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May 7, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of )  
 )  
THE CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY, et al. )  
 )  
(Perry Nuclear Power Plant, )  
Units 1 and 2) )

Docket Nos. 50-440  
50-441



APPLICANTS' ANSWER TO OHIO CITIZENS  
FOR RESPONSIBLE ENERGY MOTION FOR  
LEAVE TO FILE ITS CONTENTIONS 17, 18 and 19

Ohio Citizens for Responsible Energy ("CCRE") has submitted three new, untimely contentions which it would have the Licensing Board admit as issues in this proceeding. The contentions deal with the design of the water intake structure, the use of commercial spent fuel for nuclear weapons, and polymer degradation from radiation exposure. Each contention is deficient for a number of reasons, including OCRF's failure to demonstrate good cause as required by 10 CFR § 2.714.

I. CONTENTION 17 - Substratum Placement of Water Intake Structure

This contention asserts that Applicants should discard the existing water intake system at Perry in favor of a system such

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as that installed at the Grand Gulf Nuclear Station. The Grand Gulf intake system, according to OCRE, employs a series of five radial wells in which the water is not directly removed from the river, but rather is obtained through "induced infiltration". OCRE Motion at 2-3. OCRE further contends that the change in the Perry water intake system is needed because the present system "will inflict unacceptable damage to the aquatic ecology of the site and the Central Basin of Lake Erie". Id. at 1.

OCRE does not take issue with the conclusion of the Perry draft Environmental Impact Statement that the impact of entrainment and impingement with the presently installed water intake system will be "minimal and insignificant". NUREG-0884, § 5.5.2.1 at 5-12 (March 1982).<sup>1/</sup> OCRE itself refers to the finding of insignificant impacts. Motion at 2. However, because the impingement/entrainment losses, according to OCRE, "are not negligible", the Grand Gulf alternative design should be installed.

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<sup>1/</sup> OCRE's reference (Motion at 2) to concerns expressed at the construction permit stage of "excessive impingement/entrainment" are not relevant. At the time the Final Environmental Statement - Construction Permit Stage was issued, the Perry plant had a once-through cooling system. The design was changed to a closed-cycle system prior to the construction permit hearing. See Partial Initial Decision, LBP-74-69, 8 AEC 538, 565 (1974).

The contention fails to meet the basis and specificity requirements established by the Commission's regulations and must therefore be rejected. The contention's key defect in this regard is OCRE's failure to provide any basis for believing that the Grand Gulf system is even potentially feasible at Perry. OCRE can only "surmise" and "suspect" that a well system could work at Perry.

This Intervenor surmises that it may be possible for a well system to be successfully employed at Perry, given the construction of additional wells.

OCRE further surmises that the stratigraphy may be quite suitable for collection wells.

Motion at 2-3 (emphasis added). OCRE neither provides any basis for believing that the well system would be applicable to Perry nor even an unsupported assertion of its applicability. OCRE has failed to show any nexus between the Grand Gulf system and Perry. Without such a showing, the contention cannot be admitted. See Memorandum and Order (Concerning Late Filed Contentions: Quality Assurance, Hydrogen Explosion, and Need for Increased Safety of Control System Equipment), dated March 3, 1982, slip op. at 4-5.

As the available documents in both this proceeding and Grand Gulf demonstrate, there is simply no basis for transferring the Grand Gulf well intake system design to Perry. As stated in the Grand Gulf Final Environmental Statement<sup>2/</sup>

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<sup>2/</sup> NUREG-0777, Final Environmental Statement Related to the Operation of the Grand Gulf Nuclear Station, Units 1 and 2, September 1981.

(the same document relied upon by OCRE), the well system involves six radial wells, each of which

is a large, circular reinforced-concrete caisson, installed vertically, and extending down into the alluvial sediment adjacent to the [Mississippi] River. As many as 12 horizontal, screened, 16-in.-diameter pipes, called laterals, extend outward radially from the lower portion of the caisson about 60 m (200 ft) into the alluvial sediment.

NUREG-0777, § 4.2.3, p. 4-3 (emphasis added). At Perry, there is no alluvial sediment. While OCRE "suspects that the stratigraphy at the site may be quite suitable for collection wells," OCRE Motion at 2-3, the documents available to OCRE clearly demonstrate that this suspicion is totally baseless.

