RELATED CORRESPONDENCE

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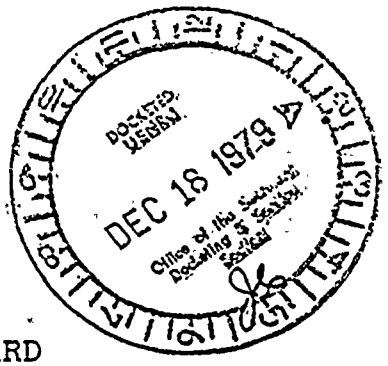

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket Nos. 50-250-SP
	)	50-251-SP
FLORIDA POWER & LIGHT COMPANY	)	
	)	(Proposed Amendments to Facility
(Turkey Point Nuclear Generating Units Nos. 3 and 4)	)	Operating License to Permit Steam Generator Repair)

INTERVENOR'S RESPONSES TO LICENSEE'S OBJECTIONS TO INTERVENOR'S INTERROGATORIES TO AND REQUEST FOR THE PRODUCTION OF DOCUMENTS FROM LICENSEE, FLORIDA POWER & LIGHT COMPANY

Intervenor, Mark P. Oncavage, pursuant to the Licensing Board's Order of November 30, 1979 which was received by counsel for Intervenor on Friday, December 7, 1979, hereby responds to Licensee's objections to his Interrogatories and Request for Production from Licensee.

At the outset, Intervenor suggests to the Licensing Board that certain of the objections raised by Licensee are without merit and Intervenor shall present argument as to those objections he considers meritless. However, Intervenor is in agreement that certain interrogatories go beyond what is necessary for his discovery and such questions shall be indicated in the ensuing discussion and where indicated are hereby withdrawn without any necessity on Licensee's part for answering or for further argument. 10 CFR §§ 2.740 sets out the NRC's general rule as to the scope and process for discovery.

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This rule is analogous to Rule 26 of the Federal Rules of Civil Procedure. While the case law of the Federal Rules are said not to govern the Commission's decisions regarding discovery, the Commission has frequently looked to them for guidance and has done so expressly in the area of discovery. Commonwealth Edison Company, ALAB-196, 7 AEC 457, 460 (1974). Thus there is authority for the Licensing Board's consideration of the rationale for discovery set out in the cases on the Federal Rules in upholding interrogatories which have been objected to by Licensee.

To begin, Licensee objects to Intervenor's introductory requirement that Licensee identify the person or persons who prepared, or substantially contributed to the preparation of, the response. 10 CFR 7.40 (6)(1) states "Parties may obtain .... the identity and location of persons having knowledge of any discoverable matter." Any question posed by Intervenor which asks for information relevant to the subject matter of the proceeding triggers the right to also have the individuals identified who know the information requested. It is reasonable to assume that those individuals who answer Intervenor's questions, or contribute substantially to the answers, have knowledge of discoverable matter. Harrison v. Prather, 404 F. 2d 267, 273-274 (tth Cir. 1968). As to Licensee's claim that the request is irrelevant, the threshold consideration is whether the question to which this request is applied calls for properly discoverable material, i.e. relevant to the subject matter of the proceedings. If so, then the request for the identity of individuals is also relevant. Further a corporation may be required to divulge the source from which it obtained its answers to particular interrogatories. B. & S. Drilling Company v. Halliburton Oil Well Cementy Company 24 FRO 1,3 (S. D. Tex. 1959). For these reasons Licensee should be required to provide

the identity of those individuals who prepared or contributed to the preparation of answers to questions which are properly discoverable.

As to Intervenor's request that the Licensee's responses be supplemented, Intervenor agrees that 10 CFR § 2.740 (e)(1) and (2) govern any duty of Licensee to supplement responses. Intervenor withdraws any request that goes beyond the scope of this rule. Intervenor is sure that Licensee will comply with the rule as to all responses to which it is applicable.

Intervenor agrees with Licensee that responses to all discovery are governed by the Licensing Board's Order of November 15, 1979. As to the objections to the introductory paragraph of the Interrogatories lettered A-H Intervenor submits the following responses:

A. 10 CFR § 7.40 (b)(1) provides for the discovery of the existence, description, nature, custory, condition and location of any books, documents, or other tangible things. All this request asks for is that the Licensee, at their option, either identify or produce the documents they rely upon as a basis for <u>their response</u> to any question calling for discoverable matter. This does not request production of all relevant documents which relate to an examination as is questioned by <u>Illinois Power Co.</u>, ALAB-340, 4 NRC 27, 34 (1976), but rather asks Licensee only for documents which are relevant and relied upon in preparing their answers to the interrogatories. Further <u>Illinois Power Co.</u> would conflict with the clear authorization of 10 CFR § 7.40 b(1) if it stood for the proposition expressed by Licensee. Rather the case involved a request for production made at trial (see 4 NRC at 31) when an applicant's witness could not answer certain questions

put to him on cross examination. The decision in the case involved the Licensing Board's authority to control and limit production is the unique circumstances of the case.

B. Intervenor agrees that this request goes beyond that which is necessary for his discovery and accordingly withdraws the request.

C. 10 CFR 7.40 b(1) allows for the discovery of the identity of persons having knowledge of discoverable matter. Intervenor has not asked for documents in this request. The case of Illinois Power Co. 4 NRC 27, as cited by Licensee is inapplicable. The Federal Rules of Civil Procedure Rule 26(6)(4) divides individuals having expert knowledge into four categories. The category of the identity of employees having expert knowledge of discoverable matter is stated to be freely discoverable. Wright & Miller, Federal Practice and Procedure §: Civil §.2014. Essentially this request for the identity of persons having knowledge of information relied upon by Licensee in responding to the interrogatories duplicates that of Intervenors first request on page one. Licensee should have to respond only once as to the identity of individuals having knowledge relied upon in answering.

D. Intervenor withdraws this request.

E. Licensee's objection to this request is, in part, specious. 10 CFR 7.40 (b)(1) provides the right to discover the identity and location of persons having knowledge of any discoverable matter. 10 CFR § 7.40(e) (1) (ii) requires a party to supplement a response with respect to any question dirrectly addressed to the identity of each person expected to be called as an expert witness at the hearing. It goes without question if a party has a duty to supplement a response to a question directed to the identity of expert witnesses there must have been a duty to respond in the first instance to such question

asking the identity of expert witnesses they intend to call, if any, on the subject matter of the proceedings. Intervenor agrees that non expert witnesses need not be so designated and withdraws that portion of the request.

F. 10 CFR 7.40(e)(1)(ii) further requires a party to supplement responses to questions directly addressed to the subject matter on which expert witnesses are expected to testify and the substance of their testimony. The argument in paragraph E above is valid here also. A duty to supplement necessitates first a duty to answer.

G. 10 CFR § 2.740 (b)(1) allows for discovery of any matter which is relevant to the subject matter of the proceedings. This includes the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things. 10 CFR § 2.74(a)(1) allows for a party to inspect and copy any designated documents which are within the scope of § 2.740. Any document Licensee intends to introduce as evidence or use as source material for testimony in its direct case on the subject matter questioned in Intervenor's interrogatories is discoverable material. Licensee can not say such documents are not relevant. The request does not ask for all Licensee's evidence, only that which it intends to present a direct case on as to matters which are the subject of Intervenor's interrogatories. This is not the all encompassing request that is proscribed in United States v. Renault, 27 F.R.D. 23 (S.D.N.Y. 1960) at 26. Indeed the case may be cited in support of overruling Licensee's objection. See 27 F.R.D. at 27 where the court overrules an objection to interrogatories which require plaintiff to identify and indicate the present whereabouts of all documents it intended to rely upon to prove its case.

If Licensee intends to prove a case on any matter questioned in Intervenor's interrogatories then documents relied upon to do so are discoverable.

Intervenor has asked for production of the documents identified. Ideally the documents identified by Licensee in interrogatories would subsequently be subject to a request for production after Intervenor sorted out all that were not necessary for discovery. In this case such means are hampered by the procedural context set down for discovery. Intervenor has had to ask for discovery with a somewhat broader brush in order to have discovery at all. How else can unidentified documents likely to be used by Licensee at trial be discovered when both their existence, identity and their production were required to be asked in the same breath.

This request does not require production of all relevant documents. See Intervenor's response for paragraph A.

The objections raised as to paragraph E by Licensee are not applicable to the discovery of documents. The paragraph and Licensee's objections thereto concerns the identity of witnesses!

Licensee objects to production of documents on the grounds that they are trial material. The burden is on the party objecting to prove their objection. U.S. v. 58.16 Acres of Land, 66 F.R.D. 570 (E.D. Ill. 1975). Documents which Licensee will rely upon to present or direct case are not necessarily trial materials if they have not been prepared for, or in anticipation of the hearings. Some of the documents that will be relied upon by Licensee exist irregardless of the hearings and are not trial preparation materials. Further Intervenor is entitled to know of the existence of documents, and their description and nature even though they may be trial preparation

materials. Such information is not the same as being given the documents. 10 CFR (b)(2) is not a shield for knowledge of the existence of material. Some documents may indeed prove to be trial preparation which would require the special showing. How can Intervenor knows which documents will be which before being provided knowledge of their existence.

