

A circular postmark with a clock-like border. The text inside the circle reads "MAY 23 1983" at the top, "Office of the Secretary" in the middle, and "Cockburn & Service" at the bottom. The word "BOARD" is partially visible on the left edge of the stamp.

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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(EMERGENCY ACTION LEVEL SCHEME/WORKER NOTIFICATION)

Pursuant to 10 C.F.R. § 2.749, Applicant moves the Atomic Safety and Licensing Board for summary disposition of Reed Contention 4. As grounds for its motion, Applicant asserts that there is no genuine issue of material fact to be heard with respect to Contention 4, and that Applicant is entitled to a decision in its favor on that contention as a matter of law.

This motion is supported by Applicant's Statement of Material Facts as to Which There is No Genuine Issue to be Heard (Contention 4), the Affidavit of John W. Baer on Reed Contention 4 (Emergency Action Level Scheme/Worker Notification) (hereafter "Baer Affidavit"), Applicant's Memorandum of Law in Support of Motions for Summary Disposition

on Emergency Planning Issues, the Callaway County/Fulton Radiological Emergency Response Plan ("Callaway/Fulton Plan"), the Osage County Radiological Emergency Response Plan ("Osage Plan"), the Gasconade County Radiological Emergency Response Plan ("Gasconade Plan"), the Montgomery County Radiological Emergency Response Plan ("Montgomery Plan"),^{1/} and the (Union Electric Company) Callaway Plant Radiological Emergency Response Plan, together with all pleadings and other papers in this proceeding.

I. Procedural Background

Reed Contention 4, entitled "Emergency Action Level Scheme/Worker Notification," states as follows:

No emergency action level scheme is included in proposed off-site Plan or SOP for Montgomery County as required by 10 CFR, Part 50 Section 50.47(b)(4) or emergency worker notifications as required by Section 50.47(b)(5). The Off-site Plan and the SOP for Montgomery County (also, Gasconade, Osage and Callaway counties) do not include specific actions to be taken by response personnel when they are alerted/notified or is there an indication of duty stations to which they report to perform said duties.

A. Notification (SOP, Proc. 4) and notification notices (SOP, pgs. 4-4, 4-6, 4-9, 4-10, 4-13, 4-14) indicate call-up of supervisory personnel only and do not indicate when augmentation (worker) personnel will be notified/alerted to report to work (man road-blocks, traffic

^{1/} The Callaway/Fulton, Osage, Gasconade and Montgomery Plans are also referred to collectively as "the local plans."

control points, activate communications networks, perform EOC functions or other administrative duties as outlined above).

B. Planning standards of 10 CFR, Part 50, Section 50.47(b) are addressed by specific criteria in NUREG 0654 FEMA-REP-1 (see footnote no. 1, 10 CFR, page 50-16). NUREG 0654 FEMA-REP-1, Rev. 1 (hereafter identified as NUREG 0654) at page 29, lines 10-12, states:

"- - plans should make clear what is to be done in an emergency, how it is to be done and by whom." (emphasis added by the undersigned)

C. Plans/SOPs indicate what is to be done by some principal response organizations, but fail to specify how it is to be done and does not indicate who performs specific duties. The timing of actions in a given scenario is the key to efficient operations and failure to indicate when the operations force (workers) is to be activated is inconsistent with the aim of achieving efficient emergency response and poses a potential hazard to public health and safety. Failure to indicate where personnel should report to perform duties may lead to needless confusion and delay in initiating the response effort in that they provide a method of assuring response roles are accepted and filled over the lifetime of the plan; during which elected officials and individuals/officials in private organizations can be expected to change. Annual update of letters of agreement is a method of overcoming these kinds of difficulty. Plus, it shows that the responsible individual is aware of his task and its requirements.

Final Particularization of Reed's Amended Contentions 1, 2 and 3 (Oct. 1, 1982), at 15-17. The Board admitted Reed Contention 4 in its Memorandum and Order (Specification of Contentions), dated December 7, 1982.

II. Governing Legal Standards

Mr. Reed cites in Contention 4 the sections of the NRC's regulations which set the standards for local off-site radiological emergency response plans relevant to the establishment of an emergency action level scheme and the notification of emergency workers -- 10 C.F.R. §§ 50.47(b)(4) and 50.47(b)(5).

