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 PROPOSED RULE PR 50-528/529/530-  
 OLA-2

# Lewis & Clark College

NORTHWESTERN SCHOOL OF LAW

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 MAY 27, 1991

 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

SERVED JUN 12 1991

RE: ASLBP No. 91-633-05-OLA-2

On April 24, 1991, ALJ Smith and Judges Kline and Jordan issued an "Order Dismissing Scott/Bush/CREE Petitions to Intervene" in the above-captioned matter. The named intervenors did not oppose that Order and therefore did not appeal to the Commission.

Nonetheless, the Order was accompanied by at least an informal finding of "contemptuous conduct" that is both gratuitous and unwarranted. Because the only sanction imposed was dismissal of the intervention request, to which the intervenors had no objection having unavoidably but voluntarily defaulted, no formal reply was made. For the sake of the historical record, however, some response is in order.

At no time did the intervenors intentionally conduct themselves in a discourteous or contemptuous manner. The intervenors simply voluntarily defaulted, the appropriate response to which is simple dismissal. As to causing unnecessary effort for the Board and Staff, no such result was intended. If the named intervenors had been the only or even the principal intervenors, the claim might have more force.

In fact, however, the named intervenors made it clear from the outset that they merely sought to join in the Mitchell contentions and to offer supporting evidence, primarily on the non-technical issues of worker harassment and management competence raised directly or indirectly by the Mitchells. (The reference to the involvement of lawyers as CREE members was limited to courtroom decorum in the event such evidence was taken, and was linked to the statement that CREE et al. did not seek to expand the issues beyond those raised by the Mitchells.) The Board, however, chose to interpret the Commission's current public involvement regulations narrowly and to demand from CREE et al. specific allegations on technical contentions that CREE et al. never had addressed and had made it reasonably clear did not intend to address. Having nothing to say on those issues, CREE voluntarily defaulted.

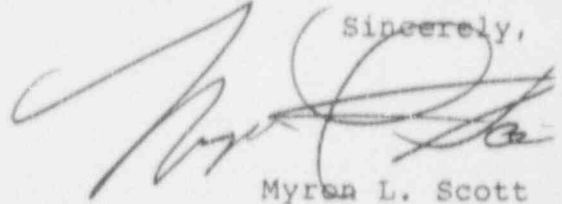
 9106280094 910527  
 PDR ADOCK 05000528  
 PDR

 10015 S.W. TERWILLIGER BOULEVARD  
 PORTLAND, OREGON 97219  
 PHONE: 503-768-6600  
 FAX: 503-768-6671

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That, plus resource limitations and unavoidable difficulties that arose in attempts to communicate with the other intervenors, were the sole reasons for CREE's default. No disrespect or contempt was intended. Nevertheless, CREE, Scott and Bush apologize to the Board and Staff for any inconvenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Myron L. Scott", written over the word "Sincerely,".

Myron L. Scott

cc: all parties

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of:

ARIZONA PUBLIC SERVICE COMPANY,  
et al.,  
Grand Verde Nuclear Generating  
Station, Units 1, 2 and 3.

File No. (s) 80-528/529/530-OLA-2

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LTR SCOTT TO NRC DTD 5/27/91  
have been served upon the following persons by U.S. mail, first class, except  
as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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

Administrative Law Judge  
Ivan W. Smith, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Gerry R. Kline  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Walter H. Jordan  
ASLBP  
881 West Outer Drive  
Oak Ridge, TN 37830

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

David K. Colapinto, Esquire  
Counsel for Allen & Linda Mitchell  
Kohn, Kohn & Colapinto, P.C.  
517 Florida Avenue, N.W.  
Washington, DC 20001

Barbara S. Bush  
Executive Director  
Coalition for Responsible Energy  
Education  
110 West Riviera Drive  
Pease, AZ 85282

Myron L. Scott  
Lewis & Clark  
Northwestern School of Law  
10015 S.W. Terwillinger Boulevard  
Portland, OR 97219

Arthur C. Gehr, Esquire  
Counsel for Licensee  
Gehr and Wilmer  
1100 Valley Center  
Phoenix, AZ 85073

Jack R. Newman, Esq.  
Newman and Holtzinger, P.C.  
1615 L Street, NW  
Washington, DC 20036

AT NO. 19150-928/529/530-LLA-2  
1201 TO NRC DTD 5/27/91

ed at Rockville, Md. this  
day of June 1991

*Kris Carter*

Office of the Secretary of the Commission