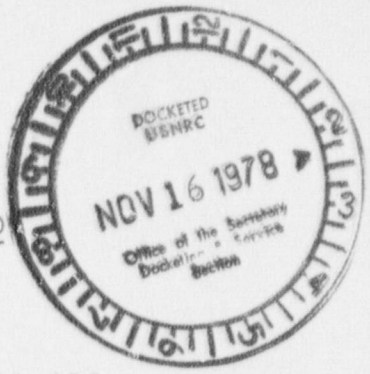

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
HOUSTON LIGHTING & POWER COMPANY	)	Docket No. 50-466
	)	
(Allens Creek Nuclear Generating Station, Unit 1)	)	
	)	

APPLICANT'S RESPONSE TO CONTENTIONS FILED BY Lois H. Anderson, Patricia L. Day, Robert Framson, Madeline Framson, Steven Gilbert, Carro Hinderstein, Kathryn Hooker, Lee Loe, Brenda A. McCorkle, Charles Michulka and Ann Wharton

I. INTRODUCTION

On September 1, 1978, the Board issued a Corrected Notice of Intervention Procedures (Corrected Notice) allowing petitions for leave to intervene to be filed in this proceeding by October 11, 1978.*/ The Corrected Notice was published in the Federal Register on September 11, 1978 (43 F.R. 40,328) and provided that petitions for leave to intervene should set forth the petitioner's "interest" and "how that interest may be affected by the results of the proceeding . . . ." The Corrected Notice also provided that any contentions which a petitioner seeks to have litigated must be based upon "proposed changes in

*/ The Board had issued an earlier Notice of Intervention Procedures which was published in the Federal Register on May 31, 1978 (43 F.R. 23,666).

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the plant design and/or based upon new evidence or information that had not been available prior to the Appeal Board's memorandum and order of December 9, 1975, with the bases for each contention set forth with reasonable specificity."

In response to the Corrected Notice, petitions for leave to intervene in this proceeding were filed by a number of persons, including those listed in the caption above. On October 24, 1978 applicant Houston Lighting and Power Company filed a response to the petitions urging that they be denied on the basis that, inter alia, the petitioners had failed to establish their standing to intervene in this proceeding.

Earlier this month, a number of the petitioners who responded to the Corrected Notice filed contentions which they seek to place in issue. For the reasons discussed below, however, the contentions of those named in the caption above are improper and should not be allowed. As a result of their having failed to set forth any valid contentions, and in addition to the reasons discussed in applicant's October 24, 1978 filing, the petitions should be denied. 10 CFR § 2.714(b).

II. CONTENTIONS

Many of the contentions submitted by different petitioners concern the same issues. These are grouped appropriately in the discussion below. In addition, a listing of petitioner's

contentions by number, and where they are considered in this Response, is included in the Appendix.

Anderson a, Framson 4, Hinderstein II, Hooker 3, Loe 3*/ and McCorkle V

These contentions all concern high level waste disposal. All are deficient, however, in that they are not based on changes in the plant or new information or evidence and, therefore, do not comply with the requirements of the Board's Corrected Notice. The matter of high level waste disposal has received attention for many years. Numerous studies existed prior to 1975 and could have been relied upon by petitioners to frame contentions. E.g., U.S. Atomic Energy Comm'n, Environmental Survey of the Uranium Fuel Cycle (WASH-1248 1974). The addition of a few more studies or opinions to an existing body of literature is not "new evidence or new information" within the meaning of the Corrected Notice.**/

In addition, to the extent the contentions allege that a decision must be made as to the ultimate means of high level

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*/ Although unnumbered, this is the first full contention on page two.

**/ Within the context of the Board's Memorandum and Order, "new evidence" or "new information" must be taken to mean something, in fact, only recently available -- that is, previously not known or reasonably discoverable -- and tending to prove that which is alleged in a given contention.

waste disposal before a construction permit can be granted, they are in error as a matter of law. The Commission itself has concluded that it is not obligated to make a finding that there are presently available methods of waste disposal available before licensing a reactor. 42 F.R. 34,391 (1977). This position was recently upheld by the United States Court of Appeals for the Second Circuit. NRDC v. NRC, __ F.2d __, 11 ERC 1945 (July 5, 1978). Accordingly, the contentions are irrelevant and should not be allowed.