The first point is that the bottom of Lake Erie at the Perry site does not have the alluvial sediments found at the Mississippi River at Grand Gulf. As the boring logs set forth in the Perry Final Safety Analysis Report show, the lake bottom is largely bedrock, with only a thin veneer of sediments close to shore. See, e.g., FSAR, Appendix 2E, pp. 2E-246 - 2E-297; § 2.5.4.3.5, p. 2.5-131. Furthermore, the shale bedrock is highly impervious to water infiltration. See, e.g., FSAR, § 2.5.4.3.5, p. 2-130; § 2.5.4.6.2.1, p. 2.5-153; § 2.5.4.6.3, p. 2.5-155; Environmental Report - Operating License Stage, § 2.1.3.7.5, p.2.1-18. So too are the lacustrine and glacial till strata which OCRE speculated "could

lend [themselves] well to the 'induced infiltration' the Grand Gulf plant will employ", OCRE Motion at 3. See, e.g., Draft Environmental Statement (NUREG-0884), § 4.3.4, p. 4-15 (March 1982); FSAR, § 2.5.1.1.7.1.1.g, p. 2.5-42; § 2.5.4.6.2.2, p. 2.5-154; § 2.5.4.6.3, p. 2.5-155. Finally, the documents explicitly state that wells in the Perry vicinity typically yield less than 5 gallons per minute. Staff Safety Evaluation Report - Construction Permit Stage, p. 2-23 (July 1974); Draft Environmental Statement (NUREG-0884), § 4.3.5, p. 4-15 (March 1982); FSAR, § 2.4.12.1, p. 2.4-56, 57, 59, 60. Since, as OCRE admits, plant water use is about 69,400 gpm, about 14,000 wells would be required; this is a far cry from OCRE's unsupported surmise "that it may be possible for a well system to be successfully employed at Perry, given the construction of additional wells." OCRE Motion at 2. Simply put, the conditions at Perry are totally dissimilar to those at Grand Gulf. OCRE's uninformed speculation cannot form the basis for an admissible contention.

In addition to failing to demonstrate that its contention has basis and specificity, OCRE has also failed to show good cause for its lateness.<sup>3/</sup> The information on the

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<sup>3/</sup> The tests which a late filed contention must meet have been set forth previously and will not be restated here. See, e.g., Applicants' Answer to Ohio Citizens for Responsible Energy Motion for Leave to File Its Contention 16, dated December 17, 1981.

Perry intake system and its insignificant environmental impact has been in the FSAR and the Environmental Report for years. OCRE's only justification for its late submission is that the Grand Gulf Final Environmental Statement "was not received by this Intervenor until recently". OCRE Motion at 6. The Grand Gulf FES was issued in September 1981. The Draft Environmental Statement for Grand Gulf was issued in May 1981 and included the same description of the well intake system found in the FES. See Draft Environmental Statement Related to the Operation of Grand Gulf Nuclear Station, Units 1 and 2, NUREG-0777, § 4.2.3 (May 1981). Federal Register notices of the availability of both these reports were published. 46 Fed. Reg. 30923, "Availability of the Draft Environmental Statement for the Grand Gulf Nuclear Station, Units 1 and 2" (June 11, 1981); 46 Fed. Reg. 51330, "Availability of the Final Environmental Statement for the Grand Gulf Nuclear Station, Units 1 and 2 (October 19, 1981). By statute, Federal Register publication constitutes constructive notice. 44 U.S.C. § 1507; Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947); Rodway v. U.S. Department of Agriculture, 514 F. 2d. 809 (D.C. Cir. 1975). Thus, OCRE has had constructive notice of the Grand Gulf intake design since June 1981. Of course, the Grand Gulf FSAR and Environmental Report have contained the information long before June 1981. See, e.g., Grand Gulf Final Safety Analysis Report, § 3.4.5.

Wholly apart from the availability of information on Grand Gulf's use of the well intake system, the concept has been discussed in the publicly available literature for many years. In 1976, the U.S. Environmental Protection Agency published its "Development Document for Best Technology Available for the Location, Design, Construction and Capacity of Cooling Water Intake Structures for Minimizing Adverse Environmental Impact", EPA 440/1-76/015-a, representing EPA's study in compliance with Section 316(b) of the Federal Water Act. See 41 Fed. Reg. 17387 (April 26, 1976). The Development Document describes the well intake system concept as one of the intake system designs which are available, and notes, p. 139,

Radial well intakes have been in service for over 35 years and have been reliable.

