September 21, 1938

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
DUQUESNE LIGHT COMPANY, et al.	)	Docket No. 50-412 OL
	)	
(Beaver Valley Power Station, Unit 2)	)	

APPLICANTS' RESPONSE TO
PROPOSED CONTENTIONS OF GEORGE S. WHITE

In its August 4, 1983 Memorandum and Order (Scheduling of a Special Prehearing Conference), the Licensing Board directed that each petitioner for leave to intervene file an amendment and/or supplement to his petition setting forth the contentions which the petitioner seeks to litigate. Petitioners were to file their amendments and/or supplements so that they were received by the Licensing Board and the parties by September 9, 1983. Petitioner George S. White filed a "Supplement to Petition for Intervention on Licensing of Beaver Valley No. 2," dated September 1, 1983, and received by Applicants on September 6, 1983.

For the reasons stated below, none of Mr. White's proposed contentions meets the requirements established by the Commission. His contentions lack the showing of basis required by NRC rules. They are so vague and unspecific that the issues which Mr. White

seeks to litigate are impossible to discern. Some involve challenges to Commission regulations and are therefore not properly admissible.

Having failed to submit at least one valid contention, Mr. White must be denied status as an intervenor. 10 C.F.R. § 2.714(b).

I. Overview of Applicable Law on Admissibility of Contentions

The starting point for any analysis of the requirements for intervention by interested persons in NRC proceedings is that the right to a hearing is not an unqualified one. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 18 N.R.C. _____, slip op. at 6 (July 1, 1983). The Commission has the right to demand that a person having the standing to intervene submit contentions which are reasonably specific and have a basis. BPI v. AEC, 502 F.2d 424 (D.C. Cir. 1974). This requirement is codified in Commission regulations and practice.

As set forth in the Commission's regulations, 10 C.F.R. § 2.714(b) and in the Notice of Opportunity for Hearing in this proceeding, 48 Fed. Reg. 24488, 24489 (June 1, 1983), a petitioner must file a supplement or amendment to his intervention petition

> which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. (emphasis added)

The requirement for reasonable specificity has been addressed in numerous Commission decisions.

> The applicant is entitled to a fair chance to defend. It is therefore entitled to be told at the outset with clarity and precision, what arguments are being advanced and what relief is being asked by the [petitioner]. It should not be necessary to speculate about what a pleading is supposed to mean.

Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit No. 1) ALAB-279, 1 N.R.C. 559, 576 (1975). A contention must provide more specific notice of the issue to be litigated than is required by the "notice pleading" standard used in the Federal courts. Id. at 575, n.32. A contention must be specific enough to "show that it applies to the facility at bar." Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 A.E.C. 13, 21 (1974). A contention must put the parties on notice as to what they will have to defend against or oppose. Id. at 20.

The basis requirement is a related concept, although often addressed in the same breath as the reasonable specificity test. To have a basis, there must be some foundation for the contention. Duke Power Company, supra, slip op. at 6. The evidence supporting the contention need not be meritorious, Alabama Power Co. (Farley Nuclear Plant, Units 1 and 2), ALAB-182, 7 A.E.C. 210, 216 (1974), nor need petitioner detail the evidence to be offered in support of his contention, Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-130, 6 A.E.C. 423, 426 (1972). But a basis for the contention must nonetheless appear, if the regulation is to be properly applied.

A recent licensing board decision has concisely summarized these requirements.

> The bases for contentions must be sufficiently detailed and specific (a) to demonstrate that the issues raised are admissible and further inquiry into the matter is warranted and (b) to put the parties on notice as to what they will have to defend against or oppose. A contention must be rejected where:
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> 1. It constitutes an attack on applicable statutory requirements;
>
> 2. It challenges the basic structures of the Commission's regulatory process or is an attack on the regulations;
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> 3. It is nothing more than a generalization regarding the intervenor's view of what applicable policies ought to be;
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> 4. It seeks to raise an issue which is not proper for adjudication in the proceeding or does not apply to the facility in question; or
>
> 5. It seeks to raise an issue which is not concrete or litigable.

Carolina Power and Light Company (H. B. Robinson Steam Electric Plant, Unit 2), Memorandum and Order (Report on Special Prehearing Conference Held Pursuant to 10 C.F.R. § 2.751a), LBP-83-___, 17 N.R.C. _____, slip op. at 3 (April 12, 1983).