H. Intervenor withdraws this question, as being too speculative. Licensee does not have knowledge of who Intervenor's witnesses will be.

Intervenor disagrees that the requests of paragraphs A, C, E, F, and G are patently burdensome. These requests ask for discoverable material which will be very helpful in assessing the factual bases of the issues to be litigated. Paragraphs E, F, and G relate only to those matters subject to Intervenor's interrogatories which Licensee intends to present a direct case on. Further the subject matter questioned by the interrogatories is not different for every subpart of every question for every contention. For example, questions about the condensate polisher demineralizer are about the subject matter of the demineralizer through there are 28 questions concerning the system. Thus we are not dealing with, as Licensee would have us believe, with 16,000 requests. The subject matter of contentions 2, 3, 6, 7, 9, 13, and 14 is specific in nature and to apply paragraphs A, C, E, F, and G would add only 5 additional responses for these contentions. Contentions 1 and 11 have multi subjects but these subjects are not so numerous as to be a burden on Licensee. If Licensee answers the questions asked in the interrogatories, it will also have readily available the additional information to satisfy

the requests of paragraphs A, C, E, F, and G.

Additionally many of the interrogatories for the contentions call for the production of documents and the identity of witnesses. The requests in the paragraphs A, C, E, F, and G only apply where such information is not already requested. The requests are not the burden Licensee makes them out to be. For all the reasons stated above they should be allowed by the Licensing Board.

Contention 1

1-1 The NRC staff in its EIA for these proceedings evaluated the cost effectiveness of the steam generator repair project proposed by Licensee as against the casts of various alternatives including the one of doing nothing and allowing units 3 & 4 at Turkey Point to be derated. The various costs were based on a ten year scale. The staff in the EIA determined the repairs were the least costly of the proposals. These calculations were based on information provided by Licensee. Neither the Staff nor Licensee considered what the effect of additional breakdowns and other major maintenance, including further recurring steam generator degradation during the ten year period would be on the cost compansion analysis.

The staff made the cost effectiveness of the repairs implicitly a part of their determination in the EIA that an EIS was not required for the project. Their evolution, based on Licensee information in part, inadequately assessed the probable costs of operation of the plant after the repairs. Intervenor is somewhat incredulous, given the fact that within seven years of beginning operation a repair project costing at least the cost of building the nuclear plant is required, that Licensee can operate the plant in the future without additional

major repairs. All Intervenor's question asks of Licensee is whether or not it can assure maintenance free operation. An assumption by Licensee, and relied upon by the NRC staff is that the plant will have no further major repair costs after the steam generator repairs are completed. Further, the thrust of Intervenor's interrogatories goes beyond the cost effectiveness analysis and is concerned also with possible additional worker and public exposure to radiation. The EIA finds the predicted exposure rate for workers during the repairs is ALARA in part because of the predicted man rem savings in the future operation of the plant resulting from the repairs of the steam generators. If Licensee can not assure maintenance free operation doing the future operation of the plant then perhaps the man rem savings used in assessing physical impact and in justifying worker exposure rates during the repairs are illusory. Intervenor asks for assurance and, if there are any, on what they are factually based.

If Licensee can not provide such assurances then it is not burdensome to simply say that they cannot.

Questions which concern analysis of various factors in the EIA or for requiring on EIS including the probability of major future costs, and impacts on human health from radiation are not part of any stricken contention and are discoverable subject matter.

Intervenor has the burden of establishing the existence of significant impacts in order to require the Commission to prepare on EIS. These include direct, secondary, indirect impacts, and ecological and socio-economic costs. McDowell v. Schlesinger, 404 F. Supp 221 (W.D. Mo 1975). Texas Committee on Natural Resources v. Bergland, 433 F.

Supp 1235 (1977). The restriction on discovery of Allied General Nuclear Services, 5 NRC 489, (1977) does not apply in the present case. The case relies on the sentence in the rule 10 CER 7.40 (b)(1) which limits the subject matter to those matters in controversy which have been identified by the Commission or the presiding officers. This portion of the rule governs applications for construction permits or an operating license. The present proceedings are far an amendment to an operating license.

Secondly, Intervenor's burden to establish the requirement for an EIS includes the duty to present evidence on all forms of impacts, including the casts of alternatives. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 55 S. Ed. 2d 460, 483, 486, (1978). The information sought in Intervenor's interrogaroty 1-1 is germane and relevant to the burden on Intervenor and should be answered.

1-2 For the reasons stated in 1-1 above this interrogatory should be answered.

1-3 For the reasons stated in 1-1 above this interrogatory should be answered. Further the fact that contracts contain confidential business material does not absolutely bar discovery. Protection, if necessary, may be exercised by the Licensing Board to prevent disclosure of confidential information. 10 CFR 7.40 (c)(6) provides for such protection. See also response to interrogaroty 2-21.

A veiled reference that contracts requested by this interrogatory may contain confidential material should not in and of itself bar discovery of such contracts. Either they do contain confidential material or they do not. If they do then approriate procedures to determine confidentiality and the necessity for protection, if any, can be implemented.

1-4 For the reasons stated in 1-1 this interrogatory should be answered. The recurrence of repairs is relevant to a cost analysis; the costs of Licensee's operation of Turkey Point is germane to a determination of socio-economic impact on individuals and the community. Indeed all additional costs passed on to consumers by Licensee from the proposed repairs have more than social and economic impacts on, at least, poverty stricken individuals in the community, of which there are many in Dade County. These arguments are not made in a sterile vacuum. An increase in costs to a poor person on fixed or little or no income translates to doing without either the service or some other necessity such as food or medical care. Such deprivation has more than an "economic" impact.

Further, future failures of Licensee's steam generators may pose significant physical environmental dangers to the surrounding community. To assess the probability of such failures Intervenor needs information as to the specific replacement steam generators to be used in the repairs.

1-5, 1-6, 1-7. For the reasons stated in 1-1 and 1-4.

1-8. See responses in 1-1 and 1-4

The interrogatory should be answered. This interrogatory is not objectionable solely because it calls for research or new calculations by Licensee in as much as it relates to details set forth by Licensee in its Steam Generators Repair Report, about which Licensee presumably has information. Flour Mills of America, Inc. v. Pace, 77 F.R.D. 676 (1977). Intervenor would have hoped that Licensee would have undertaken such calculations before attempting to foist off more supposedly "state of the art" technology. See, Rule 33(c) of the Federal Rules of Civil Procedure.

1-9 See response to 1-1, 1-4, and 1-8.

1-10 See response to 1-1, 1-4, and 1-8.

The water chemistry to be used in the new steam generators is relevant to our assessment of whether the repairs proposed by Licensee will value the problems which caused the need for the repairs. There are very likely to be significant impacts on the environment if the new steam generators also degrade. It is a serious enough problem to have warranteed Licensee to seek to be allowed to conduct these present proposed repairs.

1-11 The safe operation of a nuclear power plant is relevant to whether or not a probability for a significant environmental impact exists. Such matters are required to be addressed in any consideration of dangers to the environment and to humans. Intervenor has the burden of establishing that the Commision's EIA is inadequate. Failure to address significant safety changes demanded from analysis of the TMI accident in reviewing the impacts of Licensee's plant is one ground for establishing the inadequacy of the commission's assessment of the environment. The interrogatory should be answered.

1-12 See response to 1-1.

The interrogatory is relevant to contention 1. The Commission in the EIA determined that total decontamination was not worth the additional cost compared to the savings in man rem exposure to the workers involved. This determination was based on information provided by Licensee. A decision which affects the health of humans is an environmental impact and the factual basis upon which it rests is relveant to whether or not an EIS must be prepared.

See discussion in 1-8 as to requiring Licensee to perform new calculations. See Federal Rule of Civil Procedure 33(c). In fact such calculations would not be "new" in as much as Licensee, it is to be hoped, relied on some factual basis for determining total decontamination was not appropriate. Intervenor is entitled to discover the factual basis upon which Licensee made its decision. Any such facts relied upon by Licensee are either admissible or will lead to discovery of admissible evidence.

1-13 Intervenor withdraws this question.

1-14 Quality assurance is relevant to whether or not the plant will operate safely after completion of the repairs. The safety of operation and the consequences on the environment are primary concerns to be considered in a NEPA analysis. Inadequate assessment of such factors is certainly ground for requiring the preparation of an EIS. This interrogatory is relevant to that inquiry and should be answered.

1-15 The interrogatory duplicates questions asked in Contention 2 and is therefore withdrawn.

1-16 This interrogatory is withdrawn.

1-17 This interrogatory is withdrawn.

1-18 This interrogatory would be better placed with those of contention 2. Form, however, should not dictate whether Licensee should be required to answer. The interrogatory asks for information relevant to the subject matter of the proceedings and is discoverable under 10 CFR 2.740(b)(1). Licensee intends to employ local decontamination measures in the steam generator repairs. It is germane to the proceedings to know Licensee's success in conducting other local

decontamination procedures in the recent past. The composition of the work force is relevant to assessing the success of any local decontamination effected by Licensee and the health impacts occassioned therefrom. Licensee's choice of work force in past decontamination efforts indicates to some degree Licensee's preferences. Choices including those between skilled and unskilled, educated or illiterate workers and those who may be culturally unfamiliar with the attendant hazards of work in radiation fields may result in significant health impacts on both those engaged in local decontamination and the work force conducting the repairs. Such questions are relevant to contention 1 and 2 and the answers would either be admissible or will lead to admissible evidence.