Finally, to the extent contentions allege that the effects of spent fuel storage at the site have not been properly evaluated, they are unacceptably vague and unspecific. The Final Supplement to the Final Environmental Statement for the Allens Creek Nuclear Generating Station, Unit 1 (Final Supplement), for example, provides detailed information concerning the radiological impacts associated with facility operation under both normal and accident conditions. See, e.g., pp. S.5-23 to -31, S.7-1 to -2. Within such a context, an unsupported assertion that a construction "[p]ermit should be denied until studies are made of the radioactive emissions from . . . radioactive wastes stored at t e site" (Framson 4) is clearly not sufficient to place a matter in issue for adjudication. See Corrected Notice, p. 4; 10 CFR § 2.714(b).

Anderson b, Day and Wharton 1*/

These contentions all concern electric generation alternatives. Neither the Day nor Anderson contentions, however, are even allegedly based on plant changes or new evidence or information and, thus, are improper under the Board's Corrected Notice. Further, both contentions are unacceptably vague, unspecific and without basis. The Anderson contention fails to even suggest a single alternative deemed preferable; the Day contention offers no basis whatever for a conclusion other than that contained on page S.9-6 of the Final Supplement that "geothermal energy is not an available alternative source of energy for the proposed 1200 MWe of base-load generating capacity."

As for the Wharton contention, it too lacks specificity and basis. In addition, while the contention appears to adopt the position that natural gas is a preferred alternative to the proposed plant (although this is by no means clear) it contains nothing to suggest other than that, "[b]ecause current restrictions do not permit the use of natural gas as a boiler fuel and because future prices are expected to be too high" natural gas is not "a viable fuel for an 1200-MWe base load power station." Final Supplement, p. S.9-3.

For the above stated reasons, these contentions should be disallowed.

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*/ Although unnumbered, the first Wharton contention appears on page one.

Anderson c, d and Wharton 2*/

These contentions should be rejected in that they are not based on plant changes or new information or evidence.

More importantly, however, these contentions are clear challenges to the Price-Anderson Act, the constitutionality of which was recently upheld by the Supreme Court. See Duke Power Co. v. Carolina Environmental Study Group, Inc., 98 S.Ct. 2620, 46 U.S.L.W. 4845 (June 26, 1978). As a result, the contentions are clearly improper and should be rejected. See also Florida Power & Light Company (Turkey Point Units 3 and 4), Commission Memorandum and Order, 4 AEC 787, 788 (1972).

Anderson e and Framson 12

These are not contentions at all but, rather, a series of conclusory statements, such as: "Utilities have overbuilt their capacity which have [sic] cost the consumer many millions of extra dollars" and, "A large number of environmental and safety problesm [sic] are associated with the BWR, Mark III Containment, Emergency Core Cooling System, automatic Protection systems, etc. . . . ." In no way do they constitute, as required, a listing "of the contentions which petitioner[s] seek to have litigated . . . and the bases for each contention set forth with reasonable specificity." 10 CFR § 2.714(b). Accordingly, they must be disallowed. Id.; Corrected Notice, p. 4.

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*/ This contention, although unnumbered, appears at the middle of page two.

Framson 1 and 10

These contentions are not even allegedly based on plant changes or new evidence or information and, therefore, are improper under the terms of the Board's Corrected Notice. Petitioner has failed to show why these contentions could not have been raised at the earlier hearings in this proceeding.

In addition, to the extent the contentions take issue with the consideration given by the NRC Staff to decommissioning -- both the factors considered and costs assumed -- these matters have been noticed as the subject of a proposed rulemaking. See 43 F.R. 10,370. Since the Commission has undertaken to consider these issues on a generic basis, it makes no sense to adjudicate them in individual licensing cases. In fact, the Appeal Board has specifically stated, in a similar context involving the Commission's fuel cycle rulemaking, "that licensing boards should not accept in individual license proceedings contentions which are (or are about to become) the subject of general rulemaking by the Commission." Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-218, 8 AEC 79, 85 (1974).

Thus, for the foregoing reasons, these contentions should be dismissed.

Framson 2, 3, Hooker 5 and Michulka 5

These contentions all concern the transportation of fuel and radioactive waste. However, they do not even purport to be based on changes in the plant or new information or evidence. Accordingly,

they fail to comply with the requirements of the Corrected Notice and should not be allowed.

