept. of Commerce 1980 publication by C. Davis and M. Feshbach.

81. The Board failed to consider the expert unrebutted testimony of Dr. Bross and Dr. Pandit concerning the parallels between Love Canal and the lower Mississippi.

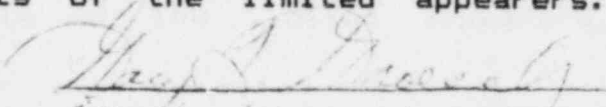
82. The Board erred in failing to consider the expert unrebutted testimony of Dr. Bross concerning enhancement of radiation effects by chemical agents in the Waterford III area and the failure of regulatory mechanisms to protect the public in South Louisiana.

83. The Board erred in failing to consider Dr. Bross' expert unrebutted testimony concerning the inadequacy of the 'average' dose adopted by Applicant. (tr. 1372-1375)

84. The Board failed to consider the expert unrebutted evidence of the synergistic model contained in Dipaola's study, misrepresented by Dr. Goldman at tr. 970.

85. The Board failed to consider the expert testimony of Dr. Bross and Dr. Johnson concerning the bias and incompetence of the Nuclear Regulatory Commission (tr. 1372,1902,1903).

86. The Board failed to consider the testimony concerning distrust of the NRC, the ASLB, and state and local officials contained in the numerous statements of the limited appearers.


Gary L. Greenek
Joint Intervenor