The applicable language of section 50.47(b)(4) requires that "[a] standard emergency classification and action level scheme . . . is in use by the nuclear facility licensee, and State and local response plans call for reliance on information provided by facility licensees for determination of minimum initial offsite response measures." The relevant implementing evaluation criteria (II.D) provided by the Federal Emergency Management Agency ("FEMA") and NRC^{2/} are that:

3. Each State and local organization shall establish an emergency classification and emergency action level scheme consistent with that established by the facility licensee.

4. Each State and local organization should have procedures in place that provide for emergency actions to be taken which are consistent with the emergency actions recommended by the nuclear facility licensee, taking into account local offsite

^{2/} NUREG-0654, FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants." This document provides regulatory guidance on means to satisfy the standards of 10 C.F.R. § 50.47(b). See Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1460 (1981), aff'd, ALAB-698, 16 N.R.C. ___, slip op. at 13-15 (Oct. 22, 1982).

conditions that exist at the time of the emergency.

NUREG-0654 at 42.

The applicable language of section 50.47(b)(5) requires that "[p]rocedures have been established . . . for notification of emergency personnel by all organizations." The relevant evaluation criterion (II.E.2) in the NRC/FEMA guidance is that "[e]ach organization shall establish procedures for alerting, notifying, and mobilizing emergency response personnel."

NUREG-0654 at 43.

III. Argument

The language of Reed Contention 4, as well as the information gleaned from discovery, make it clear that the contention is not meant to address the State Plan, notification to the public, or communications systems. Rather, the contention raises the following two related allegations:

a. That the local plans do not include an emergency classification level scheme that would indicate what emergency actions are to be taken at a given emergency classification; and

b. That the local plans do not specify when and how emergency response personnel are to be notified and mobilized at a given emergency classification level, and that they do not provide sufficient detail as to what emergency personnel are expected to do at a given emergency classification level.

A. Emergency Classification and Action Level Scheme

Annex C of the local plans, entitled "Emergency Classification System and Associated County [/City] Response Activities," establishes an emergency action level scheme that is consistent with the emergency action level scheme of the Callaway Plant Radiological Emergency Response Plan, section 4.1. Annex C defines the emergency classification levels and delineates the emergency functions to be performed at each classification level. The defined offsite emergency functions are consistent with those suggested by NUREG-0654, Appendix 1. Annex C establishes the timing for the emergency response, and determines when specific emergency functions will be implemented. Baer Affidavit, ¶ 7.

Mr. Reed does not contend that the action level scheme in the local plans is inconsistent with that of the Callaway Plant. In fact, as the following exchange (between Staff counsel and Mr. Reed) illustrates, Mr. Reed questions not the classification, but the level of detail provided on the implementation of functions:

BY MR. PERLIS:

Q Let's go to D-1. First of all, I have a general question.

A Okay.

Q I would like to know how you define emergency action level schemes?

A Okay. In your book here, you list --

Q Which book is that?

A Well, 0654 listed it as an alert, an unusual event, an alert, site emergency and a general emergency. I find that those are acceptable within those parameters and that's why I said, let's see, standard emergency classification system has been established, and, well, I guess that's the -- that's what I would agree exists, is the emergency classification system, but an emergency action level scheme is the functions that are required to be performed within each of those things, and it had to be more than just a general statement.

If it says that the sheriff will provide services as needed, I think it should be a little more clearly defined. If the sheriff is to call up his reserves and to get them at positions prior to sounding the alarms, then that's a function that should be included, to have the sheriff's people standing around with a sheriff -- well, I have got a woman here -- where he could have his thumb -- if the sheriff doesn't have general guidance as to what must be done -- do you remember, we are setting something up for 40 years and these people are going to be changing, and they are not quote, professionals, unquote, they are guys who have simply said, "I would like to have the job," and they got it; they have no prior training in some cases. They come straight off of a tractor and they get them a job at the county courthouse because they were the most popular guy in the county. He has no more idea what he's doing when it comes to a establishing a perimeter of defense than a basic recruit.

Dep. Tr. 82-84 (Aug. 18, 1982).

It is apparent that Mr. Reed misunderstands the purpose and intent of this portion of the local plans. Annex C of the local plans is not meant to provide emergency workers with an explanation of how to execute tasks. ~~Rather, this section of~~

the plan is designed to identify the actions which must or may be taken at each classification level. The description in Annex C of the actions to be taken by local authorities is fully consistent with the level of detail included in the examples provided in Appendix 1 to NUREG-0654.

