

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

APPLICANT'S RESPONSE TO
MARRACK'S CONTENTIONS OF MAY 24

Contention 2 (b) and (c):

401 052

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the effects of transmission lines on certain wildlife and
Petitioner has not challenged these discussions.^{1/}

Applicant's Environmental Report also addresses this issue, and the Board stated that it would seek clarification from the Staff as to whether the FES should be deemed modified to include the Applicant's conclusions. (Order of Feb. 9, p. 50). Contrary to the second part of Mr. Marrack's argument, the Board can amend the FES on the basis of the record. 10 CFR § 51.51 (b)(3).

Mr. Marrack has simply repeated the allegations that no consideration was given to the effects of transmission lines on migratory water fowl. His contention is no more specific than before in alleging deficiencies in Applicant's analysis and should be rejected. He points to the fact that migratory water fowl might appear along the proposed transmission lines but does not provide any specific allegation as to what impacts, if any, will result from the use of the intended routes.

^{1/} In fact, the Applicant accepted the Staff's recommendation in the FES to utilize alternative transmission line route 2C, inter alia, in order to mitigate the potential harm to water fowl in the vicinity of the ACNGS cooling lake. (See, SFES, p. S.5-22).

Contention 3

Mr. Marrack alleges that no consideration was given to secondary impacts. The simple answer to this allegation is that, as the Board previously stated, these impacts have been considered. Extensive findings were made in the PID, 2 NRC at 789-91, and in the FES and SFES. (See, Sections 4.4 and 5.6).

Mr. Marrack is completely oblique as to what he considers to be secondary impacts. The apparent examples (agricultural production, flooding and water supply) were all discussed in detail in the Partial Initial Decision (see paragraphs 26-33; 64-78).

Furthermore, Mr. Marrack made a limited appearance in the prior proceeding and raised an issue regarding secondary social effects (Tr. 40). Based on the record presented in response to these questions, the Board amended the FES and found that problems related to secondary impacts would not affect the cost-benefit analysis in the FES. (PID, paragraphs 56-58). Mr. Marrack's contention has obviously failed to specify how the Board's findings are in error.

Contention 4

Subparts I and III of Contention 4 primarily reiterate the vague and unsubstantiated claims in Contention 2 in the context of consideration of alternatives to

the ACNGS and its proposed transmission lines. The fact remains that Petitioner has not specified a valid contention (Contention 2) with respect to the effects of the ACNGS transmission lines and therefore no basis exists for a contention that alleged impacts will be less at STP or from alternative transmission line routes at ACNGS.

In addition, Subpart I constitutes an unsubstantiated challenge to the Staff's analysis of the STP alternative without specifying the particular aspects of the analysis that are inadequate. Petitioner fails to state the nature of any impacts that allegedly result from "grid connections" or the basis for a contention that any such impacts would be smaller using the STP site. Further, Petitioner does not specifically challenge the Staff's conclusions in the SFES of regarding the STP site as an alternative to ACNGS. (SFES, S.9.2).

Subpart II claims that the Trinity River Basin alternative should be discussed in at least the same or even greater detail than the STP discussion, but fails to specify in what respects the Staff's conclusions with respect to the Trinity River Basin alternative are deficient. In particular, Petitioner fails to state why the Staff's conclusion contained in the FES or SFES is "on its face inadequate" or "utilize(s) questionable logic."

401 055

The argument in Subpart IV as to recirculation of additional environmental data is not a factual issue but rather a conclusion of law without any statement of underlying facts or reasoning. NRC regulations recognize that the FES can be amended by the Board based on the record in the hearing. 10 CFR § 51.51(b)(3).

Contention 6

Contention 6 appears to consist of two subcontentions. First, Petitioner alleges that there are "discrepancies or inconsistencies" between the FES and SFES. The Board has previously held that the contention is vague and unparticularized. Mr. Marrack has done absolutely nothing in his latest filing to explain the alleged discrepancies or inconsistencies.