When faced with contentions which fail to measure up to the Commission's standards, a licensing board is under no obligation to recast the contentions to remedy their infirmities. Commonwealth Edison Co. (Zion Station, Units 1 and 2), ALAB-226, 8 A.E.C. 381, 406 (1974); Carolina Power and Light Company, supra, slip op. at 4. Indeed, licensing boards have been admonished against expanding an intervenor's proposed contention beyond its self-imposed limitations. The Cleveland Electric Illuminating Company (Perry Nuclear

Power Plant, Units 1 and 2), ALAB-675, 15 N.R.C. 1105, 1115 (1982).

With these general principles in mind, Applicants will show why none of Mr. White's proposed contentions are properly admissible.

II. Mr. White's Contentions

Mr. White's September 1 submittal does not clearly delineate what his contentions are. Making allowance for the fact that Mr. White apparently is appearing pro se in this case,[1/] Applicants respond to each of the paragraphs in Mr. White's September 1 Supplement.

A. Paragraph 14

Mr. White's Paragraph 14 includes several allegations concerning the distance from his home to various points on the Beaver Valley site. Whether or not Mr. White's allegations on how close

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1/ Although a pro se petitioner may be excused from the standards of clarity and precision expected of a lawyer, pro se status does not excuse a totally deficient pleading. Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Units 1 and 2), ALAB-136, 8 A.E.C. 487, 489 (1973). Although Mr. White signed pleadings individually, his September 1 letter to Applicants' counsel refers to his "personal counsel," on whose stationery Mr. White's July 1, 1983 Petition for Intervention was prepared.

his residence is to the facility are accurate,[2/] Mr. White has not shown how these distances are relevant to any issue in this proceeding. Mr. White does not allege that the proximity of his residence violates any Commission regulation. Nor are we aware of any such regulatory standard.

The only statement in Paragraph 14 which could even conceivably be the starting point for a contention is the claim that

> The radiation from farther away Beaver Valley No. 1 containment site [sic] has been so great on my property that it regularly reddens my face skin and has caused me to develop facial cancer.

This claim is totally lacking in specificity and basis and must be rejected. Mr. White does not even identify the type of radioactive releases (gaseous, liquid or particulate) which assertedly caused his facial cancer. His allegation that the radiation is from the Unit 1 "containment site" [sic, containment building (?)], is inconsistent with the complaint in his June 27 Petition for Intervention that the radiation harming him is coming "from the cooling tower of Beaver Valley No. 2."[3/] Mr. White provides not

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2/ At the very least, these allegations appear to be inconsistent with statements made by Mr. White in an April 1981 deposition, where he testified that the Unit 2 reactor was 2000, as opposed to 1500, feet from his house. Oral Deposition of George S. White, dated April 27, 1981, p. 12, in Benek v. Pennsylvania Power Co., No. 1199 of 1977 in the Court of Common Pleas, Beaver County, Pennsylvania.

3/ Of course, since Unit 2 is not yet in operation, nothing is coming from the Unit 2 cooling tower.

even the hint of a basis for the claim that radiation released from Unit 1 could conceivably cause reddening of his facial skin or "facial cancer." Something more than the mere naked assertion is necessary, particularly when the health effects of radiological releases from both Beaver Valley units have already been litigated. Duquesne Light Co. (Beaver Valley Power Station, Unit No. 2), LBP-74-25, 7 A.E.C. 711 (1974). Something more should also be required where, as here, Mr. White more than four years ago filed a lawsuit generally alleging adverse health effects from the radioactive releases from Unit 1 (the lawsuit was dismissed with prejudice for failure to prosecute).[4/] The total lack of specificity and basis for this contention requires its dismissal.

B. Paragraph 15

Mr. White's paragraph 15 claims that granting an operating license for Beaver Valley Power Station, Unit 2 will "compound the danger to Shippingport caused by Beaver Valley No. 1" because of Applicants' "management incompetence." The sole allegation on which the claim relies is that NRC

> until about a year ago used to rate how well nuclear plants were run and put CAPCO and Duquesne Light in the third category close to the bottom of the worst run plants in the country.

4/ George White and June White v. Pennsylvania Power Company, Duquesne Light Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company, No. 936 of 1979 in the Court of Common Pleas, Beaver County, Pennsylvania. The case was dismissed by Court order dated March 23, 1983.