The other annexes to the local plans establish concepts of operation and assign organizational responsibilities for each of the emergency functions delineated in Annex C. Specific actions to be taken by emergency personnel at any emergency classification level will be detailed in the implementing procedures listed in Appendix 3 to the local plans. The procedures will be structured by emergency classification levels consistent with Annex C of the plans, and will specify how and by whom emergency functions are to be carried out at a given emergency classification level. Training of off-site emergency workers in their respective emergency tasks will be based on the implementing procedures. Baer Affidavit, ¶ 8.

In short, there is no question but that the emergency action level scheme in the local plans complies with 10 C.F.R. § 50.47(b)(4) and implements the guidance of NUREG-0654 planning criteria II.D.3, II.D.4 and Appendix 1.

B. Emergency Worker Notification

Annex D of the local radiological emergency response plans establishes methods of emergency worker notification. Annex D provides that ~~the Callaway/Fulton~~ Emergency Communications

Center (ECC) dispatcher will receive initial notification of an emergency classification declared at the Callaway Plant. The ECC dispatcher will then relay notification to Sheriff's dispatchers of other risk counties. According to their respective notification procedures, the dispatchers will initiate calls to designated emergency personnel of each emergency response agency. The call out sequence will be organized in the notification implementing procedure by emergency classification level. The procedure will include primary and alternate emergency contact persons for each response agency along with emergency telephone numbers. Baer Affidavit, ¶ 9.

Annex D provides that designated county/city emergency personnel in each response agency will notify and will mobilize augmentation personnel and resources as they are needed to perform specific emergency functions. Implementing procedures will contain resource lists specifying resources that are available to support emergency functions. The designated emergency personnel of each response agency will determine what tasks need to be performed according to the implementing procedures and will assign personnel to duty stations as they are required. Baer Affidavit, ¶ 10.

Implementing procedures and emergency worker training will inform emergency workers of emergency actions that are required in addition to normal and routine duties. These actions ~~include such things as~~ acquisition and use of personal

dosimetry, the recording of dosimetry readings, decontamination procedures, and other actions beyond those normally performed by the emergency worker. Baer Affidavit, ¶ 11.

These provisions in the local plans fully comply with 10 C.F.R. § 50.47(b)(5) and implement the guidance of NUREG-0654 planning criterion II.E.2.

C. Extent of Information Required to Approve the Local Plans

A thread common to several of Mr. Reed's contentions^{3/} is that the offsite plans themselves should be sufficiently detailed and self-contained that a local emergency worker simply can pick up "the book," without training, and determine exactly what he or she has to do in every conceivable situation. Mr. Reed frequently cites (see Contention 4.B) the statement that "[t]he plans should make clear what is to be done in an emergency, how it is to be done and by whom." NUREG-0654 at 29. That statement is immediately preceded, however, by the following guidance:

The plans should be kept as concise as possible. The average plan should consist of perhaps hundreds of pages, not thousands.

Id. The underlying criticism in Contention 4 is not aimed at the action level scheme or the system for notifying emergency workers, but with the level of implementing detail included in the plans.

^{3/} See, for example, Applicant's motions to summarily dispose of Contentions 11 and 13.

Mr. Reed, however, confuses the purpose of the plans with the purpose of detailed operating procedures, training and emergency exercises and drills. The purpose of the offsite plans is to provide a concept of operations. The concept of operations in the plans establishes the emergency organizational structure, the mechanism for direction and control of emergency response actions, and the emergency functions that are required. The plans clearly explain the responsibilities of the local offsite emergency response organization, and the plans should be sufficiently broad in nature so as to be applicable to a wide spectrum of accident scenarios. Baer Affidavit, ¶ 13.

The plans need not, and should not, contain a large volume of detail concerning how each specific emergency task will be undertaken by emergency workers. Such level of detail would obscure organizational concepts of operations, would cause the plans to become riddled with inaccessible details that are more appropriate for implementing procedures, and would render the plans virtually unuseable. Details pertaining to emergency worker tasks will be contained in implementing procedures which specify how an emergency function will be performed, when it will be performed by emergency classification level, and by whom it will be performed. The implementing procedures will be specific to emergency functions, allowing the operational details to be succinctly explained and readily accessed. Baer Affidavit, ¶¶ 15, 16.

