

II. CONTENTIONS

Many of the contentions submitted by different petitioners concern the same issues. These are grouped appropriately in the discussion below. In addition, the contentions considered in this Response are listed by number in the Appendix.

Baskir 1 and Yelderman 3

These contentions -- essentially concerned with the release of low level radiation -- are not based on plant changes or new information or evidence. The somatic and genetic effects of low level radiation have been the subjects of continuing research and investigation over the past 25 or more years. A host of studies existed prior to 1975 and could have been relied upon by the petitioners in framing contentions at the earlier hearing in this proceeding. The addition of a few more studies (see, e.g., Yelderman 3(c)) 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 reason, the contentions should be rejected. Corrected Notice. p. 4.

*/ Within the context of the Board's Memorandum and Order, "new evidence" or "new information" must be taken to mean something (e.g., an effect, phenomenon, etc.) 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.

In addition, with respect to the Baskir contention, Commission regulations specify acceptable radioactive effluent concentrations for unrestricted areas. See, e.g., 10 CFR § 20.105 and Part 50, Appendix I. To the extent 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 the 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, p. 4.

If petitioners are claiming that the releases from ACNGS must be lower than the regulatory requirements 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.

As for the Yelderman contention and the allegation that the effects of low level radiation have not been taken into proper account, it, too is fatally vague and unspecific.

^{*/} Vague references to "local atmospheric temperature inversions", "sudden tropical rainstorms" and the possibility of "an operational incident" clearly do not supply sufficient information to specify a litigable issue in an adjudicatory proceeding.

The Final Supplement to the Final Environmental Statement for the Allens Creek Nuclear Generating Station, Unit 1 (Final Supplement) 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, conclusory statements to the effect that the population surrounding the ACNGS site is "much more than claimed in the EIS," and that radiation exposure has not been taken into proper account because "radiation does not stop at the 50 mile point" are insufficient to identify -- in a manner suitable for adjudication -- precisely what are the deficiencies in the environmental analysis for the ACNGS. For this reason, too, the Yelderman contention should be denied. See 10 CFR § 2.714(b); Corrected Notice, p. 4.

Baskir 2

This contention, concerning the short-term shortage of spent fuel at ACNGS, is not based on any change in the design of the plant or new evidence or information not available prior to December, 1975. Accordingly, it is inconsistent with the requirements of the Board's Corrected Notice and should not be allowed.

In addition, considerable information has been provided concerning, and attention given to, spent fuel storage and its effects. See, e.g., ACNGS Preliminary Safety Analysis Report (PSAR), Section 9.1, Final Supplement,

pp. S.5-23 to -31. Against this background, a single statement that "[t]he provisions that HL&P has planned for the short term shortage of these spent fuel elements, their containment, their security and the control of their radioactive emissions represent a key issue" is impermissively vague and unspecific. See 10 CFR § 2.714(b); Corrected Notice, p. 4. Accordingly, for this reason too, the contention should be rejected.

Baskir 3 and De Bremaecker

These contentions concern high level waste disposal. Both are deficient, however, in that they are not based on changes in the design of 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 one more study to an existing body of literature (see, e.g., De Bremaecker) 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 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.

Baskir 4

This contention concerns the transportation of fuel and radioactive waste. However, it does not even purport to be based on changes in the design of the plant or new information or evidence. Accordingly, it fails to comply with the requirements of the Corrected Notice and should not be allowed.

In addition, although the contention is vague and unspecific, to the extent it takes issue with the consideration given to the environmental effects resulting from transportation activities, it constitutes 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. Since the contention does not allege that there will be non-compliance with applicable regulations

and makes no attempt at a showing of special circumstances, it can only be interpreted as an impermissible challenge to the regulations which should not be allowed. 10 CFR § 2.758.

Baskir 5

This contention simply states that "A key issue is whether or not HL&P will have a sufficient pool of trained manpower available to cope with emergencies at Allen's Creek." No grounds for the concern are specified, however; nor are the meanings of "a sufficient pool of trained manpower" and "emergencies" specified. Accordingly, the contention is without basis and impermissibly vague and, therefore, should be denied. See 10 CFR § 2.714(b); Corrected Notice, p. 4.