In addition, although the contentions are vague and unspecific, to the extent they take issue with the consideration given to the environmental effects resulting from transportation activities, they constitute an impermissible challenge to Section 51.20(g)(1) and Table S.4 of the Commission's regulations which prescribe the environmental impacts of the transportation of fuel and waste to and from a reactor. 10 CFR § 2.758.

As for the health and safety aspects of transportation, the Commission's regulations provide a panoply of requirements directed at assuring adequate protection. See, e.g., 10 CFR Part 71, §§ 73.30-73.36. Because the contentions do not allege that there will be non-compliance with applicable regulations and make no attempt at a showing of special circumstances, they can only be interpreted as an impermissible challenge to the regulations which should not be allowed. 10 CFR § 2.758.

Framson 5 and 7

These contentions concern the safety and safeguarding of the facility and nuclear materials. Commission regulations, however, prescribe protection requirements in detail. See, e.g., 10 CFR Part 73. In the absence of any allegation that regulatory requirements will not be met, these contentions can only be

read as a challenge to the adequacy of the regulations which, absent any special showing, is improper. 10 CFR § 2.758.

In addition, the contentions are vague and unspecific. Clearly, undefined references to such things as "nuclear terrorism" (Framson 5) and "decreased civil liberties" resulting from "extensive protective safeguards" (Framson 7) are not sufficient to raise litigable issues. See 10 CFR § 2.714(b); Corrected Notice, p. 4.

Finally, the contentions are not based on any change in the plant or evidence or information not available prior to December 1975 and, therefore, do not meet the requirements of the Board's Corrected Notice.

For all of the above reasons, these contentions should be rejected.

Framson 8

This contention is unacceptably vague, unspecific and without stated basis. The contention appears to assert that, at ACNGS, insulation failure in containment electrical penetrations of a type that has allegedly occurred at Millstone (whether involving Unit 1, 2 or 3 is not specified) could "cause electrically operated valves to be in the incorrect position . . . and failure of alarms to operate properly which can endanger public health and welfare." However, no "electrically operated valves" or "alarms" are identified, nor is how

their failure could occur and "endanger the public health and safety" explained. Further, no connection is made between the "containment electrical penetrations" which allegedly failed at Millstone and those which will be utilized at ACNGS. Thus, the contention, as it stands, is clearly insufficient to raise a litigable issue and should be rejected. See 10 CFR § 2.714(b); Corrected Notice, p. 4.

Framson 9

This contention is not based on any identified change in the plant or new evidence or information not available prior to December 1975. Accordingly, it is inconsistent with the Board's Corrected Notice and should not be allowed.

In addition, to the extent the contention alleges that the conclusions in the Environmental Impact Statement (EIS) and Safety Evaluation Report (SER) associated with Allens Creek are improperly based on the results of the Reactor Safety Study (WASH-1400) it is, likewise, improper. Nowhere is the alleged reliance identified in the contention and, in fact, conclusions reached in the EIS and SER do not depend on WASH-1400. This, of course, is consistent with the Interim General Statement of Policy issued by the Commission which concluded, among other things, that the contents of the study*/ are not an appropriate

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*/ The Interim General Statement of Policy was issued in connection with the release of the draft version of WASH-1400, but anticipated and, by its terms, is applicable to the final study.

basis for licensing decisions. 39 F.R. 30,964 (1974). Since the contention is based on a false premise, it is improper and should be disallowed.

Framson 11

This contention alleges that

> The Allens Creek Plant should not be constructed as it is obviously contributing an adverse impact in destroying over 5000 acres of rich food-producing farmland, a diminishing natural resource.

The contention does not even purport to be based on changes in the design of the proposed plant or new information or evidence. Petitioner has made no attempt to show why this contention could not have been raised at the earlier hearings in this proceeding. For this reason, the contention is improper and should not be accepted. Corrected Notice, p. 4.

Framson 6, Hinderstein XI, Hooker 1, Loe 1,*/ McCorkle II, VI, Michulka 4 (part) and Wharton 3**/

The thrust of each of these contentions is concern with respect to exposure to low level radiation. Commission

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*/ Though unnumbered, this is the first contention, which appears on page one.