Technical literature on this intake method dates back at least to a 1947 publication in the Proceedings of the American Society of Civil Engineering, entitled "River Infiltration as a Source of Ground Water Supply", [73 (6): 837-852].

Thus, by no stretch of the imagination can the existence of this alternative design be called new information. The only thing new is OCRE's belated interest in the issue. This, however, cannot conceivably constitute "good cause". Nor has OCRE made any substantial showing as to the other factors to be considered with respect to a late contention. OCRE has shown no special competence to pursue this issue, as best



illustrated by its failure to perceive the differences between the Mississippi River's alluvial sediments and the Lake Erie shale. OCRE also has another forum for raising these issues. Under Section 316(b) of the Federal Water Act, made applicable in Ohio by Ohio Revised Code R.C. 6111.02, the appropriateness of the intake design is a matter for the Ohio Environmental Protection Agency and the U.S.E.P.A. to decide in a separate proceeding in which OCRE will have the opportunity to participate.<sup>4/</sup>

For all of these reasons, OCRE has failed to establish the admissibility of Contention 17 or good cause for its tardy submission.

## II. CONTENTION 18 - Use of Commercial Spent Fuel For Nuclear Weapons

OCRE has also moved to supplement its Petition to Intervene to add a new contention entitled "Use of Commercial Spent Fuel for Nuclear Weapons." As its basis for the contention, OCRE postulates that Applicants' spent fuel may be used for nuclear weapons. Such potential use, OCRE believes, should

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4/ In fact § 511(c)(2) of the Federal Water Act, 33 U.S.C. 1371(c)(2), would appear to prohibit NRC from establishing a requirement (such as an alternate intake design) different from one approved by EPA. See Tennessee Valley Authority (Yellow Creek Nuclear Plant, Units 1 and 2), ALAB-515, 8 N.R.C. 702 (1978) (NRC may not establish water quality monitoring conditions different than those established by under the Federal Water Act).



be considered by the Licensing Board pursuant to the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. § 4332.

The simple and dispositive answer to OCRE's request is that NRC regulations expressly prohibit consideration of this type of contention in licensing proceedings. 10 C.F.R. § 50.13 provides as follows:

An applicant for a license to construct and operate a production or utilization facility, or for an amendment to such license, is not required to provide for design features or other measures for the specific purpose of protection against the effects of (a) attacks and destructive acts, including sabotage directed against the facility by an enemy of the United States, whether a foreign government or other person, or (b) use or deployment of weapons incident to U.S. defense activities. (emphasis added)

It has been held that 10 C.F.R. § 50.13 is applicable to both the NRC's NEPA and Atomic Energy Act responsibilities, and that the regulation prohibits consideration of its subject matter in licensing proceedings. See Long Island Lighting Co. (Shoreham Nuclear Power Station), ALAB-156, 6 A.E.C. 831, 851 (1973); accord, Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-218, 8 A.E.C. 79, 81 n.7 (1974); see also Consolidated Edison Co. of New York, Inc. (Indian Point Station, Unit 2), ALAB-202, 7 A.E.C. 825, 829-30 (1974), affirmed on point, CLI-74-23, 7 A.E.C. 947, 948 n.2 (1974); Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), LBP-79-6, 9 N.R.C. 291,

324-25 (1979); see generally Siegel v. Atomic Energy Comm'n, 400 F.2d 778 (D.C. Cir. 1968). Because Contention 18 effectively would require Applicants "to provide for . . . measures for the specific purpose of protecting against the effects of . . . use or deployment of weapons incident to U.S. defense activities," the contention cannot be admitted.