1-19 The interrogatory concerns whether Licensee has any plans for protecting the environment and the public in the community from the physical dangers posed by the possibility of a major hurricane striking at a time during the repairs when two of the three barriers to high level radioactivity have been breached and when temporary shielding to prevent radiation releases to the environment could be easily rendered ineffective. Assessment of potential danger to the environment is at the very heart of the decision to prepare on EIS. Plans or the lack of plans to protect the environment in the event of a major catastrophe are extremely relevant to the need for an EIS. Texas Committee on Natural Resources v. Bergland, 433 F. Supp 1235 (1977). The interrogatory asks for relevant, discoverable information. 10 CFR 2.740(b)(1)

1-20 See response to 1-19. See Dr. Paris' discussion in the Board's Order of August 1, 1979 granting Intervenor the right to intervene. See the NRC Staff letter to Dr. Robert E. Uhrig of FP&L on November 19, 1979, page 2, paragraph D of the Request for Additional Information. The interrogatory asks for information regarding plans by Licensee to protect the public and the environment. It asks for relevant and discoverable information. 10 CFR 2.740(b)(1).

1-21 Intervenor withdraws this question.

1-22 The objections to this interrogatory are stated in broad generalized labels and are wholly unsupported or clarified by any discussion of law or fact and should be stricken. White v. Beloginis, 53 F.R.D. 480 (S.D.N.Y. 1971); Powerlock Systems, Inc. v. Duo-Lok, Inc. 54 F.R.D. 578 (1972). The burden is on the objecting party. U.S. v. 58.16 Acres of Land, 66 F.R.D. 570 (1975). The interrogatory is relevant to the assessment of the environmental impact threatened by solid waste radiation as a result of the repairs; it is relevant to a cost analysis of the repairs; it is relevant to questions of health impacts from worker exposure and to the public from storage of nuclear wastes. The interrogatory calls for discoverable information and should be answered. 10 CFE § 2.740(b)(1).

1-24 Intervenor withdraws this interrogatory.

1-29 See responses to 1-1, 1-4, and 1-8. The environmental impacts of replacement power sources during the repairs are inarguably relevant to whether or not an EIS is to be prepared. Intervenor seeks to obtain information in this interrogatory which will help determine what impacts are likely to occur from Licensee's sources of replacement power during the steam generator repairs. Such impacts include the

area affected, and the types of impacts involved.

Replacement power considerations are a factor in the Commission's EIA. Licensee has supplied an estimate of the costs of replacement power but not the factual basis concerning its use of replacement power. The interrogatory should be answered.

1-30 See NRC staff letter to Dr. Robert E. Uhrig of FP&L on November 1979, page 2, paragraphs C, C, and E of the Request for additional information. See Intervenor's responses to 1-1, 1-4, and 1-8.

1-31 See Intervenor's responses to 1-1, 1-3, 1-4, and 1-8 and see response to interrogatory 2-21.

1-32 See Intervenor's responses to 1-1, 1-3, 1-4, 1-8, and 2-21. Additionally the facts of an intended rate increase are the specific way that the repair costs will impact on the human environment. The assessment of socio-economic impacts is mandated on the NRC by the National Environmental Policy Act.

1-33 Intervenor withdraws this interrogatory.

1-34 Intervenor withdraws this interrogatory.

1-35 Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 55 L. Ed 2d 460 (1978) requires Intervenor to present a prima facie case as to possible alternatives with detailed specificity as to their implementation, viability and resulting benefits. Intervenor has the burden in establishing that an EIS is required for these proceedings. Hiatt Grain & Feed, Inc. v. Bergland, 446 F. Supp. 457, 490 (D. Kan. 1978).

The question of alternatives has bearing on the question of whether there are impacts on the environment including direct, secondary and

indirect effects. McDowell v. Schlesinger, 404 F. Supp. 221 (W.D. Mo. 1975).

At least one alternative to the repairs, conservation, has no environmental impact; indeed it has the effect of lessening impact on the environment. It is an alternative readily available to Licensee without expenditure of vast sums of money. The failure of the Commission to address just this one potential energy source, as conservation has often been called, Stobough, Energy Futures, The Harvard Business School Energy Study (1979), renders the EIA analysis suspect and should require the preparation of an EIS.

Licensee treats the question of preparation of an EIS as if it were in a theoritical void unrelated to any assessment of real effects of the repair project. Such real effects include worker exposure to radiation, releases of radiation to the environment, potential dangers from storage of the defective steam generators on site to enumerate just a few. Discovery of what other possible sources of energy Licensee is seriously considering as alternatives to nuclear generated electricity is meaningful and relevant to the question of the preparation of an EIS. The use, for example, of conservation would obviate to some extent the need for replacement power during repairs, or when the units at Turkey Point were derated. Lessening or eliminating need for replacement power also lessens or eliminates the environmental impacts associated with replacement power generation:

Information as to alternatives and the research commitment involved is discoverable from Licensee pursuant to 10 CFR §§ 2.740 (b)(1).

1-36 Licensee's contractural obligations are relevant to contention 1, as providing a basis for analysis of the degree of harm that may be incurred if Licensee is not granted the amendment to repair its steam generators. As to confidentiality see Intervenor's response to objections raised against interrogatory 1-3 and 2-21.

Contention 2.

2-7. Intervenor is not asking the Licensee to perform new calculations. He seeks only calculations which the Licensee has performed prior to answering these interrogatories. Intervenor is trying to discover already existing facts - the calculations made by the Licensee. F.R.C.P. (c) expressly allows for discovery

> "from the business records of the party upon whom the inter rogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon" (emphasis added.)

In the instant case, the burden of deriving or ascertaining the answers to this interrogatory is not substantially the same. It is much easier for the Licensee to provide the answers than it would be for the intervenor.

2-8 See response at 2-7.

2-]4 See response at 2-7.

Contention 2 concerns compliance with]0 CFR Part 20 (permissable exposure doses, levels and concentrations for workers.) and the general principle that Licensees "make every reasonable effort to maintain radiation exposures...as low as is reasonably achievable"]0 CFR 20.] (c).

The staff of the NRC has concluded that:

> "FPL has estimated that the occupational dose for the inspection and repair of degraded steam generator tubes will be reduced to]00 man-rem per year for the two Turkey Point units combined after the repair has been completed. Based on our experience regarding such inspections, we find this to be a realistic estimate. (EIA at p. 4-4)

The NRC staff, in concert with Florida Power and Light Co., has determined that FPL's procedures will meet the ALARA standard. The Intervenor is contesting this determination. The basis for this determination is, in past, FPL's estimate that the man-rem exposure for inspection and repair of degraded steam generator tubes will be reduced to]00 per year. It is FPL-NRC who have raised this allegation in support of their joint contention that FPL has made every reasonable effort to maintain exposures ALARA. It is both incongrous and unfair for them on the one hand to allege that this fact supports their ALARA position and on the other hand claim that their prior statement is irrelevant to the ALARA issue, thus precluding discovery into the basis underlying their allegation.

2-]5 See response at 2-7.

See response at 2-]4.

We are again dealing with an ALARA issue. NRC-FPL claim that FPL's procedures will meet the ALARA standard. The Intervenor in Contention 2 contests this claim. Part of the basis for the conclusion is the allegation that:

> "The reduction of occupational exposure resulting from the repair effort may be estimated by subtracting the

> estimated annual dose after repair from the observed annual dose before the repair. The doses of 600 man-rem in 1976 and 450 man-rem in 1977 are considered representative of exposures related to steam generator operation at the Turkey Point Units before the repair. Subtracting the after repair dose of 100 man-rem from the before-repair range of 450 to 600 man-rem leads to a reduction of 350 to 500 man rem per year. At these rates of reduction the 2600 man-rem cost of the repair would be offset in about 5 to 7 years." (EIA at p. 4-4)

Common sense indicates that the after repair man-rem exposure will be reduced only if the repairs work. The allegation that man-rem exposure will be reduced below present levels is based upon the implicit assumption that the steam generator tubes will not corrode again. If they do corrode again, there will be less or no reduction in man-rem exposure levels.

The Intervenor contends that the programs and procedures proposed to be followed by the Licensee in making steam generator repairs will not meet the ALARA standard. The Licensee-NRC staff answer this contention by saying that FPL will meet the ALARA standard, and base their answer in part upon the reduction in man-rem exposure during post-repair years. They then say that though this allegation should be used to defeat the ALARA contention, it is irrelevant to the ALARA contention. Such an argument is logically inconsistent.

2-16 See responses at 2-7, 2-14, 2-15.

The defense to the contention that Licensee's operations will not meet the ALARA standard is, in part, that in future years the

man-rem exposure levels will be less than they have been in the past. The Intervenor merely wants to know what the exposure levels have been in the past. One cannot compare the estimated, future exposure levels with those of the past unless one knows what the past levels are.

