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TELECOPIER
OFFICE OF SECRETARY
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(202) 822-1072

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89-2693 (SHAWLAW WSH)

CABLE "SHAWLAW"

VIRGINIA OFFICE

1501 FARM CREDIT DRIVE

MCLEAN, VIRGINIA 22102

JOHN F. DEALY*

B. SCOTT CUSTER, JR.

RICHARD S. BEATTY

COUNSEL

December 7, 1984

WRITERS DIRECT DIAL NUMBER

(202) 822-1051

RAMSAY D. POTTS, P.C.
STUART L. PITTMAN, P.C.
GEORGE F. TROWBRIDGE, P.C.
STEPHEN D. POTTS, P.C.
GERALD CHARNOFF, P.C.
PHILLIP D. BOSTWICK, P.C.
R. TIMOTHY HANLON, P.C.
GEORGE M. ROGERS, JR., P.C.
FRED A. LITTLE, P.C.
JOHN B. RHINELANDER, P.C.
BRUCE W. CHURCHILL, P.C.
LESLIE A. NICHOLSON, JR., P.C.
MARTIN D. KRALL, P.C.
JAY E. SILBERG, P.C.
BARBARA M. ROSSOTTI, P.C.
GEORGE V. ALLEN, JR., P.C.*
FRED DRASNER, P.C.
R. KENLY WEBSTER, P.C.
NATHANIEL P. BREED, JR., P.C.
MARK AUGENBLICK, P.C.
ERNEST L. BLAKE, JR., P.C.
CARLETON S. JONES, P.C.
THOMAS A. BAXTER, P.C.
SHELDON J. WEISEL, P.C.
J. PATRICK HICKEY, P.C.
J. THOMAS LENHART, P.C.
STEVEN L. MELTZER, P.C.
DEAN D. AULICK, P.C.
JOHN ENGEL, P.C.*
C. THOMAS HICKS III, P.C.*

CHARLES B. TEMKIN, P.C.
STEPHEN B. HUTTNER, P.C.
WINTHROP N. BROWN, P.C.
JAMES B. HANLIN, P.C.
RANDAL B. KELL, P.C.
ROBERT E. ZAHLER, P.C.
ROBERT B. ROBBINS, P.C.
STEVEN M. LUCAS, P.C.
DAVID M. RUBENSTEIN, P.C.
MATIAS F. TRAVIESO-DIAZ, P.C.
VICTORIA J. PERKINS, P.C.
JOHN H. ONEILL, JR., P.C.
JAY A. EPSTEIN, P.C.
JEFFERY L. YABLON, P.C.
JACK MCKAY, P.C.*
ELISABETH M. PENDLETON
HARRY H. GLASSPIEGEL
THOMAS H. MCCORMICK
WILLIAM P. BARR*
CHARLES H. MONTANGE
JEAN M. GALLOWAY*
JOHN L. CARR, JR.
PHILIP J. HARVEY
ROBERT M. GORDON
BONNIE S. GOTTLIEB
HOWARD H. SHAFFERMAN
DEBORAH B. BAUSER
SCOTT A. ANENBERG
CAMPBELL KILLEFER
PAUL M. THOMAS

JOHN M. BRYSON, II*
GEORGE F. ALBRIGHT, JR.**
DAVID J. CYNAMON
JACK A. HORN*
LOUISE A. MATHEWS
SETH H. HOOGASIAN
SHEILA MCC. HARVEY
DELISSA A. RIDGWAY
KENNETH J. HAUTMAN
DAVID LAWRENCE MILLER
FREDERICK L. KLEIN
STEVEN P. PITLER
RICHARD J. PARRINO
ELLEN A. FRODEL
ROBERT C. BOEHM
MARIE N. DOLAND*
THOMAS C. HILL
DIANE E. BURKLEY*
L. DUANE CHEEK
MICHAEL K. MADDEN
HANNAH E. M. LIEBERMAN
JUDITH A. SANDLER
ANDREW D. ELLIS
RICHARD A. SAMP
THOMAS E. CROCKER, JR.
VICKI R. HARGING
PETER J. FERRARA
HELEN TORELLI
MARTHA BOONE ROWAN**
KENNETH R. MILLER

JOHN H. MORE
WENDELIN A. WHITE
STANLEY M. BARG
LESLIE K. SMITH
VIRGINIA S. RUTLEDGE
KATHERINE P. CHEEK
RAVIS T. BROWN, JR.
STEPHEN B. HEIMANN
SANDRA E. BRUSCA
EILEEN L. BROWNELL
PAMELA H. ANDERSON
ALEXANDER O. TOMASZCZUK
JEFFREY J. A. GIBBS
LAURENCE W. COHEN
DEREK W. LINDEN
PHILIP D. PORTER
MICHAEL A. SWIGER
ELLEN SHERIFF
ANITA J. FINKELSTEIN
DAVID R. SAHR
C. BOWDOIN TRAIN
JEFFREY W. KAMPELMAN
KENNETH A. GALLO
DAVID R. LEWIS
A. PATRICK LEIGHTON III*
KENNETH D. AUERBACH
ALAN D. WASSERMAN
DAVID K. RYAN
RICHARD K. A. BECKER
WILBERT WASHINGTON II
DOROTHEA W. DICKERMAN
* NOT ADMITTED IN D.C.
* ADMITTED IN VIRGINIA

Christine N. Kohl
Administrative Judge
Chairman, Atomic Safety and
Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

W. Reed Johnson
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Howard A. Wilber
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
Louisiana Power & Light Company
(Waterford Steam Electric Station, Unit 3)
Docket No. 50-382

Dear Administrative Judges:

On November 30, 1984, Applicant filed its response to Joint Intervenor's November 7 motion to reopen the record in this proceeding. In the press of meeting the filing date, several minor errors in the answer went undetected.