Even if the contention were not inadmissible under 10 C.F.R. § 50.13, OCRE has failed to provide any basis for admitting the contention. See 10 C.F.R. § 2.714(b). OCRE asserts that from certain "indications," it appears that a plan may be enacted "in the near future" to use Applicants' spent fuel for nuclear weapons. Quite to the contrary, all available indications suggest that Applicants' spent fuel will not be used for nuclear weapons. On March 30, 1982, the United States Senate, by a vote of 88 to 9, passed an amendment to the NRC Authorization Bill, H.R. 2330, prohibiting the transfer, use, or reprocessing of special nuclear material from commercial nuclear power plants for weapons purposes.<sup>5/</sup> 128 Cong.Rec. S2959 - S2966, S2978 - S2981. OCRE thus is asking this Board

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5/ The amendment reads as follows:

Add a new subsection 57(e) to the Atomic Energy Act, as amended, as follows: "Special nuclear material, as defined in Section 11, produced in facilities licensed under Section 103 or 104 may not be transferred, reprocessed, used or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes".

to assume a situation that OCRE concedes is not current policy and that the Senate has moved affirmatively to prohibit.<sup>6/</sup>

Contention 18 not only is without factual basis--it lacks any logical foundation. OCRE asks this Board to incorporate in the NRC's NEPA analysis the environmental costs of using spent fuel for nuclear weapons. Even assuming that such an environmental assessment could realistically be made,<sup>7/</sup> OCRE's underlying assumption is without merit. OCRE apparently believes that if spent fuel from commercial power plants is not available for this nation's nuclear weapons program, there will

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6/ OCRE concedes that "the use of commercial spent fuel to make nuclear armaments is not current policy." OCRE Motion at 4. It, nevertheless, contends that since "it is difficult to predict events 40 years hence," the contention should be admitted. If the mere possibility of statutory or regulatory change over the next forty years were a sufficient basis to admit a contention, it is difficult to conceive of any issue--no matter how fanciful--that could not be brought into the licensing process. Indeed, under such a standard, the validity of every Commission rule could be litigated; for what regulation is wholly immune from the possibility of change over the next forty years? This type of speculative inquiry has no proper place in a NEPA analysis. Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 551 (1978).

7/ Arguably, such an analysis would require the Licensing Board to assess both the increased risk and total environmental cost of a nuclear war.

Even if the Licensing Board should attempt to conduct the NEPA analysis OCRE requests, because much of the necessary information is classified, it is unlikely that the Licensing Board could make a realistic assessment of the involved environmental impact. See generally Weinberger v. Catholic Action of Hawaii/Peace Education Project, 102 S.Ct. 197 (1981).

be insufficient plutonium to arm this nation's nuclear weapons. OCRE thus concludes that the availability of spent fuel increases the number of nuclear weapons the United States possesses, thereby creating an environmental cost that must be analyzed under NEPA. OCRE's entire argument is predicated on its mistaken assumption that the number of nuclear weapons the United States possesses is a function of available spent fuel from commercial power plants.

OCRE has not provided any support for its fantastical argument that the United States' nuclear weapons program is or ever will be limited by the availability of spent fuel from commercial power plants. The simple reality is that the number, magnitude and type of weapons in this nation's nuclear arsenal are determined by international and domestic political considerations, and not the availability of commercial spent fuel. This point was made clear in the Senate debates on the above discussed amendment to the NRC Authorization Bill restricting the use of commercial spent fuel for nuclear weapons. See note 5, supra. In his defense of the amendment, Senator Hart, the leading sponsor and floor manager of the measure, made the following statement:

[T]his amendment would not in any way interfere with this administration's plans to expand this Nation's nuclear weapons arsenal, if it is agreed by Senators that that is desirable in terms of this country's overall policy. In a briefing for members of the Subcommittee on Nuclear Regulation, a DOE representative said that current DOE efforts

to increase the production of plutonium will satisfy current U.S. nuclear weapons production plans. Moreover, if extraordinary circumstances should arise in which the United States required additional plutonium beyond the amounts currently projected, the DOE has several options for supplying that need other than extracting the plutonium in commercial spent reactor fuel.

128 Cong.Rec. S2959 (March 30, 1982).

These remarks concerning DOE projections were echoed by Senator Simpson in his statement:

[I]n discussing projected materials requirements and production capabilities for the atomic energy defense program, it became quite apparent that, based upon presently identified stockpile needs, the Department's material requirements can be met without having to resort to spent fuel from commercial power reactors as a source of plutonium.

Id.

Even more pertinent is a Department of Defense letter to Senator Tower reprinted in full in the Congressional Record. That letter states that although many initiatives are being pursued to increase production of plutonium, present planning "does not include the use of special nuclear materials produced in NRC licensed facilities." Indeed, the letter categorically states that "[n]o proposals to take such a step are under active consideration." Id. at S2960.<sup>8/</sup>

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<sup>8/</sup> See also the remarks of Senator Glenn at S2964 - S2966, in which he explains in detail why there is more than sufficient plutonium for this nation's nuclear arms program without use of commercial spent fuel.