**/ This contention, although unnumbered, begins with the last paragraph at the bottom of page two.

regulations, however, specify acceptable direct radiation levels and radioactive effluent concentrations for both restricted and unrestricted areas. See, e.g., 10 CFR §§ 20.101, 20.103, 20.105, 20.106 and Part 50, Appendix I. If the claim is that releases from the ACNGS will not meet the requirements set forth in the regulations, petitioners fail to provide any basis whatever for this allegation, and make no attempt to specify in what respect any releases will fail to meet said requirements. Therefore, such allegations do not satisfy the "specificity" requirements of 10 CFR § 2.714(b) and the Corrected Notice.

If petitioners are claiming that the releases from ACNGS must be lower than the regulatory requirements, in any respect, such a claim is a challenge to the adequacy of the Commission's regulations and, absent some special showing, is not permitted in this licensing proceeding. See, 10 CFR § 2.758.

Finally, the somatic and genetic effects of low level radiation have been the subjects of continuing research and investigation over the past twenty-five or more years. A host of studies existed prior to 1975 and could have been relied upon by the petitioners in framing contentions earlier. The addition of a few more studies or opinions to an already vast body of scientific information is not "new evidence or new information" within the meaning of the Board's Corrected Notice. For this additional reason, the contentions should be rejected.

Hooker 2 and McCorkle XVI

These contentions should be rejected. Both refer to core melt accidents, presumably based on a hypothesized failure of the emergency core cooling system (ECCS). As a result, they constitute an impermissible challenge to the adequacy of Commission regulations prescribing acceptance criteria for ECCS (see 10 CFR § 50.46) without even an attempt at showing special circumstances. 10 CFR § 2.758.*/

In addition, with respect to McCorkle XVI, the words imply that a "new fuel arrangement and containment system" at ACNGS constitute "new information" or "changes in plant design." There is no such change in plant design. The assertion is, therefore, without support and the contention should be rejected. See Corrected Notice, p. 4.

Hooker 6 and Loe 2**/

These are not contentions but, rather, simply assertions that, because perfection in human endeavors is impossible, the ACNGS should not be built.

Under the Atomic Energy Act of 1954, the Commission is charged with prescribing regulations defining what is and is not licensable.

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*/ To the extent these contentions seek to raise other than design basis accidents (class 9), they concern a matter which the Commission has determined to be inappropriate for litigation in individual licensing proceedings and are therefore improper. See, e.g., Carolina Environmental Study Group v. United States, 510 F.2d 796, 798-800 (D.C. Cir. 1975).

**/ This contention is not numbered but begins at the bottom of the first page.

Absent a special showing of a deficiency within the web of safety regulations, compliance with them (and not some subjective standard of "perfection") is a sufficient demonstration of safety. See Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station), 6 AEC 1003, 1008-10 (1973)), aff'd sub nom., Citizens for Safe Power v. NRC, 524 F.2d 1291 (1975). Since there is no basis whatever in the contention to support an allegation that the ACNGS will fail to comply with any of the Commission's regulations, the contentions raise nothing which may properly be placed in issue as a matter in controversy in this proceeding and should, therefore, be denied.

Gilbert

This contention, involving surrounding population and evacuation planning, is not based on changes in the plant or new evidence or information and should, therefore be rejected.*/ Corrected Notice, p. 4.

Clearly vague references by petitioner to unidentified "[s]tudies by Rice University and the City of Houston," a "recent study by the civil defense," and what the "city of Houston Civil Defense has stated" are not an adequate specification of new information or evidence arising since 1975 within the meaning of the Board's Corrected Notice.

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*/ If petitioner wanted to raise an issue relating to the evacuation of Houston which is about 45 miles from the proposed site, it could have done so at the earlier hearings in this proceeding.

Hinderstein I

This contention alleges that, because the "final EIS" for the ACNGS project was given an ER-2 rating by the EPA, proceedings should be suspended. In fact, however, the page of the Final Supplement referenced in the contention indicates that the Draft Supplement received an ER-2 rating, not the Final Supplement. The Final Supplement contains additional information in response to EPA comments. See, e.g., pp. S.11-4 to -6. Since the contention is based on a misunderstanding of the facts, it should be rejected.

More importantly, however, there is no requirement that proceedings be suspended -- or even that a construction permit be withheld -- pending the receipt of a given EIS rating by the EPA. Accordingly, the contention is irrelevant and should be disallowed.