2-19 Intervenor agrees. This interrogatory is reworded to read:

> Describe the attempts that will be made by the Licensee in hiring and assigning particular tasks to employees, who will be working on the steam generator repairs, to identify those persons who are more likely that the average member of the American work force to develope an illness, disease or condition that within a reasonable degree of medical probability has been shown to be induced, accelerated, or exacerbated by exposure to radiation.

2-21 See response at 2-7.

Licensee cites as its authority 10 CFR 2.740 (c). The relevant part of that regulation reads:

> "(6) that, subject to the provisions of 2.744 and 2.790, a trade secret or other confidential research, development, or commercial information not be disclosed or only disclosed in a designated way." (emphasis added)

10 CFR 2.744 deals with "Production of NRC records and documents." 10 CFR 2.790 deals with limitations on inspection of NRC documents in the NRC Public Document Room. Neither regulation deals with documents in the possession of the Licensee.

Licensee also cites Lennerts v. Rapidol Distributing Corporation, 3 FRD 42 (N.D.N.Y. 1942). In Lennerts the court ordered a defendant to answer an interrogatory requesting the ingredients of a hair dye, in dicta. The court

said that, if it was ever asked, the defendant would not have to reveal a secret formula of how the dye was made. The Intervenor finds it hard to believe that a contract with an employment agency will contain a secret formula.

In Allied General Nuclear Services (Barnwell Fuel Receiving Storage Station), 5 NRC 489 (1977), the Commission held that:

> "the legal authorities and Federal court decisions involving Rule 26 illuminate, and provide appropriate guidelines for interpreting the discovery standards set forth in the Commissions's rules (Ibid at 492)

The U. S. Supreme Court has held that the Federal Discovery Rules are to be accorded a broad and liberal treatment. Schlagenhauf v. Holder, 379 U S 104 at 114-115, 85 SCT 234, 13 L ed 2d 152 (1964). There is no absolute privilege for trade secrets and confidential information, and the burden of coming forward is on the party seeking protection. 8 Wright & Miller, Federal practice and procedure, Civil 2043. The objecting party must show:

> "good cause for the issuance of such a protective order by specifying the nature of the confidential documents or otherwise specifying precisely how the disclosure of the information could prejudice (it). Hunter v. International Systems and Controls Corp., 51 F.R.D. 251, 255 (W.D. Mo. 1970)

The statement of an attorney, even under oath, which merely alleges that discovery will reveal trade secrets is insufficient to warrant a protective order. Rosenblatt v. Northwest Airlines, Inc. 54 F.R.D. 21, 23 (S.D.N.Y.). A protective order can issue only for the showing that the information in question is of the type that should be restricted and that the party disclosing it will indeed be harmed by disclosure. Johnson Foils, Inc. v. Huyck Corp., 61 F.R.D. 405, 409 (N.D.N.Y. 1973)

The attorney for FPL has stated merely that the contracts "may contain confidential business information" (emphasis added). FPL has not specified

the nature

the nature of the confidential document nor how disclosure will prejudice it.

The purpose of the rule providing for protection of trade secretes and confidential business information is that undue disclosure should not be made available to competitors. Rosenblatt v. Northwest Airlines, Inc.,supra at 23. FPL is a monopoly. It has no competitors. No one else has, is building, or is repairing a nuclear power plant that provides electricity to Dade County, Florida. It is highly unlikely that disclosure to a competitor will occur.

Part B of Contention 2 concerns whether or not a sufficient work force can be obtained to perform the repairs without violating exposure levels contained in 10 CFR 20.101. Part A alleges non-compliance with 10 CFR 20.101 because of the use of transient workers with unknown radiation exposure histories. Hoe FPL's work force will be obtained is relevant to these contentions. A contract with a party that will provide workers for the repair project should give some indication on how the workers will be obtained and whether or not the workers can be obtained without violating 10 CFR 30.101. Such a discovery request would be reasonably calculated to lead to the discovery of admissible evidence even if it only showed the names of the people responsible for obtaining the work force and the terms and conditions which they are bound, by contract law, to follow in obtaining that work force.

2-28 See response at 2-7

2-30 Intervenor withdraws this interrogatory.

2-31 Section 2.1.2 of the Steam Generator Repair Report directs itself to the physical compatibility of the new steam generator lower assemblies with

existing steam generators and systems. The Steam Generator Repair Report assumes that the new lower assemblies will make a perfect fit with the old upper assemblies that have been in operation since 1972 or 1973. This may not necessarily be so. If the two assembly sections do not make a perfect fit, some contingency plan will have to be put into effect in order to make sure that the two halves do fit together. It is possible that this contingency operation will require additional man hours of work and entail additional man-rem doses for the workers over and above those estimated by FPL. Additional man-rem exposure for workers engaged in the repair operation is relevant to Contention 2.

If FPL does not like the term procedures, it may substitute for that word the phrase "tasks to be performed." The Intervenor is inquiring as to whether FPL has developed a contingency plan for this possible occurence and, if so, wants a description, task by task, of this contingency plan.

Contention 3

3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 3-11, 3-12, 3-14, 3-15, 3-16, 3-17 Intervenor withdraws these interrogatories. However Licensee should be required to provide the information requested in Intervenor's introductory requests in the lettered paragraphs A, C, E, F and G as to the subject matter of this contention, i.e. the primary coolant and the laundry waste water for the reasons stated in the responses to the objections to those lettered paragraphs.

3-19 See response to 1-8. See Federal Rules of Civil Procedure, Role 33 (c). Further the calculations and data requested by this interrogatory should not be new. Licensee should have this information from its analysis of what the proper disposition of primary coolant during the repairs should be. Licensee should have some idea of how much primary coolant it will have to be handling during the repairs. The interrogatory should be answered.

3-20 Licensee's objection to this interrogatory is confusing, at the least, if not specious.

Is the objection directed to the entire interrogatory or to just 20 (e)?

Further the question of the form of storage of highly radioactive waste on site is relevant to an inquiry of releases of that radioactivity material to unrestricted areas. The interrogatory asks for discoverable information 10 CFR 2.740 (b) (1).

3-21. See response to 3-20 and 1-8.

3-22, 3-23 Intervenor withdraws these interrogatories.

3-25, 3-26, 3-27, 3-28, 3-29, 3-30 As to these interrogatories Intervenor states: Licensee claims that the release of radiocative liquid

effluent is estimated at .55 ci/unit exluding tritium and dissolved gases (SGRR, p. 5-23). This claim is questionable since the only definite factors for liquid releases are the decontamination factors. Unknown factors are the amount of primary coolant to be processed and the amount of radioactivity in the coolant. Licensee's figure of 4.08 X 105 lbs. does not state the mass of coolant prior to processing nor does it state whether the amount is for one or both reactors. The radiochemical analysis of primary coolant was performed in 1976 (SGRR p. 5-23) when unit 4 was in its third year of operation. The earliest feasible date for repairing unit 4 is the fall of 1980 which is approximately 4 years after the radiochemical analysis of the primary coolant was performed. Information on the amount of primary coolant, amount of radioactivity, and veracity of the recontamination factors is a prerequisite to the principle of adherence to ALARA within the meaning of 10 CFR §§ 20 and 50. See response to 1-8 concerning the performance of research on the part of Licensee. Further it is not grounds for an objection that the information is equally available to Intervenor or is a matter of public record. U.S. v. 58.16 Acres of Land, 66F.R.D.570 (E.D. Ill. 1975); Gutowitz v. Pennsylvania R.Co., 7 F.R.D. 144 (1945); Riarden v. Ferguson, 2 F.R.D. 349 (1942); Wilmington Country Club v. Horwath & Horwath 46 F.R.D. 65 (E.D. Pa. 1969).

3-28 The confusion concerning this interrogatory is due to a typographical error. The section referred to is interrogatory 27-d.

3-29 Intervenor withdraws this interrogatory.

3-30 See response to interrogatory 1-8.

3-31, 3-32, 3-33, 3-34 These interrogatories are withdrawn.

Contention 6

6-1, 6-2, 6-3, 6-4, 6-5, 6-6, 6-7, 6-8, 6-9 These interrogatories are withdrawn. However Intervenor asks that Licensee provide a copy of any responses to the NRC Staff Letter to Dr. Robert E. Uhrig on November 19, 1979 page 2 paragraph b of the Request for Additional Information. Further Licensee should be directed to provide for contention 6 the information requested in Intervenor's introductory paragraphs lettered A,C, E, F, and G for the reasons stated in the responses to the objections against those lettered paragraphs.

6-20 Licensee has a very narrow reading of contention 6. Radioactive release from the defective steam generators may occur during the process of storing the assemblies as well as during storage. Sub-paragraphs a-c should be answered.

6-22 See response to objections to interrogatory 1-8.

6-27 See responses to interrogatories 6-20 and 1-8.