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Finally, OCRE's request for NEPA review is in contravention of established case law on the proper timing for such review. It is well established that NEPA review of a particular agency action is only required once that action has been submitted as an agency proposal. See, e.g., Kleppe v. Sierra Club, 427 U.S. 390 (1976); Aberdeen & Rockfish R.R. Co. v. Students Challenging Regulatory Agency Procedures ("S.C.R.A.P. II"), 422 U.S. 289 (1975). As recently reaffirmed by the Supreme Court in Weinberger v. Catholic Action of Hawaii/Peace Education Project, supra, "an EIS need not be prepared simply because a project is contemplated, but only when the project is proposed." 102 S.Ct. at 203 (emphasis in original). Here, OCRE requests review of a postulated federal action--the use of commercial spent fuel for nuclear weapons--that cannot in any sense be considered as having been "proposed" within the meaning of NEPA. If and when such use should be proposed, NEPA review may be necessary (though the NRC may not be the appropriate agency to conduct that review). But NEPA review at this time is clearly inappropriate--there simply is no cognizable proposal to review.<sup>9/</sup>

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(Continued)

In this regard, it should be noted that the technology needed to make use of commercial spent fuel for nuclear weapons does not even appear to be available at this time. Id. at S2980 (remarks of Senator Simpson).

<sup>9/</sup> The rule established by the Supreme Court in Kleppe and S.C.R.A.P. II on the proper timing of NEPA review is related to

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In sum, OCRE has provided no factual or legal basis for Contention 18 that would justify its admission. Simply put, OCRE postulates an unrealistic hypothetical and asks the Licensing Board to conduct a difficult and costly analysis of the possible environmental impact of that hypothetical. NEPA, however, does not require agencies to explore "remote and speculative possibilities;" it contemplates no more than an environmental analysis of "circumstances as they exist and are likely to exist." Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-562, 10 N.R.C. 437, 446 (1979). Should OCRE's postulated hypothetical ever reach the status of an actual proposal--something that appears unlikely at this time--OCRE and other interested parties will have their opportunity to seek the appropriate NEPA review. Contention 18 cannot be admitted.

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(Continued)

the doctrine of ripeness. See generally 3 K. Davis, Administrative Law Treatise §§ 21.01 - 21.10 (1958). As with ripeness, the Kleppe rule precludes challenges to agency actions that have not yet actually manifested themselves. Unless NEPA review is limited to submitted agency proposals, intervenors could require NEPA review of virtually any hypothetical environmental impact--no matter how speculative and unreal the postulated events may be. One of the distinct advantages of the Kleppe rule is that the substantial administrative costs of a NEPA review will not have to be incurred by an agency until it is determined that there is an actual need for such review; that is, until there is an actual agency proposal.



### III. CONTENTION 19 - Polymer Degradation from Radiation Exposure

OCRE's third proposed untimely contention alleges that radiation-induced embrittlement of polymers, especially those used as electrical insulation, may compromise plant safety. OCRE bases this contention upon a brief news article which appeared in the March 27, 1982, issue of Science News. The article reported on tests done at Sandia National Laboratories which found that radiation-induced degradation from the same cumulative exposure occurs faster at low dose rates than at high dose rates.

This is not the first time that OCRE has relied upon a news report to justify an untimely contention. OCRE's proposed late contention on core catchers was justified in the same manner. The Licensing Board properly excluded that contention based on OCRE's failure to show good cause.

We agree with applicant that the appearance of a newspaper article does not in and of itself create cause for late filing under the criteria set forth in § 2.714. The information reflected in the cited article is not new. The idea of a core catcher is more than a decade old. Consolidated Edison Co. of N.Y. (Indian Point Station Unit No. 2), LBP-72-16, 5 AEC 43, 52 (1971). The idea of using the core catcher for the floating nuclear plant was included in the draft Final Environmental Statement (Part III) issued in May 1978.

We agree with applicant that permitting a newspaper article, reflecting information widely available previously, to be good cause for late filing would virtually wipe out the requirement of

cause. This is unlike the appearance of a scholarly article containing new analysis.

