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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

'85 FEB -5 P3:40

Alan S. Rosenthal, Chairman  
Thomas S. Moore  
Dr. Reginald L. Gotchy

February 5, 1985  
(ALAB-798)  
OPERATIONAL SERVICE  
BRANCH

SERVED FEB 6 1985

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In the Matter of )  
 )  
KANSAS GAS & ELECTRIC COMPANY, )  
 ET AL. )  
 )  
(Wolf Creek Generating Station, )  
 Unit No. 1) )  
\_\_\_\_\_)

Docket No. 50-482 OL

DECISION

On July 2, 1984, the Licensing Board rendered its initial decision in this operating license proceeding involving the Wolf Creek nuclear facility located in Coffey County, Kansas.<sup>1</sup> Essentially confined to emergency planning issues raised by certain intervenors in the proceeding,<sup>2</sup> the decision resolved those issues in the applicants' favor. Thus, subject to the prior fulfillment of two conditions imposed by the Board with respect to the Coffey County

<sup>1</sup> LBP-84-26, 20 NRC 53.

<sup>2</sup> Another intervenor had put forth a single contention pertaining to the financial qualifications of one of the applicants. That intervenor was subsequently dismissed as a party to the proceeding by reason of the Commission's removal of financial qualifications as a litigable issue in operating license proceedings. See ALAB-784, 20 NRC 845 (1984).

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emergency plan, the Director of Nuclear Reactor Regulation was authorized to issue an operating license for the facility upon making the requisite findings on the matters not in adjudication.<sup>3</sup>

No appeals were taken from the initial decision. Consequently, in accordance with our customary practice, we undertook to review the decision sua sponte.

During the course of that review, we learned that the emergency exercise for the facility was scheduled for November 7, 1984. This fact prompted us (1) to direct the NRC staff to provide us with the results of that exercise as soon as the information became available; and (2) pending receipt of those results, to hold the completion of the sua sponte review in abeyance.<sup>4</sup>

Staff counsel has now supplied us with the Federal Emergency Management Agency's (FEMA's) evaluation of both the November 7 exercise involving the Wolf Creek radiological emergency response plans and the subsequent December 19 remedial exercise involving the alert and notification system of the State of Kansas and Coffey

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<sup>3</sup> LBP-84-26, supra, 20 NRC at 122-23.

<sup>4</sup> See October 23, 1984 order (unpublished).

County.<sup>5</sup> In addition, we have been given FEMA's revised interim findings on the state and local emergency preparedness plans and implementing procedures developed for a radiological emergency at Wolf Creek.<sup>6</sup> Collectively, these materials led the FEMA Regional Director to conclude that

- 1) the State and local emergency plans are adequate and capable of being implemented, and
- 2) the exercises demonstrated that the off-site preparedness is adequate to provide reasonable assurance that appropriate measures can and will be taken to protect the health and safety of the public living in the vicinity of the site in the event of a radiological emergency.<sup>7</sup>

Our own scrutiny of the FEMA-supplied documents disclosed nothing that might cast doubt upon the validity of the Licensing Board's ultimate conclusion that the Wolf Creek emergency plans meet the regulatory requirements and provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.<sup>8</sup> We therefore have gone forward

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<sup>5</sup> Attachment to January 30, 1985 letter from Myron Karman to this Board.

<sup>6</sup> Ibid.

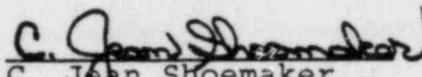
<sup>7</sup> January 14, 1985 memorandum from Patrick J. Breheny, Regional Director, FEMA-Region VII, to Samuel W. Speck, Associate FEMA Director for State and Local Programs and Support, attached to Karman letter, note 5, supra.

<sup>8</sup> See LBP-84-26, supra, 20 NRC at 122. In the  
(Footnote Continued)

with the sua sponte review of the content of the initial decision itself.<sup>9</sup> Inasmuch as no error requiring corrective action has come to light, the decision is now affirmed.

It is so ORDERED.

FOR THE APPEAL BOARD

  
C. Jean Shoemaker  
Secretary to the  
Appeal Board

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(Footnote Continued)

circumstances, there is no occasion to reopen the evidentiary record of this proceeding to receive the FEMA documents. Needless to say, had it brought the acceptability of the Wolf Creek emergency plans into question, we could not have given any effect to the new information without first including it in the record. And such a step would not have been taken without the prior solicitation of the views of the parties.

<sup>9</sup> In an operating license proceeding, our sua sponte review generally is confined to the issues resolved in the Licensing Board's initial decision. Thus, should the staff's review of a license application reveal deficiencies in the facility that were not the subject of adjudication, such matters are left for staff resolution.