Hinderstein III and Michulka 4 (part)

These contentions concern alleged "dredging" of the Brazos River for barge transportation of reactor components to the ACNGS. As a matter of background, barge transport would be used, if at all, for the one-time shipment of the pressure vessel (the largest prefabricated component to be moved on the site). Overland transport remains a viable alternative and applicant's plans in this regard are unchanged in the period since the initial proceedings on this application.*/ Since the contention is unsupported by relevant new data or information, it should be rejected. Corrected Notice, p. 4.

Hinderstein IV and Michulka 4 (part)

These contentions both involve alleged ACNGS cooling system effects on aquatic biota. Insofar as the Michulka contention is concerned, however, a conclusory statement that "the discussion [in the EIS] of thermal effects and intake construction is [in]sufficiently detailed as it relates to the Brazos" clearly lacks sufficient basis and specificity to raise an issue in an adjudicatory proceeding. In addition, it is neither based on changes in the plant, nor new information or evidence. Accordingly,

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*/ To the extent petitioner argues that barge transport, in any case, would require dredging it is in error, since the San Bernard River is a federally maintained navigable waterway to a point well above any potential off-loading junction for the ACNGS site.

the contention should be rejected. See 10 CFR § 2.714(b); Corrected Notice, p. 4.

As for the Hinderstein contention, it merely asserts -- without support or amplification -- that "The cold-shock effect will be increased by the change of design from two units to one unit since the one unit will not be operating as much of the time as two." Thus, it also lacks specificity and basis and should be disallowed. Id.

Hinderstein V

This contention asserts that alternative siting on the Gulf Coast, so that sea water could be used for condenser cooling, should receive more attention. The contention could well have been raised earlier, however, since it is not based on a change in the plant or new evidence or information. Accordingly, it should not be accepted. See Corrected Notice, p. 4.

In addition, cooling water availability and systems constitute only one element in the selection of alternative sites. In view of the extensive consideration given to factors pertinent to site selection -- including the consumptive use of water -- (see, e.g., Final Supplement, pp. S.9-10 to -15) an assertion that the utilization of sea water for cooling should be more "fully explored" lacks both sufficient basis and specificity to raise an issue in an adjudicatory proceeding. See 10 CFR § 2.714(b); Corrected Notice, p. 4. For this additional reason the contention should be rejected.

Hinderstein VI

This contention, concerning the use of a cooling tower instead of the proposed lake, suffers from the same basic infirmities of Hinderstein V, discussed above. It is not based on plant changes or new evidence or information. In addition, in view of the consideration given to alternative cooling systems, including cooling towers (see, e.g., Final Supplement, p. S.9-16) a simple assertion that a construction permit should be denied "until the choice of a cooling lake over a wet cooling tower is environmentally and economically justified" is insufficient as to both basis and specificity to raise a litigable issue. See 10 CFR § 2.714(b); Corrected Notice, p. 4. Accordingly, the contention should not be accepted.

Hinderstein VII and McCorkle IV

These contentions both deal with the economic costs of the plant. However, since the matter they seek to have addressed is nowhere tied to changes in the plant or new information or evidence, it could have been raised earlier. Accordingly, the contentions are inconsistent with the terms of the Board's Corrected Notice and should be rejected.

In addition, McCorkle IV fails to meet even the most minimal requirements with respect to specificity. The generalized

statement that "the cost of the facility may be excessive" is followed by equally vague questions which ask: "How much will it (ACNGS) cost me?" The contention is utterly unsupported by any factual assertions necessary to establish a litigable issue.

As for Hinderstein VII, the factors raised in the contention have either been considered, are inappropriate for litigation in this proceeding, or are offered without supporting basis. For example, projected annual fuel costs are given in the Final Supplement on page S.10-6. As for the consideration of decommissioning costs, beyond that presented on the same page of the Final Supplement, this matter has been noticed as the subject of a proposed rulemaking. See 43 F.R. 10,370 and the discussion on page 7, supra. Further, the statement in the contention that "the average operation of nuclear plants in the United States is at 56% of its designed potential capacity" is offered wholly without support or basis.

More importantly, however, the matter of cost is raised in both contentions wholly without reference to the environmental effects of alternatives. As a result, the contentions are virtually irrelevant to this proceeding and should not be allowed.

