

NRC PUBLIC DOCUMENT ROOM

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

PUBLIC SERVICE COMPANY OF OKLAHOMA,
ASSOCIATED ELECTRIC COOPERATIVE, INC.
and
WESTERN FARMERS ELECTRIC COOPERATIVE,
INC.

(Black Fox Station, Units 1 and 2)

Docket Nos. STN 50-556
STN 50-557

ORDER

On November 3, 1978, intervenors filed a Motion To Reopen Discovery And To Produce Documents. Attached to this Motion was a pleading captioned Request For Finding Pursuant To 10 C.F.R. § 2.720(h)(2)(ii) which requested that the Board direct certain members of the NRC Staff to answer nineteen attached interrogatories. On November 24, 1978, the Staff filed a Response in opposition thereto.

The instant motion is denied. In the first place, intervenors' asserted basis for reopening discovery is incorrect in that Staff did not file late either its so-called Task Action Plan 1 testimony or the so-called Task Action Plan Supplement. In our Order of September 29, 1978 and in our Memorandum and Order of November 3, 1978, citing Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760 (1977), we noted the Appeal Board's instruction that information relating to unresolved generic safety problems could be supplied

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by the Staff by evidence adduced at the hearing. This evidence was timely prefiled on September 25, 1978. Second, the instant Motion is untimely. NUREG-0371, Rev. 1, was issued in December, 1977 and NUREG-0471 was issued in June, 1978. Intervenors knew or should have known of these issuances. Indeed the Intervenors' Response of August 11, 1978, in opposing the Staff's and Applicants' respective Motions for Summary Disposition, did refer to some of the Task Action Plans. Finally, the Intervenors merely conclusionally allege that the Task Action Plan Supplement (the recent revision to NUREG-0371) raises new issues and reflects unresolved, unanswered questions. They neither show nor explain how these alleged new issues or unresolved questions are relevant to the Black Fox Station or how the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

In anticipation of our granting of the Motion To Reopen Discovery And To Produce Documents, as previously noted the Intervenors moved that we direct the Staff to answer interrogatories and produce certain documents. Obviously, since we have denied the first motion, the second motion must be and is denied. We did review, however, the second motion and the interrogatories to determine whether perchance the Intervenors had raised questions that were relevant even though untimely.^{1/} We

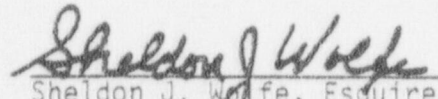
1/ As an aside, we note that, pursuant to § 2.720(h)(2)(ii), Staff personnel who might otherwise have responded to the interrogatories, are designated by the Executive Director of Operations. Thus, in no event could we direct that specified Staff members should be the ones to respond to the interrogatories.

agree with the Staff's objection that the interrogatories are too broad in requesting information on a Task Action Plans and thus are not relevant to the specific generic items applicable to the Black Fox Station which is under scrutiny. Further, those interrogatories addressed to the Reed Report are premature at best since we have not decided whether to grant or to deny the General Electric Company's Motion To Quash The Intervenors' Subpoena Dated October 18, 1978. Thus, the second motion or request is denied.

We note that the Staff advises that it is responding to the interrogatories to the extent the information furnished relates specifically to Black Fox and to the Staff's written Task Action Plan testimony submitted on September 25, 1978. Such a bounded response is sufficient under the River Bend guidelines, and the Staff indicates in footnote 1 at page 4 of its Response that, upon Intervenors' request, supplementary information would be furnished thereafter.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Sheldon J. Wolfe, Esquire
Chairman

Dated at: Bethesda, Maryland
this 18th day of December, 1978.