

5/23/83

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE
ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

U.S. DEPARTMENT OF ENERGY)
PROJECT MANAGEMENT CORPORATION)
TENNESSEE VALLEY AUTHORITY)

Docket No. 50-537

(Clinch River Breeder Reactor Plant))

APPLICANTS' MOTION FOR
PARTIAL SUMMARY DISPOSITION ON
INTERVENORS' CONTENTIONS 9(c) AND 9(f)

Pursuant to 10 C.F.R. §2.749, the United States Department of Energy and Project Management Corporation, for themselves and for the Tennessee Valley Authority (the Applicants), hereby file this Motion for Partial Summary Disposition on Intervenor's Contentions 9(c) and 9(f) to the extent that they place in issue: (1) the adequacy of the evacuation time analysis contained in the PSAR, and (2) the 10 mile plume exposure pathway Emergency Planning Zone (EPZ). */
In support of this motion, Applicants show the following:

*/ Applicants understand that pursuant to 10 C.F.R. §2.749(a) any other party may serve an answer supporting or opposing this motion within twenty days after service of the motion.

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1. Intervenor's Contentions 9(c) and 9(f) allege the following:

Neither Applicants nor Staff have demonstrated that Applicants' plans for coping with emergencies are adequate to meet NRC requirements.

(c) The PSAR contains insufficient analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations, nor does it note major impediments to the evacuation or taking of protective actions.

(f) Applicants' proposed emergency plans fail to take into account the special measures necessary to cope with a CDA, including the need for increased protective, evacuation and monitoring measures, reduced response time and special protective action levels.

2. In the May 6, 1983, Response of Intervenor's Natural Resources Defense Counsel, Inc., and the Sierra Club to Applicants' 10th Set of Interrogatories, the Intervenor's made the following admission:

Admission

4. The basis for Intervenor's contention 9(c) that the PSAR contains insufficient analysis of the time requirement to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent population, is that the PSAR analysis of evacuation times is limited to a ten mile EPZ.

Response

4. Admit.

Id. at 9-10.

3. In the May 12, 1983 Deposition of Dr. Thomas Cochran by the counsel for the NRC Staff, Dr. Cochran confirmed that Contention 9(c) does not challenge the adequacy of the PSAR evacuation time analysis, see, PSAR, Section 13.3, Appendix 13.3A, and that Intervenor's objection to these evacuation time analyses is that evacuation beyond ten miles should have been considered. This is demonstrated by the following exchanges contained in the deposition transcript:

Cochran Deposition, TR 74

Q. As I understand the interrogatory, it relates to contention 9C, a contention that has not been withdrawn. I would ask you if there is anything further that you can or what your answer might be to the interrogatory with this in mind.

A. Well, with respect to 9C, our only point is that they need to consider evacuation beyond ten miles.

Q. You are not contending then that the analysis of evacuation times within the ten-mile EPZ is inadequate?

A. That is right. Correct me if you think I am wrong, but I believe that was clarified in some responses to the Applicant's questions.

Cochran Deposition, TR 123-124

Q. In contention 9C, you state that the PSAR contains an insufficient analysis of the time required to evacuate various sectors and

distances within the plume exposure pathway EPZ for transient and permanent populations?

A. Yes.

Q. Is there anything that comes to mind as to the inadequacy of the PSAR analysis aside from the fact that it uses the 10 mile EPZ concept?

A. No. But unless they put more reliance on the staff's independent analysis of that in the SER than I do on the PSAR.

Q. Is there anything in the staff's SER discussion?

A. No, I have already answered that. The answer is no, other than the one exception.

Q. And that exception relates to?

A. The 10 mile distance. Whether that is appropriate in light of the potential dosage.

4. By Intervenors' own admissions, Contention 9(c) does not challenge the adequacy of the PSAR analysis of the evacuation times for the 10 mile plume exposure pathway EPZ. Intervenors' only basis for their contention that the PSAR's analysis of evacuation time requirements is "insufficient" is the Intervenors' belief that the EPZ should extend beyond 10 miles.

5. Intervenors admit that their challenge to the adequacy of the 10 mile plume exposure pathway for the CRBRP in Contentions 9(c) and 9(f) is based on their belief that the 10 mile EPZ established for LWRs may not be appropriate. In the May 13, 1983 Deposition of Thomas Cochran by Applicants, the following exchange took place between Dr. Cochran and Applicants' counsel:

Q. At the present time we have your belief that ten miles -- let me take that back -- your belief that there are serious dose consequences beyond ten miles for LWR's and hence one would expect, given the similarity in doses or consistency in dose consequences at Clinch River, that Clinch River would also be -- should have an EPZ greater than ten miles?

A. I agree with that statement. My only caveat is that I would not conclude that if it were determined that I am incorrect with regard to the appropriate EPZ on a light water reactor and that the appropriate EPZ should be ten miles for a light water reactor, that therefore by the same token it would also be the appropriate EPZ for Clinch River.

Q. Right, right. Understood, with that caveat. That essentially is the basis at this point for your analysis and your conclusion that you need a greater than ten-mile EPZ for Clinch River?

A. Right.

TR 8-9.

6. At this time, Intervenors cannot point to any basis for the proposition that a 10-mile EPZ would not be adequate for CRBRP. 10 C.F.R. Part 50, Appendix E states that generally the size of the plume exposure pathway EPZ "shall consist of an area about 10 miles (16 km) in radius." The regulation allows the exact EPZ boundaries to be determined "in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography,

land characteristics, access routes, and jurisdictional boundaries." Id. n. 2. */

7. 10 C.F.R. §2.758(a) provides that "any rule or regulation of the Commission, or any provision thereof, issued in its program for the licensing and regulation of production and utilization facilities . . . shall not be subject to attack by way of discovery, proof, argument, or other means in any adjudicatory proceeding involving initial licensing subject to this subpart"

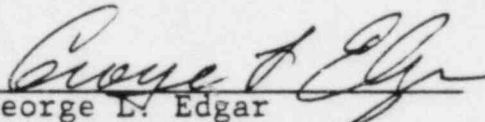
8. In regard to the PSAR evacuation time analysis, Intervenors have admitted that their only basis for challenge is that a plume exposure EPZ larger than 10 miles should have been used. The basis for challenge to the 10-mile EPZ is, in turn, their belief that the 10-mile EPZ prescribed by 10 C.F.R. Part 50, Appendix E, is inadequate. Since there are no genuine issues of material fact to be heard concerning the PSAR evacuation time estimates, and since Intervenors challenge to the adequacy of the 10-mile EPZ constitutes an impermissible


*/ The regulations, however, do allow for reductions of the 10-mile EPZ for relatively low power LWR's (250 MW thermal or less) based on projected doses consequences for such facilities. 10 C.F.R. Part 50, Appendix E, n. 2.

challenge to the Commission's regulations, the Board should enter an Order pursuant to 10 C.F.R. §2.749(a) dismissing Contentions 9(c) and (f) to the extent that those contentions challenge: 1) the adequacy of the PSAR evacuation time analysis; and 2) the 10-mile plume exposure EPZ.

9. A statement of material facts as to which there is genuine issue to be heard in annexed to this motion.

Respectfully submitted,


George L. Edgar
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Management Corporation


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U. S. Department of Energy

DATED: May 23, 1983

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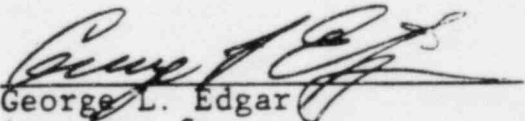
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