The Appeal Board has recently noted:

> The passage of the National Environmental Policy Act increased our concern with the economics of nuclear power plants, but only in a limited way. That Act requires us to consider whether there are environmentally preferable alternatives to the proposal before us. If there are, we must take the steps we can to see that they are implemented if that can be accomplished at a reasonable cost, i.e., one not out of proportion to the environmental advantages to be gained. But if there are no preferable environmental alternatives, such cost-benefit balancing does not take place. Manifestly, nothing in NEPA calls upon us to sift through environmentally inferior alternatives to find a cheaper (but dirtier) way of handling the matter at hand. In the scheme of things, we leave such matters to the business judgment of the utility companies and to the wisdom of the State regulatory agencies responsible for scrutinizing the purely economic aspects of proposals to build new generating facilities. In short, as far as NEPA is concerned, cost is important only to the extent it results in an environmentally superior alternative. If the "cure" is worse than the disease, that it is cheap is hardly impressive.

Consumers Power Co. (Midland Units 1 & 2), ALAB-458, 7 NRC 155, 162-63 (footnotes omitted). Without even an allegation of the environmental superiority of a specified alternative, the contentions are improper.

In sum, for the reasons discussed above, both of these contentions should be rejected.

Hinderstein VIII

This contention, concerning Attwater's prairie chicken, is not based on any plant change or new information or evidence and, therefore, should be rejected. Corrected Notice, p. 4.

In addition, a bald assertion that "greater safeguards for the continued well-being of this scarce bird are needed" -- especially in view of the discussion provided in the Final Supplement (e.g., p. S.4-6) -- is so unspecific and lacking in basis that it cannot be considered an adequate specification of a litigable issue. See 10 CFR § 2.714(b); Corrected Notice, p. 4. For this additional reason, the contention should not be accepted.

Hinderstein IX

This contention pertains to air monitoring stations for the plant. However, it is not even purportedly based on new information or evidence or changes in the plant and should, therefore, be rejected. Corrected Notice, p. 4.

In addition, the basic assertion that monitors are necessary "at the perimeter of the plant site and about 5 miles away to ensure the safe operation of the proposed plant" is wholly without basis. For this reason, too, the contention should be disallowed.

Hinderstein X

This contention states, in pertinent part, that

> The final EIS lacks a soil survey and adequate information of the aquifer and water table. Information on the porosity of the soil, the composition and extent of the aquifer beneath the proposed site, and the uses of the underground water is necessary in order to evaluate the possibility of radioactive contamination of the cooling lake water and ground water.

The contention, however, is not even allegedly based on plant changes or new information or evidence and, therefore, should be rejected. Corrected Notice, p. 4.

In addition, an extensive amount of information is already available concerning exposure pathways, soils and ground water at the site. See, e.g., Final Supplement, pp. S.5-22 to -28; ACNGS Preliminary Safety Analysis Report (PSAR), pp. 2.4-43 to -50. Within this context, more than just the unsupported assertion offered in the contention that certain additional information is necessary is required. Since no more has been provided, however, the contention is lacking in basis and, for this reason too, should be rejected.

Loe 4*/

This contention is, in fact, a statement of personal opposition to the use of nuclear power to generate electricity, rather than an expression of the desire to litigate a particular issue or issues in a licensing proceeding. The short answer

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*/ This is the last contention on page two.

to such a contention has recently been supplied by the Supreme Court when it emphasized that the basic Congressional decision "to at least try nuclear energy" is not subject to reconsideration in adjudicatory proceedings. Vermont Nuclear Power Corporation v. Natural Resources Defense Council, 98 S. Ct. 1197, 1219 (1978). Contentions which attempt such reconsideration should not be allowed.

McCorkle III and XII

These contentions, regarding the recreational value of the cooling lake, could have been raised in the earlier proceedings on this application. Petitioner fails to identify a change in plant design or any new information or evidence and the contentions, therefore, fail under the standards established by the Board's Corrected Notice.

In addition, to the extent that McCorkle XII can be read as an attempt to challenge the limits on radiological releases to unrestricted areas permitted by 10 CFR Part 20 and Part 50, Appendix I, it constitutes an impermissible challenge to the regulations and, absent a showing of special circumstance, must be denied. 10 CFR § 2.758.