This vague reference cannot properly support an admissible contention.

Although Mr. White has not identified the study which led to his claims, it would appear to be a reference to the NRC Staff's first Systematic Assessment of Licensee Performance (SALP) report, issued in August, 1981. NUREG-0834, "NRC Licensee Assessments" (also SECY-81-505). That report divided plants into three categories, "Above Average," "Average," and "Below Average." The evaluations were based on data which, at the time of the review, were from one to one and a half years old. NUREG-0834 at (i). In the case of Beaver Valley Unit 1, the evaluation period covered September 1979 to August 1980. Id. at Table 1. The report ranked 9 operating reactors as above average, 26 average, and 15 (including Unit 1) as below average. The report stated that "a rating of below average does not mean that a facility was unsafe." Id. at (i). On its face, therefore, the report from which Mr. White apparently derives his allegation does not support a claim that the so-called "management incompetence" creates any "danger to Shippingport."

Wholly apart from the lack of support which the first SALP Report provides for this contention, Mr. White has failed to demonstrate a nexus between the findings of that Report -- whatever they may mean -- and present management of Unit 1. The

management structure was totally revised subsequent to the evaluation period covered by the first SALP Report.[5/] See FSAR § 13.1; letter from Duquesne Light Company to NRC Region III, dated April 2, 1981. Thus the management structure which was the subject of the first SALP Report is simply irrelevant to any current considerations.

If the first SALP Report were the only document available to Mr. White and if there were some nexus to the present situation, the SALP Report might conceivably have provided the appropriate specificity and basis for a contention, despite its being outdated. However, Mr. White has ignored the second and third SALP Reports for Beaver Valley Unit 1.[6/] See letter from NRC Region I to Duquesne Light Company, dated May 6, 1982, transmitting SALP Report dated March 10, 1982; letter from NRC Region I to Duquesne Light Company dated June 23, 1983, transmitting SALP Report dated January 24, 1983. In both cases, the Staff found Duquesne Light Company's performance to be "acceptable." As stated in the 1982 letter,

> Overall, we find that your performance of licensed activities generally is acceptable and directed towards safe facility operation.

5/ As NUREG-0834 noted, the appraisals did not reflect corrective actions which were already in progress. Id. at (i).

6/ Nor has he acknowledged any of the three SALP Reports relating to Unit 2.

As stated in the 1983 letter,

> Overall, your performance in operating the facility was found acceptable with improvements noted since the previous assessment period.

Although the NRC no longer provides nation-wide rankings, the current SALP assessments belie any claim that NRC considers the management of Unit 1 to be "below average,' let alone "incompetent."[7/]

The contention must therefore be denied for lack of basis and of nexus to this licensing proceeding.

C . Paragraph 16

Mr. White's paragraph 16 is a series of unsupported, vague, and unspecific allegations which are strung together following a generalized claim that "[t]he incompetent administration of this plant is done as you know by Duquesne Light." The allegation is so unspecific that it is not even clear whether "this plant" refers to Unit 1 or Unit 2. The separate allegations are mostly phrased as rhetorical questions. None support a contention of "incompetent administration." An examination of each of the separate claims shows that they cannot be the grounds for an admissible contention.

1. Unqualified Welders

Mr. White's allegation of "the most recent scandal" about unqualified welders does not identify the "former welder"

7/ Indeed, not even national anti-nuclear groups consider the management of Unit 1 to be substandard. See Critical Mass Energy Project, Public Citizen 1983 Nuclear Power Safety Report (Sept. 1983), which purports to list "the worst-managed plants" and the plants with the most "mishaps."

or how his allegations relate to construction of Unit 2, operation of Unit 1, or Duquesne Light Company's management. The charge lacks specificity, basis, and nexus.

2. Weld X-rays

Mr. White states that "your own [i.e. NRC's] investigators discovered that welders had not bothered to X-ray the welds at Beaver Valley No. 1 as required but had merely duplicated a lot of old X-rays." Mr. White provides no references to support the allegations. The publicly available record discloses that Duquesne discovered and promptly reported to NRC that three of 447 sets of radiographs taken during the 1971-1973 time frame in connection with fabrication of a refueling water storage tank for Unit 1 were duplicates of other radiographs. See letter from Duquesne Light Company to NRC Region I, dated July 2, 1980 transmitting LER 80-037/01T letter from NRC Region I to Duquesne Light Company, dated September 2, 1981, transmitting Investigation Report No. 50-334/80-17. Mr. White has failed to explain how any of this information relates to construction of Unit 2 or operation of Unit 1. In a case such as this where Duquesne discovers a problem and reports it to the NRC, the implication is one of management competence, rather than incompetence.