In addition, the contention is not based on plant changes or new information or evidence. A contention involving the need for an adequate number of personnel to deal with emergencies obviously could have been raised earlier. Accordingly, a statement that "[e]xperience gained since 1975 from the operation of other 1000 MW(e) nuclear generating plants, for example the Consolidated Edison of New York Indian Point I plant points up the importance of having available an adequate supply of qualified technical personnel to cope with emergencies" does not constitute new evidence or information within the meaning of the Board's Corrected Notice. Accordingly, for this reason too, the contention should be rejected. Corrected Notice, p. 4.

Baskir 7

This contention, concerning decommissioning, could have been raised earlier. For example, it was discussed in the November 1974 Final Environmental Statement related to the Allens Creek Nuclear Generating Station, Units 1 and 2 at page 10-2. Accordingly, the "recent reference" referred to in the contention does not constitute new evidence or information within the meaning of the Board's Corrected Notice and the contention should, therefore, be rejected. Corrected Notice, p. 4.

In addition, to the extent the contention takes 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. 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).

For the foregoing reasons, this contention should be dismissed.

Potthoff 1

This contention concerns the "possibility of objects propelled by tornado winds (such as telephone poles or automobiles, rocks, etc.) shattering the reactor building walls, and releasing dangerous radioactivity into the air, thereby threatening my life, habitation, food and water supply." The reactor building, however, is specifically designed to withstand tornado missiles (PSAR, Section 3.5.1) and has been evaluated by the NRC on that basis. Besides a vague reference to "numerous instances of tornadoes in the Houston-Galveston area" petitioner has failed to identify specifically any new information or new evidence relied upon as a basis for the expressed concern. Moreover, petitioner has made no attempt to relate the referenced tornadoes in the Houston-Galveston area 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.

Potthoff 2

Petitioner appears to allege 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. Absent a showing that this contention is based on new information or new evidence, it should be denied. Corrected Notice, p. 4.

Potthoff 4

This contention, concerning flood protection, is not based on any change in the plant or new evidence or information not available prior to December, 1975. Accordingly, it is inconsistent with the requirements of the Board's Corrected Notice and should not be allowed. Corrected Notice, p. 4.

In addition, considerable information has been provided concerning the protection of ACNGS against flooding. See, e.g., PSAR, Section 3.4. Within such a context, more than the vague, general assertions contained in the contention are required to specify a litigable contention. For this reason, too, the contention should not be allowed. See 10 CFR § 2.714(b), Corrected Notice, p. 4.

Shreffler 7, Potthoff 3 and Baskir 6

These contentions relate to potential earthquakes. The geological investigations of the ACNGS site were dealt with exhaustively in the PSAR § 2.5.4.1.2h, SER § 2.5, Supp. 1

App. G, and Partial Initial Decision of the ASLB, 2 NRC 776, 804-811, in this proceeding. Petitioners offer no new information to support the contention beyond a reference to the North Anna site in Virginia (Shreffler 7), the relevance of which to ACNGS is, again, pure speculation. Petitioner Shreffler does refer to a 1966 incident at Lake Meredith in Texas. Even if relevant, that 1966 information clearly demonstrates that the contention is not supported by new information or evidence. These contentions are vague and fail to meet the criteria of the Board's Corrected Notice.

Shreffler 1-6

Contention 1 raises an issue concerning the loss of water attributable to evaporation in the ACNGS cooling lake. That concern could have been raised in the earlier proceeding in this matter and, in fact, with greater force since the cooling lake as originally planned was considerably larger and had a concomitantly larger evaporation loss. See Table S.5-1 FSFES. Accordingly, the contention is not based on new information, evidence or changes in the ACNGS plans.

Contention 2 deals with the possibility of hydrogen explosions in unidentified boiling water reactors. If the petitioner's concern is with respect to boiling water reactors in general, his remedy lies in a petition for rulemaking. If it applies to ACNGS, petitioner has not identified any associated change in the ACNGS design or new information. More importantly, the matter of hydrogen control was dealt

with specifically in the PSAR § 11.3.2 for ACNGS prior to 1975 and the 1974 SER §§ 11.3.1 and 11.3.2. Petitioner offers no fresh basis upon which to raise this issue under the criteria of the Board's Corrected Notice.

