

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

B. Paul Cotter, Jr., Chairman  
Dr. Richard F. Cole  
Gustave A. Linenberger

SERVED JUN 25 1984

In the Matter of:  
  
GULF STATES UTILITIES COMPANY, et al.  
(River Bend Station, Units 1  
and 2)

NRC Docket Nos. 50-458-OL  
50-459-OL

ASLBP Docket No. 82-468-01 OL

June 22, 1984

MEMORANDUM

At the June 19, 1984 prehearing conference in the captioned proceeding, oral argument on and discussion of emergency planning contentions and other events precedent to commencing hearing resulted in the deferral of a ruling on pending contentions and adjustments to the schedule set out in this Board's May 3, 1984 Order. Salient details of the conclusions reached are set forth below.

I. Safety Issues

All parties confirmed that they would not file summary disposition motions in connection with the two safety contentions admitted in this proceeding. Because of work scheduled in connection with emergency

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planning contentions and NRC Staff's workload commitment, it is not possible to advance the date for hearing the safety contentions despite the fact that they would be ripe for consideration. Accordingly, the schedule of events for commencing the safety contentions hearing remains unchanged except for deleting summary disposition filings and relaxing the time for completing discovery, as follows:

<u>1984</u>	<u>Event</u>
August 31	- Discovery completed
September 17	- Testimony, premarked exhibits, and proposed findings of fact and conclusions of law filed
October 9	- Final prehearing conference and limited appearance statements
October 10	- Hearing commences at the Court of Appeals, First Circuit, Courtroom 905, Governmental Building, 222 St. Louis Street, Baton Rouge, Louisiana

## II. Emergency Planning Contentions

Oral argument and discussion at the hearing disclosed that there were a number of matters to be resolved before the emergency plan can achieve any degree of finality. For example, the recently established Department of Environmental Quality must be substituted for its

predecessor Department of Natural Resources and the authority of the Secretary of Environmental Quality to act in a radiological emergency needs to be more precisely resolved. In that connection Mr. McNeill, Assistant Attorney General, agreed to consult with Intervenor counsel and the head of the new Department of Environmental Quality to determine whether the Department statute needs to be modified in this session of the Louisiana legislature. The legislature is scheduled to adjourn on July 14 and will not reconvene until April 1985. Accordingly, Mr. McNeill agreed to hold the necessary consultations during the week of June 18 and report to the Board on the action taken on or about June 29, 1984.

Similarly, the Federal Emergency Management Agency's comments on the draft plan will not be available until the end of June or the first week of July. Those comments will include Regional Assistance Committee review. The committee consists of representatives of seven federal agencies including the NRC regional office. (Tr. 242.)

Because of these and other open items related to the Joint Intervenors' proposed emergency planning contentions, the Board decided to defer ruling on the admissibility of the contentions until September 21, 1984. In the interim, the parties, particularly the State of Louisiana and Joint Intervenors will conduct continuing consultations in an effort to resolve as many of the issues raised by the emergency planning contentions as possible. The parties will file a joint report

with this Board on or before September 12, 1984, describing the contentions resolved and stating which contentions were not resolved and should be ruled upon by the Board. It was also agreed by all the parties that no motions for summary disposition would be filed in connection with emergency planning contentions.

Consequently, the July 12 final oral argument on emergency planning contentions was eliminated and, because of the scheduled time saved, the dates for prehearing filings and commencement of hearing were advanced. Accordingly, the schedule set forth in this Board's order of May 3, 1984, is revised as follows:

<u>1984</u>	<u>Event</u>
June 19	- Oral argument on emergency planning contentions (Board quorum: Judges Cotter and Linenberger)
July 12	- Commence discovery
September 12	- File joint report of parties on resolution of emergency planning contentions
September 21	- Board rules on any remaining emergency planning contentions
October 22	- Complete discovery
November 12	- Prefiled testimony, exhibits, and proposed findings of fact and conclusions of law filed
December 4	- Final prehearing conference
December 4 or 5	- Commence hearing

### III. Proposed Findings of Fact and Conclusions of Law

To assure that the hearing is focused upon matters in controversy and that the hearing will be conducted expeditiously, consistent with a full and complete record, the Board has determined that the parties should prepare proposed preliminary findings of fact and conclusions of law. Each party's preliminary findings and conclusions are to be presented at the times scheduled above and in the format and manner described below.

The Board expects these preliminary findings and conclusions to be comprehensive and precise in order to narrow and define the issues in light of the completed discovery. The parties are hereby given notice that they will be precluded from offering in evidence or otherwise raising at hearing any factual matters not included in the preliminary findings and conclusions except upon a showing of good cause.

The preliminary findings of fact shall set forth in simple, declarative sentences the facts relied upon by each party in support of or opposition to a contention. Each finding shall be complete in itself and shall, so far as practical, contain no color words, labels or legal conclusions. Each finding shall state the evidentiary matter upon which it is based, for example:

1. XYZ Utilities is an investor owned utility incorporated in the State of Louisiana with principal offices in Baton Rouge. (APP. EX. 1; Tr. 10-12.)

\* \* \*

2. A Radiological Emergency Response Plan prepared by the Department of Environmental Quality addresses all the criteria required by state and Federal Law. (APP. EX. 15, NUREG-0654; Tr. 120-135.)

Individual findings are to be set out in separate numbered paragraphs, so constructed as to permit opposing parties to admit or deny each one in whole or in part. Each numbered paragraph is to be on a separate page.

In the separate section for conclusions of law, each legal conclusion shall be separately, clearly and concisely stated in a numbered paragraph, followed by citations of authorities which support it. Each such paragraph shall be on a separate page.

Ten business days before the preliminary findings and conclusions are to be filed with the Board, they shall be exchanged by the parties. Each party will then mark each other party's finding as admitted or denied (in whole or in part), unable to admit or deny, or neutral (that

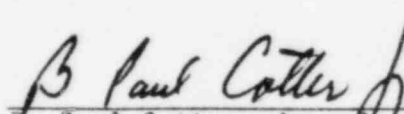
is the party is unconcerned as to whether or not the finding would be made).

The preliminary findings and conclusions shall be submitted in a binder on 8½ x 11 inch three-hole punched paper with such findings, as marked by the other parties, tabbed by contention number. At the hearing, counsel are to refer the Board to the numbered findings to which the testimony or exhibit relates. It is contemplated that upon completion of testimony on a particular issue, parties will be permitted to submit amended findings of fact and conclusions of law to conform to the evidence actually presented. All parties who wish to participate at hearing or in findings of fact and conclusions of law on particular contentions are required to submit such preliminary findings and conclusions.

#### IV. Other Matters

Applicant agreed to furnish the Board one complete set of the Final Safety Analysis Report and the Environmental Report. All current materials will be properly filed and a set sent to the Board. Both sets shall be current as of July 1, 1984.

FOR THE BOARD

  
B. Paul Cotter, Jr., Chairman  
ADMINISTRATIVE JUDGE