Second, Petitioner appears to allege that any and all information potentially related to the environmental effects of the ACNGS must be contained in a single document, and that to require a lay person such as Petitioner to read more than one document constitutes a "blatant attempt to avoid environmental full-disclosure and to deny the public a cogent description of the facility and reasonable alternatives upon the environment." The short answer to this argument is that NEPA does not require that all environmentally related information potentially affecting a federal action be included

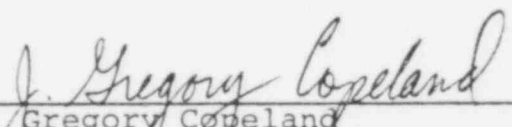
in a single document,^{*/} and the Commission's regulations specifically provide that the final environmental impact statement will be modified by findings and conclusions made by this Board in this evidentiary proceeding. 10 CFR § 51.51(b)(3). Consequently, this contention should be dismissed.

Respectfully submitted,

OF COUNSEL:

BAKER & BOTTS
3000 One Shell Plaza
Houston, Texas 77002

LOWENSTEIN, NEWMAN, REIS,
AXELRAD & TOLL
1025 Connecticut Ave., N.W.
Washington, D. C. 20036



J. Gregory Copeland
C. Thomas Biddle, Jr.
Charles G. Thrash, Jr.
3000 One Shell Plaza
Houston, Texas 77002

Jack R. Newman
Robert H. Culp
1025 Connecticut Ave., N.W.
Washington, D. C. 20036

ATTORNEYS FOR APPLICANT
HOUSTON LIGHTING & POWER COMPANY

^{*/} Trout Unlimited v. Morton, 509 F.2d 1276, 1284 (9th Cir. 1974); Life of the Land v. Brinegar 485 F.2d 460, 468-69 (9th Cir. 1973); Inman Park Restoration Inc. v. Urban Mass Transportation Administration, 414 F. Supp. 99, 120, aff'd, 576 F.2d 573 (5th Cir. 1978).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Marrack's Contentions of May 24 in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 8th day of June, 1979.

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

Dr. E. Leonard Cheatum
Route 3, Box 350A
Watkinsville, Georgia 30677

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

Chase R. Stephens
Docketing and Service Section
Office of the Secretary of the
Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

R. Gordon Gooch, Esq.
Baker & Botts
1701 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

Richard Lowerre, Esq.
Assistant Attorney General
for the State of Texas
P. O. Box 12548
Capitol Station
Austin, Texas 78711

Hon. Charles J. Dusek
Mayor, City of Wallis
P. O. Box 312
Wallis, Texas 77485

Hon. Leroy H. Grebe
County Judge, Austin County
P. O. Box 99
Bellville, Texas 77418

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

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

Steve Sohinki, Esq.
Staff Counsel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

John F. Doherty
4438 1/2 Leeland
Houston, Texas 77023

Madeline Bass Framson
4822 Waynesboro Drive
Houston, Texas 77035

Robert S. Framson
4822 Waynesboro Drive
Houston, Texas 77035

Carro Hinderstein
8739 Link Terrace
Houston, Texas 77025

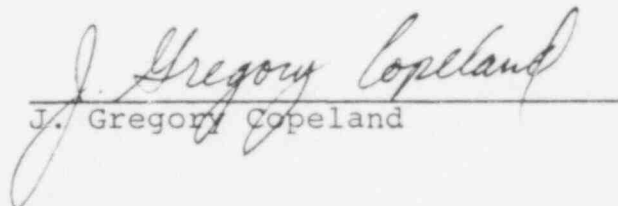
D. Marrack
420 Mulberry Lane
Bellaire, Texas 77401

Brenda McCorkle
6140 Darnell
Houston, Texas 77074

F. H. Potthoff, III
1814 Pine Village
Houston, Texas 77080

Wayne E. Rentfro
P. O. Box 1335
Rosenberg, Texas 77471

James M. Scott, Jr.
8302 Albacore
Houston, Texas 77074


J. Gregory Copeland

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