Contention 3 postulates a small pipe break resulting in the "danger of power excursion accidents". A small pipe break analysis is within the spectrum of breaks for which ECCS effectiveness must be assured pursuant to 10 CFR 50.46. The Applicant presented such an analysis in its PSAR § 6.3. The NRC Staff included its evaluation of this postulated event within the section of the SER dealing with ECCS effectiveness. SER § 6.3 and Supp. 1 § 6.3. Plainly, the matter was raised and discussed in this same docket more than three years ago. As such, it fails to meet the criteria of the Board's Corrected Notice and should be rejected.

Contention 4 refers to "inadequate strength" of the reactor pedestal. It is not possible, on the basis of this assertion, to discern the nature of the weakness. As such, the contention fails to meet the specificity requirements of 10 CFR § 2.714. Moreover, the reactor pedestal is among the structures evaluated by the Applicant, PSAR § 3.8.3, and the NRC Staff, SER § 3.8.2. The matter was thus well documented in this docket before December 9, 1975 and petitioner identifies no new information, data or design changes to justify admission of this contention under the Board's Corrected Notice.

The postulated availability of the geothermal alternative, contrary to the assertion of Contention 5, is dealt with specifically in the Supplement to the FES (p. S.9-6). The geothermal test well referred to in Brazoria County is a part of a larger investigation by the Center for Energy Studies of the University of Texas. It is somewhat misleading, however, to describe this first test well as a project. It is instead only an attempt to define the magnitude of the resource. Any conclusions as to the viability of the resource as an energy alternative are not yet even in sight, and the prospects of a demonstration project are clearly speculative at this stage. Accordingly, it is not new information. Moreover, petitioner does not assert that geothermal resources of a magnitude and stage of development such as to constitute a substitute for ACNGS, exist or will exist in the time frame of the ACNGS project. Accordingly, the allegations of Contention 5 do not constitute a litigable issue.

Contention 6 postulates a requirement that the ACNGS radwaste system should be designed to meet "additional margins for growth". It is not clear what "growth" petitioner refers to. Moreover, as acknowledged by petitioner, the contention is based on pure speculation concerning potential changes in requirements of law governing radioactive effluents. The contention is wholly without basis. If petitioner's contention relates to changes in 10 CFR 50, Appendix I or

10 CFR 20, it is a challenge to those regulations which is not supported by the requisite showing under 10 CFR 2.758.

Correction to Applicant's Response
to McCorkle Contention XIV

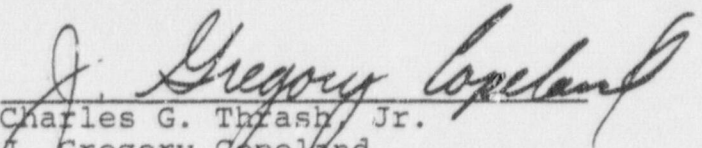
Applicant wishes to substitute the following paragraphs for the paragraph on page 27-28 of its response to McCorkle contention XIV:

Petitioner here alleges that the radwaste building will not withstand to a sufficient degree earthquake, tornado and turbine missiles. 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.

The radwaste building has been evaluated for complete failure of the offgas system components as detailed in PSAR Section 15.1.36, and complete failure of the liquid radwaste system components as detailed in PSAR Section 15.1.37. Both of these analyses assume a safe shutdown earthquake concurrent with the system failure. The results of these analyses show that the offsite doses as a result of its system failure are a small fraction of 10 CFR Part 100 limits.

Moreover, Petitioner has not shown why this contention could not have been raised earlier. Petitioner has made no attempt to relate the recent tornado in Mississippi to the evaluation of the radwaste building and as a consequence, the contention is vague and unspecific and should be denied. 10 CFR § 2.714(b); Corrected Notice, p. 4.

Respectfully submitted,


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APPENDIX

Conventions

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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 Response in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 16th day of November, 1978.

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