6-30 During the course of a hurricane or other event causing releases of radioactivity to the environment from the storage building it will matter little whether radioactive material is from the steam generator assemblies stored in the building or from other waste also stored there. There will be a harm occassioned. The answer to the question is quite simple. Intervenor questions Licensee's reluctance to disclosure that no other material is intended to be stored in the storage building. Intervenor is concerned that other materials unmentioned in any of Licensee's filings to the Commission will also be stored. Given the earth floor design and the precarious location of the building this is a critical question. The interrogatory should be answered.

6-31 See response to 6-30.

6-32 The length of time the steam generators will be stored on site is relevant to calculations as to the probability of their being subjected to a major hurricane and the potential for harm ensuing from such an event.

6-33 See response to interrogatory 6-30 and 1-8 and the citations in the response for 3-25 through 3-30.

6-34 Intervenor withdraws this interrogatory.

6-35 See response to 1-8 regarding research by Licensee and new calculations. See also Alexander v. Rizzo, 50 F.R.D. 374 (E.D. Pa 1970).

Contention 7

7-2, 7-3, 7-4 Intervenor recognizes that the questions phrased in these interrogatories are overly broad. The information Intervenor needs relates specifically to the system Licensee intends to install, who is the manufacturer of the system Licensee intends to install, what will be the cost of the system and who will install the system for Licensee. This information would be discoverable under 10CFR §§ Z.740 (b)(1) and requires little burden on Licensee to answer.

7-5, 7-6, 7-8, 7-9, 7-10 Intervenor withdraws these interrogatories. However Licensee should be required to answer for Contention 6 the introductory requests of Intervenor's interrogatories contained in the lettered paragraphs A, C, E, F, and G for the reasons stated in the responses to the objections against those lettered paragraphs.

7-11 See White v. Beloginis, 53 F.R.D. 480 (1971); Powerlock System, Inc. v. Duo-Lok, Inc., 54 F.R.D. 578 (1972); and U.S. v. 58.16 Acres of Land, 66 F.R.D. 570 (1975). Licensee's objection is a bold faced assertion that this interrogatory requests trial preparation material. This is a broad generalized label which is wholly unexplained or supported. It is Licensee's burden to establish that the estimates requested are trial material as governed by 10 CFR § 2.740 (b) (2). Intervenor seriously doubts that Licensee's review of the system has been solely conducted in preparation for trial. Further the Request for additional Information of the NRC Staff Letter to Dr. Robert E. Uhrig on November 19, 1979 specifically requests details of the environmental effects of the system. There will be no burden on Licensee to provide Intervenor with a copy of its responses to the Staff Letter.

7-12 10 CFR § 2.740 (B)(1) provides for the discoveries of persons having knowledge of any discoverable matter.

7-13 Intervenor withdraws the interrogatories.

7-15, 7-16 The location where the demineralizer system will be installed is relevant to the subject matter of this proceeding: 10 CFR § 2.7.40(b)(1).

7-17 This interrogatory is withdrawn.

7-18 This interrogatory requests information relevant to the subject matter of this proceeding 10 CFR § 2.740 (b)(1).

7-23 See NRC Staff Letter to Dr. Robert E. Uhrig on November 19, 1979 on page 1 of the Request for Additional Information paragraph A-13. There will be no burden on Licensee to provide a copy of its response

to the Staff Letter including the status of all relevant permits.

7-24, 7-25, 7-26 See response to 7-23. Specific paragraphs of the Staff Letters are A-1 through 13 and C.

7-27 See response to interrogatory 7-24.

Contention 9

9-1 Intervenor is concerned in Contention 9 with cumulative off-site releases of radiation during the repairs because of the potential for human health harm and danger to the environment threatened by such releases. 10 CFR § 20 and 50 impose an obligation to protect the health and safety of the public. Based on information supplied by Licensee summarizing past yearly releases of radiation off site at Turkey Point the Commission determined in the EIA that no significant harm would occur from the estimated off site releases from the repairs. In the first instance information regarding Licensee's previous yearly releases has been relied upon in estimating the releases likely to occur from the repairs. The underlying factual records of Licensee's off site radiation releases are clearly relevant in this regard, 10 CFR § 2.740(b)(1), to test the basis upon which the estimated proposed releases were determined.

Secondly, the potential of public danger from releases of radiation during the repairs does not exist solely from the harm that may accrue simply from those releases alone, but must be looked at in the context of the cumulative amount of radiation released by Licensee from Turkey Point during the years of the operation of its plant which continues to persist in the environment. Hanly v. Kleindienst, 471 F. 2d 823, 830 (1972) the court states that the absolute quantitative

adverse environmental effects of the action itself, including the cumulative harm that results from its contribution to existing adverse conditions or uses in the affected area," (emphasis added) must be considered in determining the gravity of potential harm from a proposed action. No accurate evaluation of the dangers presented by Licensee's estimated off site radiation releases during the repairs can be made without first addressing the already existing levels of radiation that exist in the "impact" environment. Licensee is obligated to conduct off site monitoring of its radioactive releases and should be required to provide the base data obtained from such monitoring. The information is germane to the subject matter of the proceedings and should be discovered. 10 CFR §§ 2.740 (b)(1).

Licensee had difficulty in understanding the environment in question by this interrogatory. Intervenor's use of the term "impact environment" meant only that environment or population area already considered by the Commission and Licensee is determinign that off site releases during the repairs would have no significant impact and occassion no health harm to the public. As to the term "releases" Licensee need only consider those releases which have been monitored off-site.

To the degree a subparagraph in this interrogatory asks for the same information as interrogatories in Contention 13 Licensee should have to respond only once. However Licensee has failed to indicate which portions of this interrogatory duplicate which interrogatories from Contention 13. It is Licensee's burden to establish its objection. U.S. v. 58.16 Acres of Land, 66 F.R.D. 570 (E.D.Ill. 1975).

Interrogatory 9-1 (F) asks for all relevant documents concerning a specific, limited activity conducted as Licensee's obligation. It is not the broad request prescribed by Illinois Power Co.,

ALAB-340, 4NRC 27, 34 (1976). Federal Rule 33 (c) envisions the compilation of records such as requested by this interrogatory. The information sought is directly relevant to the question of the factual basis upon which Licensee has estimated the radiation releases of the repairs as compared to its history of past releases, and is not, because of the specific activity concerned, overly burdensome. Shang v. Hotel Waldorf-Astaria Corp., 77 F.R.D. 468 (E.D. N.Y. 1978) Jensen v. Boston Insurance Co. 20 F.R.D. 619 (1957).

9-2 See response to interrogatory 9-1. Intervenor questions whether the information requested is available only by Licensee performing new calcualtions. It would seem that the information requested should be part of their past monitoring program. To the extent the request involves research on licensee's part the holdings of Flour Mills of America Inc. v. Pace, 75 F.R.D. 676 (1977), U.S. v. 58.16 Acres of Land, 66 F.R.D. 570 (1975). FRCP Rule 33 (c). Rogers v. Tri-State Materials Corporations, 51 F.R.D. 234, 235 (1970) are informative. Nor is equal availability grounds for an objection. See U.S. v. 58.16 Acres of Land, supra.

9-3 See responses to interrogatory 9-1 and 9-2.

9-4 Flour Mills of America Inc. v. Pace supra; U.S. v. 58.16 Acres of Land, supra; Rogers v. Tri-State Materials Corp., supra at 235.

9-6 To the extent this interrogatory calls for the same information as requested in Contention 6 Licensee should have to respond only once. However again Licensee fails to designate which interrogatories are duplicated. It is Licensee's burden to establish its objection. Removable radioactivity refers simply to that radioactive material which can be eliminated from the assemblies by decontamination

procedures.

9-7. See response to interrogatory 9-6.

9-8. See responses to interrogatories 9-2 and 9-6.

9-9. This interrogatory is withdrawn.

9-12. The nature, or composition of the ground water, whether it is salt water, brackish, or fresh water, is relevant to an evaluation of the direction a liquid pathway for radioactive waste would take if released to the environment and to the question of the particular area of the environment which would suffer an impact. Thus the question is relevant to contention 9. Intervenor doubts that Licensee does not know what kind of water composes the ground water table within one mile of the Turkey Point plant.

9-14, 9-15, 9-22, 9-23, 9-27, 9-28. These interrogatories are withdrawn.

Contention 11.

11-5. This interrogatory is relevant to the question of the total costs of the repairs which is considered in subparagraph f of the contention and is discoverable pursuant to 10 CFR §§ 2.740 (b)(1).

11-9. The number of years the storage building will remain on the land is clearly relevant to an analysis of the additional commitment of land resources as considered in contention 11(d).

11-10. This question is relevant to contention 11(f) as it relates to the costs of the repair project. See response to the objection to interrogatory 11-12.

11-11. This interrogatory requests information relevant to an analysis of the entire costs of this repair project including costs not

normally factored into a cost analysis.

11-12. Contention 11(f) is concerned with a consideration of the total costs of the repair project. See NRC Staff Letter to Dr. Robert E. Uhrig, November 19, 1979, page 2 of the Request for Additional Information.

11-14 and 11-17. These interrogatories are withdrawn.

11-18. This interrogatory is withdrawn.