In addition, Mr. Reed ignores the fact that many of the tasks to be performed by support emergency personnel are routine tasks which they perform in their normal work (ambulance drivers, bus drivers, tow truck operators, rescue personnel, public works employees, etc.). Plans and procedures need not detail how these functions will be performed in an emergency. Emergency worker actions that are specific to the emergency (in particular, radiological exposure controls) are provided for in the plan, will be supported by implementing procedures, and will be the responsibility of emergency response supervisors to ensure proper implementation. Baer Affidavit, ¶ 17.

Further, Mr. Reed totally disregards the contributions which emergency worker training and emergency exercises and drills will make to the capability to implement the plans. As Mr. Reed has stated:

But, remember, you are starting off with no information on the local level except what's in these books. This is their training. This is all they know. If it's not in here, they don't know it.

Dep. Tr. 170. Mr. Reed is simply wrong. The Commission's regulations require that radiological emergency response training be provided to those who may be called upon to assist in an emergency, and that periodic exercises and drills be conducted to evaluate response capabilities, develop and maintain skills, and correct deficiencies. 10 C.F.R. §§ 50.47(b)(14) and (15).

In discovery, Applicant asked Mr. Reed:

40. Could the need for emergency response personnel to know what actions to take when they are alerted be satisfied through training? If not, why not?^{4/}

The answer was:

40. It is possible, but much simpler, more practical, and clearer to identify such in the plan/SOP; so that with the passage of time and changes in personnel, the information does not get dropped or misinterpreted.^{5/}

Training for emergency response personnel, however, will be based on the plans and implementing procedures. This training will explain to emergency workers what they are expected to do, where they are expected to do it, when and how they will be notified, and how they are to implement radiological exposure control measures and other emergency actions which are not routine aspects of their normal work functions. An extreme level of detail in the plans themselves, as Mr. Reed apparently seeks, is not a substitute for effective training. Baer Affidavit, ¶ 18. In addition, the training, like the exercises and drills, is to continue throughout the operational life of the plant, and will include new personnel, so that information will not get "dropped or misinterpreted." See 10 C.F.R. §§ 50.47(b)(14), (15); Appendix E to 10 C.F.R. Part 50,

^{4/} Applicant's Revised Interrogatories and Requests for Production of Documents of Intervenor John G. Reed, October 20, 1982.

^{5/} John G. Reed's Response to Applicant's Revised Interrogatories, November 12, 1982.

§ IV.F, G; NUREG-0654 planning criteria II.O, P; Annexes M and N to the local plans.

As discussed in Applicant's Memorandum of Law in Support Of Motions for Summary Disposition on Emergency Planning Issues, the Commission's regulations do not contemplate that at the time of an adjudicatory hearing on contested off-site emergency planning issues, all relevant training, staff, procedures and hardware be in place. As discussed in the contemporaneous motion on Contention 13, the implementing procedures under development now have been identified. Their content, however, like the results of training and the effectiveness of equipment, is an "operational inspection" matter assessed as a part of the emergency preparedness exercise, which is not required for an initial licensing decision. See 10 C.F.R. § 50.47(a)(2). Further, it is doubtful that the procedures, when completed, will meet Mr. Reed's goals since they will not be written to be absolutely self-executing, in all situations, by a hypothetically untrained emergency worker.

The question before this Board is the predictive one of whether the local plans are adequate and there is reasonable assurance they can be implemented. In discovery, Mr. Reed could not address a single, specific action, required to be taken, which would not be taken because of a lack of detail in the local plans. See Dep. Tr. 88-90; Reed's Response to Memorandum and Order Dated 09 December 1982, at 2 (Dec. 14,

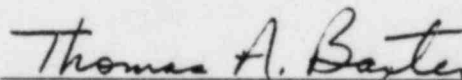
1982) (Answer to Interrogatory 41). Consequently, there is no dispute that the plans can be implemented. Mr. Reed's view that emergency workers should respond by searching through a voluminous plan is not only counterproductive but simply ignores the roles expected to be played by training, drills/ exercises, and detailed implementing procedures.

IV. Conclusion

For all of the foregoing reasons, there is no genuine issue of material fact to be heard with respect to Contention 4, and Applicant is entitled to a decision in its favor on that contention as a matter of law.

Respectfully submitted,

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