McCorkle VII

This contention postulates that effluents from ACNGS might be reduced to the level of those released by a pressurized water

reactor (PWR) if certain additional radwaste facilities and control measures were added to the plant. The underlying contention is that, in order to meet the Commission's as low as is reasonably achievable (ALARA) requirement, emissions may be "no more than that of a PWR." However, no such requirement exists under NRC regulations and, therefore, the contention may only be construed as a challenge to 10 CFR Part 20 and Part 50, Appendix I which is unsupported by the requisite showing under 10 CFR § 2.758. Accordingly, the contention should be rejected.

McCorkle VIII

This contention alleges that the loose parts monitor for ACNGS will not be "sufficiently sensitive" to detect loose parts before "thaey [sic] block the water flow" and cause a "core meltdown." The contention should be rejected because: (1) it does not identify any new information or evidence or change in plant design; (2) it offers no support for the assertion that the loose parts detection system "is not sufficiently sensitive" and is therefore impermissibly vague and without basis and; (3) to the extent it postulates a core meltdown, it constitutes a challenge to the Commission's policy not to consider -- absent a special showing -- class 9 accidents in individual licensing proceedings (see, e.g., Carolina Environmental Study Group v. United States, 510 F.2d 796, 798-800 (D.C. Cir. 1975)) or

Section 50.46 and Appendix K to Part 50 of the Commission's regulations.

McCorkle IX

This contention asserts that applicant does not have "sufficient control" of the exclusion area "because it has no control over the owners of oil and gas leases within the exclusion area." The question of applicant's control over possible mineral extraction activities within the exclusion area was dealt with extensively in the 1974 Safety Evaluation Report of the ACNGS (SER), on pp. 2-1, 2-36, and the June, 1975 Supplement No. 1 to the SER (SER, Supp. 1), pp. 2-1 to 2-2. The Staff concluded that "the potential for oil production beneath the site is extremely remote" (SER, p. 2-36) and that "applicant has provided reasonable assurance that it can control all activities within the proposed exclusion area" (SER, Supp. 1, p. 2-2). This matter was obviously the subject of intensive consideration as of November 1974; petitioner fails to identify any new information in this regard and thus the contention should be dismissed.

McCorkle X

This contention deals with the hazard associated with the discharge of chlorine gas stored on the site or released as a result of railroad accidents. There is absolutely no identification of any new information to substantiate the contention.

The problem associated with the carriage of hazardous materials on railroads was discussed in the November, 1974 SER (pp. 2-8, 2-9). The potential for accidental releases of chlorine gas at the ACNGS site was identified and dealt with as early as December, 1973 (PSAR, p. 15.1-99a). The contention is not supported by new information and should be rejected.

McCorkle XI

Petitioner alleges that the proposed ACNGS containment "should be built to withstand the impact of a 747 airplane." Other than vague references to "more routes" to Los Angeles and "recent attempts" to steal a nuclear submarine, petitioner fails to identify specifically the new information or new evidence which would require, under NRC guidelines and precedent (e.g., Regulatory Guide 1.70, Revision 2, NUREG-75/094; Standard Review Plan, § 3.5.1.6, NUREG-75/087.), that the proposed facility be designed to withstand the impact of a crash of a 747 airplane. On this basis, the contention should be denied.

Moreover, to the extent that petitioner seeks to raise the issue of a deliberate crash of a plane into the containment structure, it is clearly a challenge to Part 73 of the Commission's regulations and thus cannot be considered in this proceeding, absent a showing of special circumstances. 10 CFR § 2.758.

McCorkle XIII

Petitioner alleges in this contention that the effect on the proposed plant of groundwater subsidence has not been adequately considered. This contention should be dismissed since it is not based on new evidence or new information which has arisen since 1975.

The question of subsidence was thoroughly litigated at the earlier hearings in this proceeding and the Board made extensive findings in its Partial Initial Decision with respect to the issue of subsidence resulting from groundwater withdrawal. These findings included a specific evaluation of future groundwater demands and the resulting effect on the proposed plant. 2 NRC 776, 806-09. Moreover, a specific evaluation was made of potential stresses for ground cracking along the edges of a "subsidence bowl." Id. 808. Absent a showing that this contention is based on new information or new evidence, it should be denied. Corrected Notice, p. 4.