11-19. This interrogatory calls for discoverable information. 10 CFR §§ 2.740(b)(1) allows discovery of persons having knowledge of information relevant to the subject matter of the proceedings. Licensee's objection is without basis and is a broad generalized label wholly unsupported or clarified. White v. Beloginis, 53 F.R.D. 480 (1971); Powerlock Systems, Inc., v. Duo-Lok, Inc., 54 F.R.D. 578 (1972);

11-20, 11-24, 11-25, 11-26, 11-27, 11-28, 11-29, 11-30, 11-33, 11-34. These interrogatories are withdrawn.

11-35. The interrogatory is not duplicative of interrogatory 11-15. The amount of titanium required for condenser retubing is a factor in considering the commitment of non-renewable resources to the repair project.

11-37. The interrogatory is withdrawn.

Contention 13.

13-5. Contention 13 does not pertain solely to radiation monitoring.

It concerns whether the radiation monitoring will provide accurate information to comply with 10 CFR Parts 20 and 50. 10 CFR §§ 20.401 requires the Licensee to maintain records of individual exposure to radiation. 10 CFR §§ 20.405 requires reports of overexposure to radiation, for an individual, in excess of any of the cumulative limits contained in Part 20. Similar reports are required by 10 CFR §§ 50.71. Unless one knows what procedures the Licensee will use in maintaining these records, one cannot determine whether or not the proposed method of monitoring will provide the information necessary to comply with the record keeping requirements of these regulations.

13-6. Subsections (g) and (h) of this interrogatory should be reworded as follows:

> (g) The names, addresses and job titles of the persons who guard the monitoring alarms.
>
> (h) The names, addresses and job titles of the persons who supervise the monitoring operation.

Knowing the persons who supervise the monitoring and who guard the monitoring alarms is reasonably calculated to lead to the discovery of admissible evidence. It is reasonable to assume that these people will have knowledge of the proposed method of radiation monitoring. The qualifications and abilities of these people will have a real effect on the methods of radiation monitoring. 10 CFR §§ 2.740 (b)(1) allows the discovery of: the identity and location of persons having knowledge of any discoverable matter. This reply is applicable to the similar objections raised with reference to interrogatories 13-7 through 13-18, inclusive.

13-7. This interrogatory is not redundant. The apparent confusion is caused by uncertainty on the part of Licensee and the NRC Staff

as to what is to be done with the liquid waste as the repairs are made. The documents prepared by the Licensee and the NRC Staff are not clear as to whether the primary coolant will be stored or discharged. The SGRR at 5.2.2.4 states that the primary coolant will be discharged. The SER at 2.6.4 states that "FPL is planning to store the reactor coolant for reuse after the repair is complete." The EIA at 4.1.2 states that FPL plans to store the reactor coolant water, but goes on to say,"However, FPL has estimated the magnitude of the release should it become necessary to discharge the coolant." EIA 4.1.2 at page 4-7. The intervenor is faced with two (2) alternative courses of action on the part of FPL: (1) Storing the coolant or (2) discharging the coolant. Interrogatory 13-6 seeks information concerning the monitoring of the handling, processing, and storing of the primary coolant if FPL chooses the option of storing the coolant. Interrogatory 13-7 seeks information concerning monitoring of handling processing and discharging the primary coolant if FPL chooses the option of discharging the coolant. See the response also to interrogatory 13-6.

13-8, 13-9, 13-10, 13-11, 13-12, 13-13, 13-14. See the response to interrogatory 13-6.

13-15. Packaging of the solid radwaste will be done at the Turkey Point site. See SGRR 3.3.6.1 and 3.3.6.2. Part of the transportation will take place on site. 10 CFR §§ 20.105 places limits on radiation levels during the transfer of radioactive material in unrestricted areas. 10 CFR §§ 50.91 states that in issuing an amendment to a license the NRC will be guided by the considerations which govern the issuance of the initial licenses. 10 CFR §§ 50.57(a) states that licenses will

be issued only upon a finding that the activities can be conducted without endangering the health and safety of the public. 10 CFR §§ 50.40 (c) sets a standard that the issuance of a license must not be inimical to the health and safety of the public. Contention 13 deals with monitoring to provide accurate information to comply with 10 CFR Parts 20 and 50. The Licensee cannot comply with Parts 20 and 50 unless it complies with sections 20.105, 50.57 and 50.40(c). Therefore monitoring to determine compliance with these subsections is relevant to Contention 13.

Licensee confuses the temporal quality "during repair" with the situs quality "within or without the Turkey Point site." Both the SGRR at 3.3.6.1 and 3.3.6.2 and the SER at 2.6.5 consider the shipment of the solid radwaste (which is a by-product of the repairs) to be part of the steam generator repair process. See also the response to interrogatory 13-6.

13-16, 13-17, 13-18. See the response to interrogatory 13-6.

Contention 14

14-1

14-2

14-3 These interrogatories are withdrawn. However, Licensee should

14-4 be required to answer the requests made in intervenors introducing

14-5 interrogatories letter A, C, E, F, and G, for the specific issue

14-6 involved in Contention 14.

14-8 The interrogatory is relevant to the question of radiation hazards during a fire. Toxic fumes which may render workers unconcious in radiation fields are factors for concern. The danger of protective clothing being set aflame with attendant radiation exposure is a relevant factor of concern.

The ability of workers to get out of "envelopes" during a fire has a bearing on the potential radiological harm they may suffer during a fire. If the envelopes are to shield against radiation releases the point at which they fail by melting, is relevant to the question of radiation releases during a fire.

14-9 This interrogatory is withdrawn.

14-10 These interrogatories concern the problem of whether or not procedures

14-11 for venting smoke will have the potential for also venting airborne radioactivity. They are relevant to the subject matter of the proceedings and should be answered.

14-13 The degree to which protective clothing burns, thus exposing workers to radiation is relevant to the contention. Toxic fumes given off by burning

protective clothing, with the capacity of rendering workers unconscious in radiation fields is a relevant concern in this contention.

14-14 See response at 14-8.

See response at 14-13.

14-20 The interrogatory is relevant to the question of whether fire fighters will be protected from radiation in the event of a fire during repairs.

14-21 The knowledge, training, information, and procedures possessed by assisting fire station commanders is relevant to whether they can be expected to take precautions in responding to a fire at the plant, that will prevent radiological harm from being suffered during a fire. These interrogatories are relevant to the contention and should be answered.

14-22 See response at 14-21.

14-23 See response at 14-21.

14-24 See response at 14-21.

14-25 This interrogatory is withdrawn.

14-26 This interrogatory is withdrawn.

For all the reasons set forth above all the interrogatories to which Intervenor has responded to Licensee's objections should be answered and the Intervenor requests the Licensing Board to so rule.

Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket Nos. 50-250-SP 50-251-SP
FLORIDA POWER & LIGHT COMPANY	)	
(Turkey Point Nuclear Generating Units Nos. 3 and 4)	)	(Proposed Amendments to Facility Operating License to Permit Steam Generator Repair)
	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the attached Intervenor's Responses to the Objections of Licensee to Intervenor's Interrogatories and Request for Production on Licensee were served on the following addressees by deposit in the United States mail, properly stamped and addressed, on the date shown below.

Elizabeth S. Bowers, Esq.
Chairperson
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RELATED CORRESPONDENCE

Dr. Oscar H. Paris
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
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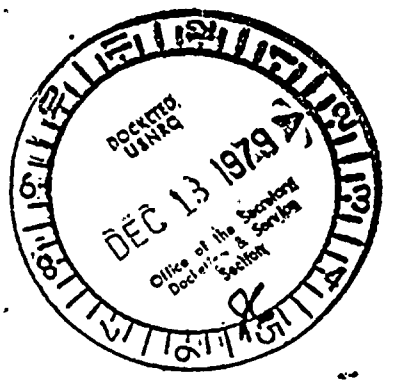

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On this 17th day of December, 1979. Copies of the foregoing were hand delivered to the offices of Norman A. Coll, Esq. on December 17, 1979

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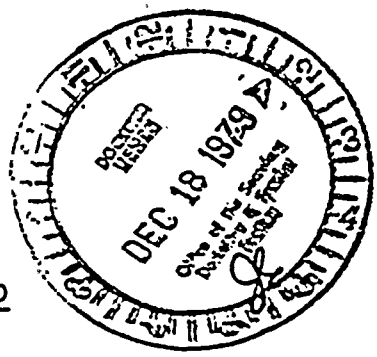
12/17/79

LIMITED CORRESPONDENCE



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of FLORIDA POWER AND LIGHT COMPANY (Turkey Point Nuclear Generating Unit Nos. 3 and 4)	)	Docket Nos. 50-250 50-251 (Proposed Amendments to Facility Operating Licenses to Permit Steam Generator Repair)

INTERVENOR'S ANSWERS TO THE NRC STAFF INTERROGATORIES AND REQUEST FOR THE PRODUCTION OF DOCUMENTS

Intervenor hereby answers the NRC Staff Interrogatories and Request for Production of Documents.

Intervenor will amend the interrogatories pursuant to 10 CFR Section 2.740(e). Supplementation asked for beyond the scope of the requirements of the rule are objected to as not being required.

Contention 1.