Memorandum and Order (Concerning Late-Filed Contentions: Waste Disposal and MgO<sub>2</sub> Bricks), dated February 26, 1982, slip op. at 4.<sup>10/</sup>

As with the core catcher contention, the effect of radiation dose rate on polymer degradation has been discussed in the published literature for many years. The dose rate question is covered in standard texts, published papers and other sources as well. A quick, and certainly non-exhaustive, search has identified the following discussions of this subject.

1. Chapiro, Radiation Chemistry of Polymeric Systems (1962), pp. 360-61, 387, 425-26.
2. Makhlis, Radiation Physics and Chemistry of Polymers (1975), pp. 151-54.
3. Schnabel, "Degradation by High Energy Radiation", in Jellinek, Aspects of Degradation and Stabilization of

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<sup>10/</sup> Unlike OCRE's late filed contention on electro-magnetic pulse, which was supported by "scholarly article containing new analysis", the Science News article relied upon to support OCRE's proposed Contention 19 is a short news report, with neither analysis nor scholarship.

Polymers (1978), pp. 169, 172 (citing published studies dating back to 1955).

4. Kuriyama, "Effects of Dose Rate on Degradation Behavior of Insulating Polymer Materials", IEEE Trans. on Electrical Insulation, vol. EI-14, no. 5 (1979).

The issue is also identified in industry standards and specifications.

1. IEEE 278-1967, "Electrical Insulating Materials Exposed to Neutron and Gamma Radiation" (1967), p. 4 ("there is evidence that radiation effects are not independent of exposure rate. For example, radiation-induced oxidation of the material can become an important damage mechanism at lower exposure rates and consequently longer exposure times").
2. ASTM D 2953-71, "Standard Classification Systems for Polymeric Materials for Service in Ionizing Radiation" (1971), para. 3.4.

Both these documents are cited in the current environmental qualification standard, IEEE-327-1974, para. 6.3.4 As in the case of OCRE's proposed Contention 17, the issue is not new, only OCRE's interest in it. The Sandia experiments merely provide additional test results. And those results were published a year ago. See Gillen & Clough, "Occurrence and Implications of Radiation Dose-Rate Effects for Material Aging Studies", NUREG/CR-2157 (June 1981).

Nor is OCRE helped by a consideration of the other factor to be evaluated for late filed contentions. As in the core catcher contention, Memorandum and Order, dated February 26, 1982 at 5, OCRE has shown no special competence to pursue this issue. Nor has OCRE indicated why the pending rulemaking on Environmental Qualifications of Electric Equipment for Nuclear Power Plants, 47 Fed. Reg. 2876 (January 20, 1982) is not satisfactory as a forum for its concerns.<sup>11/</sup> OCRE has simply failed to meet the standards required to justify admission of this late-filed contention.

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<sup>11/</sup> The proposed rule contains language which would appear to address the issue raised by OCRE

The radiation environment [used in the environmental qualification program] must be based on the type of radiation and the dose and dose rate of radiation expected during normal operation over the installed life of the equipment plus the radiation environment associated with the most severe design basis event. . . .

Proposed § 50.49 (d)(4), 47 Fed. Reg. at 2878.

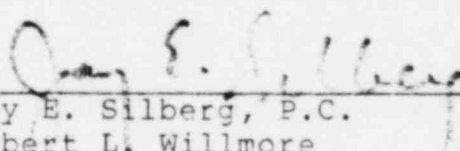
One other point is worth noting. The concern expressed in the Science News report is with radiation effects on polymers at dose rates which "more closely simulate the nuclear power plant environment." Attachment 3 to OCRE Motion. Many commercial reactors have already operated for long periods of time -- for example, 21 years in the case of Yankee Rowe. If degradation has actually been occurring in commercial reactors, it would already have been manifested. If it is to occur in the future, it will certainly occur in plants that have operated for long periods before it happens at Perry. Thus, the plants already operating constitute a built-in surveillance program for the type of low-dose rate degradation described by OCRE.

In sum, OCRE has failed to justify admission of its untimely Contention 19.

Respectfully submitted,

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Dated: May 7, 1982

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing  
"Applicants' Answer To Ohio Citizens For Responsible Energy Motion  
For Leave To File Its Contentions 17, 18 and 19", were served by  
deposit in the U.S. Mail, First Class, postage prepaid, this  
7th day of May 1982, to all those on the attached Service List.

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Jay E. Silberg, P.C.

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