McCorkle XIV

Petitioner here alleges that the radwaste building will not withstand "to a sufficient degree" earthquake, tornado and turbine missiles. The radwaste building has always been classified as a category I structure (PSAR, Table 3.2-1) and has been evaluated by the NRC to withstand earthquakes, tornadoes and other natural phenomena. Besides a reference to a

recent tornado in Mississippi, petitioner has failed to identify specifically the new information or new evidence relied upon to support this allegation. Moreover, petitioner has made no attempt to relate the tornado in Mississippi to the design basis tornado evaluated for ACNGS and as a consequence, the contention is vague and unspecific and should be denied. 10 CFR § 2.714(b); Corrected Notice, p. 4.

McCorkle XV and XX

These contentions, concerning the AGNGS containment, are not even allegedly based on plant changes or new evidence or information and, therefore, should be rejected. Corrected Notice, p. 4.

In addition, to the extent McCorkle XV seeks to impose containment design and testing requirements at variance with those specified in Appendices A and J to 10 CFR Part 50, the contention constitutes a challenge to the adequacy of NRC regulations and, absent a showing of special circumstances, should be denied. 10 CFR § 2.758.

For the reasons discussed above, these contentions should be rejected.

McCorkle XVII

Petitioner claims in this contention that the fuel rods are not safe, but fails to describe with specificity in what respect they are not safe, and fails to provide any bases to support such a claim. Moreover, Petitioner has made no attempt to relate this contention to new information or new evidence as required by the Board's Corrected Notice. Therefore, this contention should be denied. 10 CFR § 2.714(b); Corrected Notice, p. 4.

McCorkle XVIII

Petitioner here claims that there will be cracking and breaking of pipes "before the life of the plant has expired" and, therefore, there is not enough safety protection for the reactor coolant pressure boundary. Petitioner fails, however, to cite any new information or new evidence to support this contention as required by the Board's Corrected Notice.

Stress corrosion cracking in BWR's has been the subject of considerable attention since before December 9, 1975. See, e.g., Hearings on Nuclear Regulatory Commission Action Requiring Safety Inspections which Resulted in Shutdown of Certain Nuclear Powerplants Before the Joint Committee on Atomic Energy and the

Senate Committee on Government Operations, 94th Cong., 1st Sess. (Feb. 5, 1975). In addition, the matter was specifically discussed in the 1974 SER (pp. 5-9, 10).

Moreover, the Commission's ECCS regulations, section 50.46, are designed to cope with the worst pipe rupture -- whether resulting from stress corrosion cracking or any other cause -- while keeping the consequences well within the limits of 10 CFR Part 100.

Accordingly, this contention should be disallowed since it is not, in fact, based on new information and, even if it were, would constitute an impermissible challenge to NRC regulations.

McCorkle XIX

This contention is nothing more than a recitation of NRC Staff concerns regarding the RHR system as reflected in the 1974 SER (pp. 5-23, 5-24) and the June 1975 SER, Supp. 1 (p. 1-3). The matter has since been resolved. In any event, it was well known prior to December, 1975, and in no way constitutes "new information" as required by the Board's Corrected Notice. It should, therefore, be dismissed. Corrected Notice, p. 4.

Michulka 4 (part)

In part of this contention, petitioner states that, in connection with the EIS,

Neither has the increased flooding caused by the large levee across from Valley Lodge subdivision been discussed. It will cause thousands of additional acres to be flooded and later placed in the regulatory floodway designated by the Federal Flood Insurance. That land then becomes useless for development purposes.

What is meant by "increased flooding," however, is nowhere specified or explained; nor is the contention related to any change in the plant or new information or evidence. Thus, the contention is unacceptably vague, without basis, and does not comply with the requirements of the Board's Corrected Notice or 10 CFR § 2.714(b). Accordingly, it should be rejected.

Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
HOUSTON LIGHTING & POWER COMPANY	)	Docket No. 50-466
	)	
(Allens Creek Nuclear Generating Station, Unit 1)	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Contentions Filed By Lois H. Anderson, Patricia L. Day, Robert Framson, Madeline Framson, Steven Gilbert, Carro Hinderstein, Kathryn Hooker, Lee Loe, Brenda A. McCorkle, Charles Michulka and Ann Wharton in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 13th day of November, 1978

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