3. Pipe Supports

Mr. White asks the Board to "recall that this is the plant where they neglected to brace the pipes and support them in

accordance with the design specifications and talked your people into letting them have very light support ...." This kind of vague assertion is clearly inconsistent with the requirements for reasonable specificity and basis. Applicants and the Board should not have to read Mr. White's mind. The only situation which even remotely resembles this claim involved the discovery by the architect-engineer for Unit 1 of an error in a computer code used to analyze pipe stresses. When the codes could not be reconciled, Duquesne voluntarily shut down operation of Unit 1. On completion of necessary reanalyses and modifications, the operation was resumed. See Docket 50-334, NRC Order, dated August 8, 1979. Mr. White has failed to demonstrate any nexus between these events (if indeed they are the ones he had in mind) and this proceeding. If anything, the events demonstrated Duquesne's forthrightness and management strength.

4. Drinking Water

In another rhetorical statement, Mr. White states,

> Surely you recall that it was one of your inspectors that found that the people who were employed at the plant were drinking radioactive water out of the local fountain because Duquesne Light people didn't know you shouldn't connect a rad-waste tank with a drinking water tank.

Again, Mr. White appears to be alluding in garbled form to a 1977 incident in which Duquesne personnel discovered that water from a Primary Water Storage Tank (not a "rad-waste tank" as alleged by Mr. White) had been inadvertently transferred to a Domestic

Water Storage Tank as a result of an incorrect valve line-up. Since the Primary Water Storage Tank water contained small amounts of tritium, the transfer mildly contaminated the Unit 1 potable water system. Duquesne promptly reported the matter to NRC (it was not discovered by NRC, as implied by Mr. White) and modified the valve arrangement to prevent a recurrence. The matter was reviewed in NRC inspection reports, which concluded that 10 C.F.R. Part 20 limits had not been exceeded and that the incident did not involve any noncompliance with NRC requirements. All this information has been publicly available since 1977. See letter from NRC Region I to Duquesne Light dated July 18, 1977 transmitting Inspection Report 50-334/77-21; letter from NRC Region I to Duquesne Light dated September 28, 1977; letter from NRC Region I to Duquesne Light dated April 5, 1978 transmitting Inspection Report 50-334/78-06. Mr. White has failed to specify how this incident demonstrates "incompetent administration" or how it relates to this proceeding.

5. Hiding Radioactive Water

Mr. White also refers to an incident involving the storage of radioactive water in the spent fuel pool. Mr. White alleges that Duquesne Light "concealed from your inspectors for more than a year the fact that it was hiding radioactive water in the used waste storage pond and neglecting to report it to the NRC as the rules require." Mr. White does not identify what "rules" were violated, or precisely what was "this particular violation

of rules." Applicants are aware of no violation of any NRC rules in connection with the use of the spent fuel pool in the 1976-1978 period to store slightly radioactive water pending its processing by waste disposal systems. There is simply neither basis nor specificity to this charge.

6. Marijuana Use

Mr. White rhetorically asks:

> How do you know the security guards are not continuing to use the marijuana that they freely used not so long ago?

Here, to, petitioner has supplied nothing to put Applicants on notice as to what they would have to litigate.

7. Control Valves

Paragraph 16's final assertion is a rambling allegation that seems to allege an incident involving control valves at Unit 1 was due to management failure rather than apparent sabotage. Since the meaning of the allegation is rather murky, we quote it in its entirety:

> Do you really believe that the management that fed its employees radioactive water to drink was sabotaged when the control valves were found in that plant in the same dangerous condition and the same dangerous condition that helped cause the TMI blow up? If there were saboteurs, why couldn't the FBI find them; if, as is most likely, the management failed once again, why should you reward them by doubling their powers of destruction.

The apparent sabotage incident involved Duquesne's discovery on June 5-6, 1981 of the unauthorized removal of chains and padlocks from three valves in the auxiliary feedwater system and the

unauthorized removal of the chain and padlock and the mispositioning of a valve on the high head safety injection system. The incident was investigated by the NRC, the FBI and the U.S. Attorney.

