

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
LOUISIANA POWER & LIGHT COMPANY)	Docket No. 50-382
)	
(Waterford Steam Electric Station,)	
Unit 3))	

APPLICANT'S OPPOSITION TO JOINT INTERVENORS'
MOTION TO COMPEL

On December 6, 1979, Applicant filed objections to certain of Joint Intervenor's Interrogatories related to Contention 22, including Interrogatories 22-4, 22-5, 22-7, and 22-8, 1/ on the ground that the interrogatories were outside the scope of the

1/ The interrogatories read as follows:

Interrogatory 22-4 -- With respect to FSAR, page 3.8-2, against what specific external missiles is the concrete Shield Building designed to protect?

Interrogatory 22-5 -- With respect to FSAR, page 3.8-37, and with reference to Sec. 3.5.1.1 (Internally generated missiles -- outside containment) please advise:

(a) How many temperatures detectors could become internal missiles and their weight;

(b) How many valve stems could become internal missiles and the weight of each;

(c) The restraints on valve stems so that they do not become missiles, how many such valve stems there are, and the weight of each;

(Footnote continued on following page)

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Contention. By motion dated December 21, 1979, the Joint Intervenor moved to compel answers to these interrogatories, stating, among other things, that "these Interrogatories are designed to provide Joint Intervenor with relevant and material information regarding the strength calculations for the concrete in the safety-related structures, and more particularly in the Containment Structure." Motion at p. 2. The information sought is described by the Joint Intervenor at page 3 of their Motion as "engineering and design criterion."

Contention 22 on its face -- as initially raised by Intervenor and as reworded by the Licensing Board -- deals with the quality of concrete construction, not with the adequacy of design.

(Footnote continued from previous page)

(d) How many bolted bonnets there are which may become internal missiles;

(e) How many main steam safety relief valves there are, the size of each, and the weight of each.

Interrogatory 22-7 -- Which formula was used to calculate the minimum concrete wall thickness necessary to prevent penetration by cylindrical missiles, i.e., was the Ballistic Research Laboratory Formula (BLR) or the National Defense Research Council (NDRC) Formula. In your answer, please advise whether this calculation was made before or after the concrete was poured.

Interrogatory 22-8 -- With respect to FSAR page 3.5-13 the NDRC Formula predicts no missile penetration of the Shield Building Wall by Disc No. 3, which is described as the most penetrating missile. Please advise what prediction is made using the BLR Formula.

criteria for construction. In its original form, 2/ Contention 22 alleged defects in "materials, construction and workmanship" in connection with the pouring and setting of concrete used in the construction of Waterford 3. As reworded by the Board in its September 12, 1979 Order (pages 7-8) 3/ following a prehearing conference, Contention 22 is limited to "safety-related concrete construction" (emphasis added). Neither wording of the contention can even liberally be read to question the adequacy of the "engineering and design" of the plant.

In its Order, the Board noted the acknowledgment of Joint Intervenors' counsel that "when drafted, there was no specific basis for this contention, and that it had been predicated upon reports by several members of the Joint Petitioners concerning conversations with various construction employees, who

2/ As originally submitted (see Save Our Wetlands, Inc., and Oystershell Alliance, Inc. Contentions, dated April 11, 1979), Contention 22 stated:

"Applicant has failed to discover, acknowledge, report or remedy defects in materials, construction, and workmanship such as improperly poured and set concrete and concrete poured without required reinforcement during the fabrication of the containment vessel (reactor vessel) and/or related integral systems."

Id. at page 9.

3/ Contention 22 states:

"Applicant has failed to discover, acknowledge, report or remedy defects in safety-related concrete construction."

were unidentified and unknown to him." Order at page 7. Applicant notes that, other than an equally unsubstantiated allegation in a newspaper article, no sound basis for the contention has yet been advanced. In these unusual circumstances, Applicant believes that a close reading of the contention and proposed interrogatories is particularly appropriate.

That Intervenors' concern lies not with design but with construction techniques is supported by the considerable discussion of this issue which took place during the prehearing conference (see Special Prehearing Conference Transcript at pages 101-06), as well as by Joint Petitioners' Arguments Regarding Contested Contentions (pp. 15-16), filed June 1, 1979. At the prehearing, the discussion revolved around allegations by "construction employees" and "cement workers" which were contained in a local newspaper article -- with no mention of issues related to the engineering or design of the plant. The newspaper article, which was later furnished as Exhibit "D" to Intervenors' June 1 filing, quotes three unidentified "construction workers . . . employed as concrete masons at the plant" about "the concrete work at Waterford." Intervenors' arguments in their June 1 filing focus on the article and on alleged failures by the NRC to "communicate[] sufficiently with workers at the sites in order to be able to evaluate deficiencies in construction which are otherwise undiscoverable . . ." (p. 16).

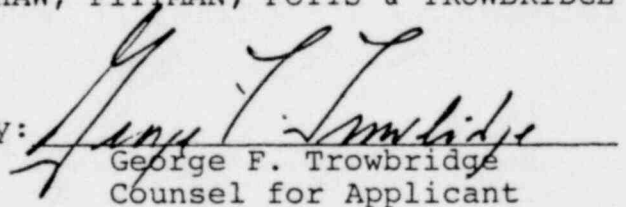
A clear and distinct line can be drawn between the subject matter of these interrogatories, and the remaining interrogatories for Contention 22 to which Applicant is supplying responses. See "Applicant's Responses to Joint Intervenor's Interrogatories 22-1, 22-2, 22-3, 22-6," dated January 7, 1980, copies of which have been served on the Board. The latter seek information on the matter in controversy in Contention 22, i.e., the construction of safety-related structures. In contrast, the contested interrogatories seek information beyond the scope of the Contention, and accordingly, fail to meet the Commission's basic requirement that discovery "shall relate only to matters in controversy which have been identified by the Commission or the presiding officer in the prehearing order" 10 C.F.R. Sec. 2.740(b)(1).

Therefore, the Board should deny Joint Intervenor's Motion to Compel Applicant to respond to Interrogatories 22-4, 22-5, 22-7 and 22-8.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:


George F. Trowbridge
Counsel for Applicant

Dated: January 7, 1980

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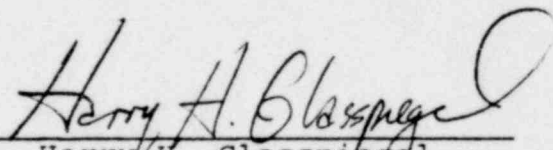
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Opposition to Joint Intervenor's Motion to Compel," dated January 7, 1980, were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this seventh day of January, 1980.



Harry H. Glasspiegel

Dated: January 7, 1980

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SERVICE LIST

Sheldon J. Wolfe, Esquire
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Harry Foreman
Director, Center for Popula-
tion Studies
Box 395, Mayo
University of Minnesota
Minneapolis, Minnesota 55455

Dr. Walter H. Jordan
881 West Outer Drive
Oak Ridge, Tennessee 37830

Henry J. McGurren, Esquire
Office of the Executive Legal
Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Docketing and Service Section (21)
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Lyman L. Jones, Jr., Esquire
Gillespie & Jones
Suite 201
1420 Veterans Memorial Boulevard
Metairie, Louisiana 70005

Stephen M. Irving, Esquire
Suite 1601
One American Plaza
Baton Rouge, Louisiana 70825

Luke B. Fontana
824 Esplanade Avenue
New Orleans, Louisiana 70116

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

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555