1-1. a. Yes.

b. The following witnesses Intervenor has confirmed for the hearings: Dr. Arthur Bowen, Ph.D., Department of Architecture and Planning, School of Engineering and Architecture, University of Miami, Coral Gables, Florida 33124. Please refer to Dr. Bowen's attached resume.

Dr. Walter Goldberg, Ph.D., Florida International University, Department of Biological Studies. Ph. D. in Oceanography from the University of Miami, Miami, Florida in 1973. Specializes in radio-ecological studies of the impacts of radionucleoids on marine organisms and the marine environments. He is a member of the Health Physics Society. He has served as consultant to the Florida Department of Environmental Regulation.

Dr. Robert Anderson, Ph.D., Department of Materials Engineering, San Jose State College, San Jose, California. At the present time Intervenor is unable to provide the NRC Staff with Dr. Anderson's

educational background and professional qualifications, however the answer will be supplemented.

Dale Bridenbaugh, M.H.B. Technical Associates, 1723 Hamilton Avenue, Suite K, San Jose, California 95125. Past employee of the Nuclear Division of General Electric Company, 1955-1976.

Dr. Karl Z. Morgan, Ph.D., Neely Professor,School of Nuclear Engineering, Georgia Institute of Technology, Atlanta, Georgia. Ph.D. from Duke University. He is a past president of the Health Physics Society.

Dr. Arthur R. Tamplin, Ph.D., National Resources Defense Council, 1025 I. Street, N.W., Washington D.C. 2006, Ph.D. University of California at Berkely in biosphysics. Employee, Lawerence-Livermore Labortory, 1963-1974.

Intervenor intends to call additional witnesses in the areas of atmospheric sciences, radiochemistry, hydrology and soil engineering, alternative energy technologies, health physics, and economics. However at the present time none of the witnesses contacted in these fields are confirmed. Intervenor will supplement the answer when the information becomes available.

1-2. Witnesses have not conducted their analysis of the contention to a sufficient degree to provide definitive answers to this interrogatory.

1-3. Not determined at this time.

1-4. Not determined at this time.

1-5. Intervenor considers the Steam Generator Repair Report, The NRC STAFF Safety Evaluation Report and Environmental Impact Appraisal to be deficient.

The following sections of the SGRR Intervenor considers to be deficient. Sections 1.0, 1.1.4, 1.1.5, 1.1.6, 1.1.7, 1.3, 1.4, 2.2, 2.2.1.5, 2.2.1.8, 2.2.2.1, 3.3.4.1, 3.3.4.2, 3.3.4.3, 3.3.4.4, 3.3.5, 3.3.5.1, 3.3.6.3, 3.3.7.1, 3.3.7.2, 3.3.7.3, 3.4, and 3.4.1.

Intervenor also considers Sections 3.4.2, 3.4.5.4, 3.4.6, 3.4.7, 3.4.8,, Table 3.3-2, Table 3.4-1, Table 3.4-2, Table 3.4-4, 4.0, 5.2.2, 5.2.2.1, 5.2.2.2, 5.2.2.3, 5.2.2.4, 5.2.2.5, Table 5.2-1, Table 5.2-3, Table 5.2-4, Table 5.2-5, Table 5.2-6, Table 5.2-7, 6.1, 6.2.2, 6.3.2, 6.4.1, 6.4.2, 6.5, 6.6.2, 6.6.3, Table 6.2-1, 7.1, 7.2, 7.3 of the SGRR to be deficient.

Intervenor considers the following sections of the SER to be deficient: 2.2, 2.1, 2.4, 2.5, 2.6, 2.6.1.1, 2.6.1.2, 2.6.1.3, 2.6.1.4; 2.6.1.5, 2.6.2, 2.6.3, 2.6.4, 2.6.5, 2.6.6, 2.7, 3.1, 3.2.1, 3.3.1, Table 3.3-1, 3.3.2, 3.4.1, 3.4.2, Table 3.4-1, 3.5 and 4.0.

Intervenor considers the following sections of the EIA to be deficient: 4.1.1, Table 4.1, 4.1.2, Table 4.2, 4.2, 4.3, 5.0, 5.1, 5.4, 6.0.

Intervenor objects to that portion of interrogatory 1-5 which calls for an explanation of why Intervenor regards portions of documents deficient on the grounds that the request calls for trial preparation materials, opinions and analysis made in anticipation of the hearings without any special showing of substantial need as required by 10 CFR §§ 2.740(b)(2).

1-6. The National Environmental Policy Act, 42 U.S.C. §§ 4332 (2)(C).

1-7. Not applicable since the Licensing Board's Order of September 25, 1979.

1-8. 10 CFR §§ 51.5 (a)(1) and (b)(2) and §§ 51.20.

1-9. Not applicable since the Licensing Board's Order of September 25, 1979.

1-10. Intervenor objects to this interrogatory. It is argumentative. Contention 1 contends that an EIS must be prepared by the NRC Staff. Further, the interrogatory calls for trial preparation material without the requisite special showing required by 10 CFR § 2.740(b)(2).

1-11. No longer applicable since the Licensing Board's Order of September 25, 1979.

Contention 2.

2-1. a. Yes.

b. Karl Z. Morgan, Arthur R. Tamplin, and Dale Bridenbaugh. See the answer to interrogatory 1-1(b), for data on these witnesses.

2-2. Witnesses have not completed their analysis of the subject matter at issue in Contention 2 to a sufficient degree of certainty to provide a definitive answer.

2-3. Not determined at this time.

2-4. Not determined at this time.

2-5. Intervenor considers the following sections of the SGRR to be deficient: 1.1.2, 1.1.4, 1.1.6, 2.1.2, 3.3.4.1, 3.3.4.2, 3.3.4.3; 3.3.4.4, 3.3.4.5, 3.3.5, 3.3.5.1, 3.3.5.2, 3.3.5.3, 3.3.5.4, 3.3.5.5, 3.3.6.1, 3.3.6.2, 3.3.6.3, 3.3.7.1, 3.3.7.2, 3.3.7.3, 3.4.1, Table 3.3-2, 4.0, 5.2.2.1, 5.2.2.2, Table 5.2-3, Table 5.2-2, 6.1, 6.6.2, 6.6.3, 7.6, 7.9, Table 7.4-1, A-15-1, A-33-1, A-40-1, A-40-2.

Intervenor considers the following sections of the SER to be deficient: 2.4, 2.5, 2.6, 2.6.1.1, 2.6.1.2, 2.6.1.3, 2.6.1.4, 2.6.1.5, 2.6.3, 2.6.4, 2.6.5, 2.7, 3.4.2, 3.5, 4.0.

Intervenor considers the following sections of the EIA to be deficient. 4.1.1, Table 4.1, 5.0, 5.1, 6.0.

Intervenor objects to the requirement of an explanation of why each section is deficient because it asks for trial preparation material without the showing of substantial need of the materials. 10 CFR §§ 2.740 (b).

2-6. 10 CFR §§ 20.101, 20.102, 20.103, 20.206, and 20.401.

2-7. Not applicable.

2-8. Not applicable.

2-9. Yes. See answer 2-2.

Contention 3.

3-1. a. Yes.

b. Dr. Arthur Tamplin, Dale Bridenbaugh, and Dr. Robert Anderson. See the answer to interrogatory 1-1(b) for data on these witnesses.

3-2. See responses to interrogatories 1-2 and 2-2.

3-3. Not determined at this time.

3-4. Not determined at this time.

3-5. Intervenor considers the following sections of the SGRR to be deficient: 1.1.5, 1.3, 3.3.4.4, 3.3.6.3, 3.4.5.4, 3.4.6, 5.2.2, 5.2.2.4, 5.2.2.5, 6.1, 6.3.2, 6.5, 8.1, 8.2, Table 5.2-4, Table 5.2-5, Table 5.2-6, Table 5.2-7, A-32-1, D-6-1.

Intervenor considers the following sections of the SER to be deficient: 2.6.2, 2.6.4, 3.4.2, and 4.0.

Intervenor considers the following sections of the EIA to be deficient: 4.1.2, 5.0, 6.0, Table 4.2.

Intervenor objects to the request for an explanation on the grounds that it requests trial preparation material without the showing of substantial need for the materials required by 10 CFR §§ 2.740(b)(2).

3-6. 10 CFR §§ 20.1 C, 20.106 B, 20.201, Appendix B.

3-7. 10 CFR §§ 50.10 C,1, 50.10 E 2, 50.30 F, 50.40 D, Appendix I.

3-8, 3-9, 3-10, 3-11 are inapplicable since the Licensing Board's Order of September 25, 1979.

3-12. The processing and final disposition of liquid wastes and effluents as mentioned in SGRR 3.3.6.3 and 5.2.2.4. Storage of primary coolant in SER 2.6.4.

3-13. Intervenor objects to this interrogatory. It is argumentative and calls for trial preparation material with out the substantial showing required by 10 CFR §§ 2.740 (b)(1).

Contention 6.

6-1. a. Yes.

b. Dr. Robert Anderson. See response to interrogatory 1-1 (b).

6-2. See response to interrogatory 1-2, and 2-2.

6-3. Not determined at this time.

6-4. Not determined at this time.