The NRC investigation concluded that

> The events of June 5-6, 1981, appear to have resulted from a deliberate act to embarass Duquesne Light Company rather than operator error; [Duquesne was] in compliance with [its] security program approved by the NRC and the events which occurred were apparently not within your control; immediate action was taken, upon discovery of the more significant of the two events, to confirm that the plant was in a safe operating condition; the events were promptly reported to the NRC, and no adverse effect on the health and safety of the public resulted from the two events.

Letter from NRC Region I to Duquesne Light Company, dated December 10, 1981, transmitting Investigation Report 50-334/81-16. Investigations by the FBI and the Office of the U.S. Attorney for the Western District of Pennsylvania concluded:

> [W]e are satisfied that the person responsible for the incident has been identified. However, in our opinion there is insufficient evidence of a substantive nature to warrant a criminal prosecution for violation of federal law. For this reason we have declined prosecution and have closed our file.
>
> The federal investigation has developed information which supports our belief that the person involved in the incident is no longer in a position to interfere with the safe operation of the nuclear facility.

Letter from J. Alan Johnson, U.S. Attorney for the Western District of Pennsylvania, to Frederick R. Taylor, Counsel - Mines and Energy Management Committee, Pennsylvania House of Representatives, dated

November 5, 1981. Mr. White has only a rhetorical question as the basis for challenging the conclusions by the NRC, the FBI and the U.S. Attorney that Duquesne management failure was not involved and that the responsible individual had been identified and was no longer at the facility. Mr. White has failed to identify a litigable issue and has failed to supply either specificity or basis to his claim.

As demonstrated by the above examination of the individual charges set forth in paragraph 16, Mr. White has failed to provide an adequate contention either on management competence or on the assorted individual claims. Inflammatory accusations and misstatements cannot constitute compliance with 10 C.F.R. § 2.714 nor can cryptic references to unidentified episodes justify admission of a contention.

D. Paragraph 17

Paragraph 17 of Mr. White's submittal is a confusing combination of statements concerning a "terrorist group" and the siting of powerplants. Applicants believe that Mr. White is asserting that Unit 2 is located improperly because it creates "an opportunity for a terrorist group to put out of action at one time and with one attack on one nuclear plant a total of 5,000 mega-watts of electrical capacity -- 2 nuclear- 3 coal 1000 mega-watt plants." Supplement at 4. The implication appears to be that a successful terrorist attack on Unit 2 would cause economic harm by somehow shutting down four other generating plants.

The contention is lacking in basis and specificity, in that it fails to disclose how or by what mechanism an act of terrorism at Unit 2 could result in the closing of the four other power plants, let alone the basis or specificity for a challenge to the Beaver Valley security plans.

This contention must also be rejected as an improper challenge to 10 C.F.R. §§ 51.21, 51.23(e), 51.26 and 51.53(b). Thes regulations stipulate that in an operating license proceeding, an applicant's environmental report and the Staff's draft and final environmental impact statements do not have to contain a discussion of alternate sites for the proposed plant unless otherwise required by the Commission. In other words, the siting of the power plant is no longer an appropriate NEPA issue at the operating license stage. Section 51.53(b) states that licensing boards "shall not admit contentions profferred by any party concerning alternate sites for the proposed plant in operating license hearings and shall not raise such issues sua sponte." Clearly, if Mr. White were concerned about the location of Unit 2 in proximity to other plants he should have raised this objection at the construction permit stage rather than waiting for the plant to be built and then contending it was put in the wrong spot. Petitioner cannot now raise this issue.

If Mr. White's contention is that the probability of a sabotage attack is increased due to location of Unit 2, the short answer is that an applicant is only required to meet the physical protection requirements of Part 73, based on certain design basis

threats specified in 10 C.F.R. § 73.1(a)(1). The regulatory scheme assumes the existence of the design basis threat; "its probability of occurrence is irrelevant for the purposes of designing and evaluating applicant's security system." Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-653, 16 N.R.C. 55, 72 (1981).

Applicants also point out that they are not required to provide for design features or other measures to protect against the effects of sabotage directed against the facility by an enemy of the United States, whether a foreign government or other person. 10 C.F.R. § 50.13(a). Mr. White's generalized reference to a "terrorist group" would clearly fall within the language of § 50.13. Therefore, Mr. White's contention is inappropriate for litigation.

