

August 27, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-338/339
VIRGINIA ELECTRIC & POWER COMPANY)	OLA-1
)	(Receipt of Spent Fuel)
(North Anna Nuclear Power Station,)	OLA-2
Units 1 and 2))	(Expansion of Spent Fuel Pool)

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NRC STAFF RESPONSE TO THE CONCERNED CITIZENS
OF LOUISA COUNTY "REVISED CONTENTION 4"

I. INTRODUCTION

The Concerned Citizens of Louisa County ("Citizens") filed their "Third Draft of Contentions" on July 30, 1984. In a response filed on August 15, 1984, the NRC staff opposed admission of all contentions. On August 14, 1984, Citizens filed a letter with an attachment entitled "Revised Contention 4." The Staff is of the view that Revised Contention 4 should be admitted.

II. DISCUSSION

Revised Contention 4 is identical to Contention 4 as submitted on July 30, 1984. It reads: "VEPCO has not shown that its physical protection system satisfies NRC regulatory requirements." In its filing of August 15, 1984, the NRC staff opposed Contention 4 because of inadequacies in the basis for the contention. In Revised Contention 4, Citizens has changed completely the basis for the contention, apparently relying on a document the Applicant mailed to Citizens on August 3, 1984 entitled VEPCO's Spent

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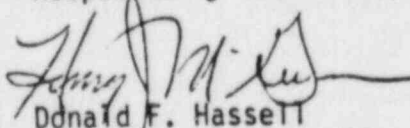
Fuel Transportation Routing Plan (The Plan).^{1/} The basis for Revised Contention 4 is that The Plan does not demonstrate compliance with various subsections of 10 C.F.R. § 73.37 (Requirements for physical protection of irradiated reactor fuel in transit.)

Citizens asserts that there is no evidence that the physical protection system described in 10 C.F.R. § 73.37 has been developed. The only "evidence", however, that they claim to have looked at is The Plan. By implication, therefore, Citizens seems to be claiming that The Plan contains all current relevant information as to the status of Applicant's compliance with 10 C.F.R. § 73.37. Whether that is true or not will not be addressed here because "...it is not the function of a licensing board to reach the merits..." of contentions. Philadelphia Electric Company (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20 (1974). The Staff submits that sufficient basis has been stated for Citizens' specific allegations concerning the system's lack of compliance with § 73.37. Accordingly, Revised Contention 4 should be admitted.

III. CONCLUSION

For the foregoing reasons, the Staff submits that Revised Contention 4 should be admitted.

Respectfully submitted,

for 
Donald F. Hassett
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 27th day of August, 1984

^{1/} Applicant's Response To The Contentions Of Concerned Citizens Of Louisa County (August 14, 1984) at 11.

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CERTIFICATE OF SERVICE

I hereby certify that copies of 'NRC STAFF RESPONSE TO THE CONCERNED CITIZENS OF LOUISA COUNTY' "REVISED CONTENTION 4" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 27th day of August, 1984:

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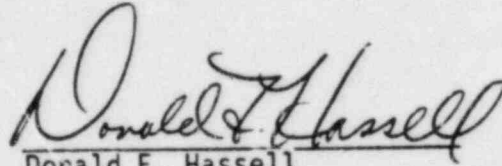
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A handwritten signature in cursive script that reads "Donald F. Hassell". The signature is written in dark ink and is positioned above the printed name and title.

Donald F. Hassell
Counsel for NRC Staff