6-5. The following sections of the SGRR, SER, and EIA Intervenor considers to be deficient. SGRR: 1.1.5, 1.1.7, 1.4, 3.3.4.4, 3.4, 3.4.1, 3.4.2, 3.4.6, 3.4.7, 3.4.8, 5.2.2, 6.1, 6.2.2, 8.1, 8.2, 8.3.1.1, 8.3.2.6, Table 3.4-1, Table 3.4-4, A-48-1, D-2-1. SER: 2.6.6, 2.7, 4.0. EIA: 4.1.2, 5.4, 6.0, Table 4.2.

Intervenor objects to the request for an explanation on the grounds that it requests trial preparation materials without the showing of substantial need for the materials required by 10 CFR §§ 2.740 (b)(2).

6-6. 10 CFR §§ 50.10C, 50.10E, 50.30F, 50.34A, 50.40D, Appendix I.

6-7, 6-8, 6-9, 6-10, 6-11, 6-12, and 6-13 are no longer applicable since the Licensing Board's Order of September 25, 1979.

Contention 7.

7-1. a. Yes.

b. Dr. Robert Anderson. See response to interrogatory 1-1 (b).

7-2. See response to interrogatory 1-2 and 2-2.

7-3. Not determined at this time.

7-4. Not determined at this time.

7-5. The SGRR, SER, and EIA are inadequate since in the SGRR and EIA there is no mention of installation of a Condensate Polisher Demineralizer System and the reference in the SER consists of a one sentence mention of the system with no analysis of its effects, costs, or details of the system and its installation.

Contention 9.

9-1. a. Yes.

b. Karl Z. Morgan, Arthur R. Tamplin, Walter Goldberg, and Dale Bridenbaugh. See response to interrogatory 1-1(b).

9-2. See response to 1-2 and 2-2.

9-3. Not determined at this time.

9-4. Not determined at this time.

9-5. The following sections of the SGRR, SER, and EIA are deficient: SGRR: 1.1.5, 1.3, 3.3.4.1, 3.3.4.4, 3.3.6.3, 3.4, 3.4.1, 3.4.2, 3.4.5.4, 3.4.6, 3.4.7, 3.4.8, 5.2.2, 5.2.2.1, 5.2.2.2, 5.2.2.3, 5.2.2.4, 5.2.2.5, 6.1, 6.3.2, 6.5, 6.6.3, 8.1, 8.2, 8.3.1.1, 8.3.2.6, Table 3.4-1, Table 3.4-2, Table 3.4-4, Table 5.2-1, Table 5.2-2, Table 5.3-3, Table 5.3-4, Table 5.3-5, Table 5.3-6, Table 5.3-7, A-48-1, and D-6-1. SER: 2.6, 2.6.1.1, 2.6.1.2, 2.6.1.3, 2.6.1.4, 2.6.1.5, 2.6.2, 2.6.3, 2.6.4, 2.6.5, 2.6.6, 2.7, 4.0. EIA: 4.1.2, 5.0, 5.4, 6.0, Table 4.2.

Intervenor objects to the requirement of an explanation of why each section is deficient because it asks for trial preparation material without the showing of substantial need for the materials required by 10 CFR §§ 2.740 (b)(2).

9-6. The witnesses Intervenor intends to call regarding this contention have not completed their analysis of the subject matter at issue in the contention to a sufficient degree of certainty to

provide a definitive answer.

9-7 (a) 10 CFR §§ 20.1C, 20.106, 20.201, 20.301, Appendix B; and (b) 10 CFR §§ 50.34A, Appendix I.

Contention 11.

11-1. a. Yes.

b. Intervenor has no confirmed witnesses as yet.

11-2. See responses to interrogatories 1-2 and 2-2.

11-3. Not determined at this time.

11-4. Not yet determined.

11-5. The following sections of the SGRR, SER, and EIA are deficient: SGRR: 1.1.6, 1.3, 1.4, 3.3.7.1, 3.3.7.2, 3.3.7.3, 4.0, 7.5, 7.6, 7.7, 7.8, and 7.9. The EIA: 4.2, 5.0, 6.0.

Intervenor objects to the requirement of an explanation of why each section is deficient because it ask for trial preparation materials without the showing of substantial need for the materials required by 10 CFR §§ 2.740(b)(2).

11-6. The estimate of $300,000 per day per unit was published in December 1977 and has not been updated since.

11-7. Intervenor has no accurate figures on replacement power costs.

11-8. Not able to be answered at this time.

11-9. The denial of land commitment for the repair project is in the SGRR at 6.2.2.

11-10. Yes, the storage and subsequent leakage of contaminants may render the committed land unusable for an indefinite period of time involving possibly many centuries.

11-11. The environmental report and the cost benefit analysis were based on erroneous information. The decision to approve the repair project by the NRC Staff needs to be reconsidered.

11-12. No.

11-13. See 11-11.

11-14. No.

11-15. See 11-11.

Contention 13

13-1. a. Yes.

b. Dr. Karl Z. Morgan, and Dr. Arthur R. Tamplin. See response to interrogatory 1-1(b).

13-2. See response to interrogatory 1-2 and 2-2.

13-3. Not determined yet.

13-4. Not determined yet.

13-5. The following sections of the SGRR, SER, and EIA are

deficient: SGRR: 1.1.4, 1.1.5, 1.1.6, 3.3.4.1, 3.3.4.3, 3.3.4.4, 3.3.4.5, 3.3.5, 3.3.5.1, 3.3.5.2, 3.3.5.3, 3.3.5.4, 3.3.5.5, 3.3.6.1, 3.3.6.2, 3.3.6.3, 3.3.7.1, 3.3.7.2, 3.3.7.3, 3.4, 3.4.1, 3.4.2, 3.4.5.4, 3.4.6, 3.4.7, 3.4.8, 5.2.2, 5.2.2.1, 5.2.2.2, 5.2.2.3, 5.2.2.4, 5.2.2.5, 6.1, 6.3.2, 6.3.3, 8.1, 8.2, 8.3.1.1, 8.3.2.6, Table 3.3-2, Table 3.4-1, Table 3.4-2, Table 3.4-4, Table 5.2-4, Table 5.2-5, Table 5.2-6, Table 5.2-7, A-32-1, A-33-1, A-40-1, A-40-2, D-2-1, D-6-1. SER: 2.4, 2.5, 2.6, 2.6.1.1, 2.6.1.2, 2.6.1.3, 2.6.1.4, 2.6.1.5, 2.6.2, 2.6.3, 2.6.4, 2.6.5, 2.6.6, 2.7, and 4.0. EIA: 4.1.1, 4.1.2, 5.4, 6.0, Table 4.1, and Table 4.2.

Intervenor objects to the request to explain why each section is deficient on the grounds that it requests trial preparation material without the showing of substantial need for the materials required by 10 CFR §§ 2.740(b)(2).

13-6. The witnesses Intervenor intends to call regarding this contention have not completed their analysis of the subject matter at issue in the contention to a sufficient degree of certainty to provide a definitive answer.

13-7. a. 10 CFR §§ 20.101, 20.102, 20.201, 20.202, 20.301 and Appendix B.

b. 10 CFR §§ 50.34 A, and Appendix I.

Contention 14.

14-1. a. Yes.

b. Intervenor has no confirmed witnesses as yet.

14-2. See response to interrogatory 1-2 and 2-2.

14-3. Not determined yet.

14-4. Not determined yet.

14-5. The following sections of the SGRR and SER are deficient: SGRR: 1.1.6, C-4-1, C-4-2, C-4-3, C-4-4. SER: 3.2.3, and 4.0. The EIA has no mention of radiological hazards from fire.

Intervenor objects to the requirement of an explanation of why each section is deficient because it requests trial preparation material without the showing of substantial need required by 10 CFR §§ 2.740(b)(2).

14-6. Intervenor has no confirmed witnesses for this contention as yet and is unable to answer this interrogatory.

14-7. a. 10 CFR §§ 20.1C

b. 10 CFR §§ 50.34A and Appendix I.

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____. DAY OF _____, 1979.

ORIGINAL NOTARIZED

MARK P. ONCAVAGE, Intervenor

My Commission Expires:

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket Nos. 50-250-SP 50-251-SP
FLORIDA POWER & LIGHT COMPANY	)	
(Turkey Point Nuclear Generating Units Nos. 3 and 4)	)	(Proposed Amendments to Facility Operating License to Permit Steam Generator Repair)
	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the attached Intervenor's Answers to NRC Staff Interrogatories and Request for Production of Documents were served on the following addressees by deposit in the United States mail, express mail, properly stamped and addressed, on the date shown below.

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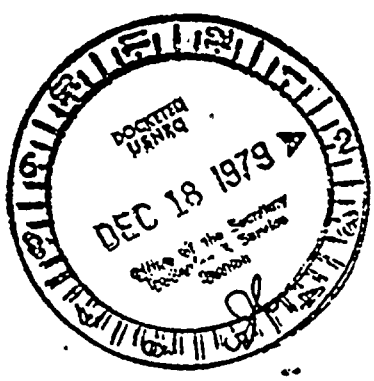

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On this 17th day of December, 1979. Copies of the foregoing were hand delivered to the offices of Norman A. Coll, Esq. on December 17, 1979

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