For all these reasons, Mr. White's vague allegations should be rejected as an admissible contention.

E. Paragraph 18

This part of Mr. White's Supplement claims that Applicants have a policy "not to hire Shippingport residents to work in the plants at Shippingport." He argues that the reason for this purported policy is that Applicants do not

> want to give the people of Shippingport the additional exposure that working in the plant would give them because the cancer figures would become so outrageously high that you would no longer be able to continue to ignore them.

Mr. White goes on to claim that

> many of them are already dying of cancer. All have died in far greater percentages than average or normal.

Supplement at 4.

The contention lacks specificity and basis. In the first place, Mr. White provides no hint to support the existence of such an alleged employment policy. Nor does he allege any foundation for the claim that Shippingport residents do not work at Beaver Valley.[8/] As a separate issue, increased employment is not an appropriate issue to litigate in NRC proceedings. Vermont Yankee Nuclear Power Corp. (Vermont Yankee Station), ALAB-179, 7 A.E.C. 179, 177 (1974).

Nor has Mr. White provided an adequately framed contention on cancer rates. His statement is not even specific enough to enable Applicants to determine whether Mr. White is referring to the cancer rates for Shippingport residents, for people working at the Beaver Valley site, or both. Mr. White supplies no basis for the charge that cancer rates for whatever population is being discussed are "far greater than average or normal."

8/ Indeed, no such policy exists. And Shippingport residents do work at the Beaver Valley site, as employees of Duquesne Light Company, its contractors and its consultants. Of a total Shippingport population of 225 (FSAR, Table 2.1-1), six are employed by Duquesne Light Company at the site. Other residents are employed by Duquesne's contractors.

Nor does he even allege (let alone provide a basis for) a nexus between the claimed cancer rates and radiological releases from the Beaver Valley site.

The contention should therefore be rejected.

F. Paragraph 19

In his paragraph 19, Mr. White alleges that the evacuation plans for the area around the Beaver Valley site are "dumb and doomed and dooms the people of Shippingport" because "[i]f they enforce this 1500 feet containment around the reactors, they block two exits from Shippingport leaving one exit for evacuation." Supplement at 4.

Petitioner apparently misunderstands the nature and the function of the exclusion area around the reactor and incorrectly interprets the proposed evacuation plan. He therefore does not specify a proper basis for his contention.

The "1500 feet containment" area referred to by Mr. White is properly called an exclusion area. The exclusion area is that area surrounding the reactor in which the licensee has the authority (emphasis added) to determine all activities, including exclusion and removal of personnel and property from the area. 10 C.F.R. § 100.3(a). The exclusion area is required by 10 C.F.R. Part 100 as part of the site evaluation process, in order to determine whether doses for specified accident scenarios are within limits established by 10 C.F.R. § 100.11. It is an imaginary boundary, not a physical boundary. The regulations specifically

provide that the exclusion area may be traversed by a highway provided appropriate and effective arrangements are made to control traffic in the case of an emergency. 10 C.F.R. § 100.3(a).

The only road within the exclusion area, with the exception of the on-site access road, is a portion of State Highway 168 that includes the Shippingport Bridge over the Ohio River. FSAR § 2.1.2.3. As required by 10 C.F.R. § 100.3(a), Applicants have made "appropriate and effective arrangements ... to control traffic on the highway" which traverses the exclusion area. FSAR § 2.1.2.3. To the extent that Mr. White is unhappy with the requirement that arrangements be made for control of the highway, he is challenging the regulation, without the showing required by 10 C.F.R. § 2.758.

To the extent that his complaint goes to the adequacy of the evacuation routes which have been selected for Beaver County, the contention lacks basis and specificity.[9/] The evacuation routes for Beaver County (including Shippingport) are set forth in the Beaver County Emergency Response Plan, Annex J and W. For Shippingport, the "recommended" evacuation route is south on Route 18. The basis for the route selection is set forth in Annex J, including applicable traffic loads and capacities.

Mr. White has not specified why the recommended evacuation route for Shippingport is inadequate. This is particularly needed

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9/ Mr. White's reference to an attached newspaper article and his characterization of either the article, the emergency plan, or the emergency plan exercise (it is not clear which) as "hocus-pocus" adds nothing to the contention, since it does not mention the status of Route 168 and the Shippingport bridge. The article does indicate that the Federal Emergency Management Agency was generally pleased with the evacuation drill.

where Mr. White's suggestion would have Shippingport residents drive towards the Beaver Valley site during an accident. The County Plan has been publicly available for years. Something more is needed. Indeed, paragraph 19 does not even assert that the recommended evacuation route from Shippingport is inadequate, let alone provide some foundation for that claim.[10/] Certainly, Mr. White has neither specifically identified why, or supported the claim that, the "evacuation plan is dumb and doomed and dooms the people of Shippingport." The contention must therefore be dismissed.

G. Paragraph 20

In this paragraph, Mr. White alleges that "Beaver Valley No. 2 is unnecessary" because "the electricity isn't needed." This contention is clearly inadmissible under the Commission's regulations.

As amended in March 1982, 10 C.F.R. § 51.53(c) states:

> Presiding officers shall not admit contentions profferred by any party concerning need for power or alternative energy sources for the proposed plant in operating license hearings.

10/ Indeed Applicants' Emergency Implementing Procedures recognize that the Shippingport Bridge may be used as an evacuation route and provides for coordination between Beaver County and the plant in the case of an emergency. EPP/IP - 3.5, § C.1.

Sections 51.21, 51.23(e) and 51.26 provide that environmental reports, draft environmental impact statements, and final environmental impact statements prepared at the operating license stage need not consider need for power or alternative energy source issues.

Only if a prima facie showing is made in accordance with the procedures of 10 C.F.R. § 2.758 can these issues be considered by a licensing board (and then only by certifying them to the Commission). Mr. White has made no effort to comply with these requirements.[11/] The contention must therefore be rejected. See Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-82-43A, 15 N.R.C. 1423, 1509-10 (1982).

H. Paragraph 21

Petitioner's paragraph 21 is vague, nonspecific, baseless and irrelevant. It should be rejected. First, Mr. White fails to specifically identify the statements allegedly made by Admiral Rickover. Applicant cannot discern when the referenced statements were made, where they were made, and what the specific allegations were. We only have Mr. White's version of what Admiral Rickover said (at some unspecified time and place) but these purported paraphrases -- "that the civilian managers of those plants run

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11/ Although Mr. White may be considered as a pro se intervenor, he is nonetheless obligated to familiarize himself with the Commission's rules of practice. Pennsylvania Power & Light Company (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-563, 10 N.R.C. 449, 450, n.1.

a sloppy ship -- run a sloppy reactor -- hire personnel who are inadequately trained ..." are themselves so vague that they defy the formulation of a meaningful response. Secondly, there is no indication that Admiral Rickover's purported statements have any nexus to Applicants or to Beaver Valley. There is no specific basis for relating whatever Admiral Rickover may have said to the instant proceeding. The issue is simply not concrete or litigible.

Paragraph 21 must therefore be rejected.

III. Conclusion

In an operating license proceeding, the licensing board should look with particular scrutiny at intervention petitions. As stated (and repeated) by the Appeal Board,

> In an operating license proceeding, unlike a construction permit proceeding, a hearing is not mandatory * * *. There is, accordingly, especially strong reason in an operating license proceeding why, before granting an intervention petition and thus triggering a hearing, a licensing board should take the utmost care to satisfy itself fully that there is at least one contention advanced in the petition which, on its face, raises an issue clearly open to adjudication in the proceeding.

Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-183, 7 A.E.C. 222, 226, n.10 (1974); Cincinnati Gas & Electric Co. (William Zimmer Power Station), ALAB-305, 3 N.R.C. 8, 12 (1976). An examination of Mr. White's contentions demonstrates that he has not met these tests.

For the reasons set forth above, Mr. White has failed to provide contentions which meet the standards established by the Commission. Absent an adequate contention, Mr. White's petition to intervene must be denied. 10 C.F.R. § 2.714(b).

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

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(Beaver Valley Power Station, Unit 2)	)	

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Response to Proposed Contentions of George S. White" were served by deposit in the United States Mail, first class, postage prepaid, this 21st day of September, 1983, to all those on the attached Service List.

Jay E. Silberg

JAY E. SILBERG

DATED: September 21, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
DUQUESNE LIGHT COMPANY, ET AL.	)	Docket No. 50-412 OL
	)	
(Beaver Valley Power Station Unit 2)	)	

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