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SHAW, PITTMAN, POTTS & TROWBRIDGE

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Administrative Judges

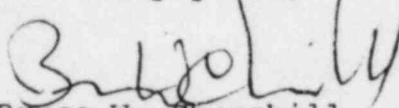
Page Two

December 7, 1984

Attached is a list of the corrections that should be noted by the Board and all parties on Applicant's answer. In two cases, where several words had been inadvertently left out, amended pages have been provided. None of the corrections involve substantive changes or additions. The corrections are being provided solely to rectify typographical and copy errors that obscure the meaning of the document.

We apologize for the inconvenience.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Bruce W. Churchill", written over the typed name.

Bruce W. Churchill
Counsel for Applicant

Enclosure

cc: Service List attached

ERRATA

1. Page 4: Substitute amended page 4 for original page 4. Some phrases in the third paragraph of original page 4 were inadvertently omitted.
2. Page 6: Substitute amended page 6 for original page 6. Words have been added to the first sentence on the page for clarification.
3. Page 11: Change the cite in the last line of the second full paragraph from "Motion to Reopen at second page 47" to "Motion to Reopen at second page 46." Joint Intervenor's motion contained two pages numbered 46. The cite is to the second of those pages.
4. Page 14: Change "revised" to "raised" in the first sentence after the subsection B heading.
5. Page 17: Change "motion" to "notion" on the second line of the quotation in the middle of the page.
6. Page 18: The quote in footnote 23 contains a Freudian slip. Change "separate the wheat from the staff" to "separate the wheat from the chaff."
7. Page 21: The second reference to JI Exhibit 25 in the first sentence on this page should be changed to "JI Exhibit 26."
8. Page 30: In the sixth line of the first full paragraph, a period should be inserted after "President of LP&L" and a new sentence should begin with "this working group."
9. Page 31: Change "effect" to "effort" in the fifth line of the page.
10. Affidavit, page 1: Change the title of the document to "Responses to Specific Allegations in the Joint Intervenor's Motion to Reopen the Record."

II. JURISDICTION

The Appeal Board is without jurisdiction to grant Joint Intervenors' instant motion to reopen the record in this proceeding.

As a general matter, Appeal Boards lose jurisdiction over motions to reopen on new matters once they have reviewed and affirmed the initial decisions of the Licensing Boards below. See Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-530, 9 NRC 261, 262 (1979); Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-513, 8 NRC 694, 695 (1978). In this proceeding, the Licensing Board issued two Partial Initial Decisions. The first, concerning certain emergency planning and synergism contentions, was affirmed by the Appeal Board on June 29, 1983, in ALAB-732, 17 NRC 1076.3/

The record was closed on February 11, 1983, Tr. 4905, with the completion of the hearing session which led to the second Partial Initial Decision on May 26, 1983. This decision concerned the narrow, discrete issue of Waterford's emergency planning brochure, and authorized the Director of Nuclear Reactor Regulation to issue an operating license to Applicant. The Appeal Board affirmed the second Partial Initial Decision sua sponte on December 9, 1983, ALAB-753, 18 NRC 1321.4/

With its review of the Licensing Board's initial decisions complete, the Appeal Board no longer has jurisdiction to entertain the motion to open the three new contentions proposed by Joint Intervenors. The sole issue that remains before the Board is the basement crack issue which was first raised by a motion to reopen in July, 1983, before the Board had terminated

3/ The Commission declined to review ALAB-732 and the decision became final agency action on September 7, 1983. See Memorandum from the Commission to the Board and Parties, September 14, 1983.

4/ The time within which the Commission may act to review ALAB-753 has been extended until further order of Commission. Order of June 1, 1984.

action.^{7/} The only matter over which this Board has retained jurisdiction is the motion to reopen on the basement issue. The Joint Intervenors seek to reopen the record and introduce three new contentions (concerning an alleged breakdown in quality assurance, the integrity of LP&L management, and failure of the staff to live up to its statutory obligations).^{8/} None of these contentions bears a reasonable relationship to the cracked basement issue.^{9/} Therefore, the motion must be dismissed for lack of jurisdiction.

III. STANDARDS FOR REOPENING THE RECORD

This Appeal Board is intimately familiar with the three-pronged standard the proponent of a reopening motion must satisfy. The motion must be timely, it must address a significant safety (or environmental) issue, and the motion must demonstrate that a different result would have been reached had the newly proffered material been considered initially.

Louisiana Power & Light Company (Waterford Steam Electric Station, Unit 3), ALAB-753, 18 NRC 1321, 1322 (1983). Joint Intervenors' Motion to Reopen falls far short of meeting these standards.

^{7/} Even if the Commission should, at some point, remand that issue, the remand would be limited in scope and would not convert or restore to the Appeal Board the justification to broaden the issues before it to embrace new discrete matters. Id. at 708.

^{8/} Motion to Reopen at 3.

^{9/} The basement is discussed in Joint Intervenors Motion to Reopen, but the discussion covers only how Applicant's activities related to review of the basement allegedly adds support to Joint Intervenors' proposed QA and management integrity contentions. See Motion to Reopen at 39-44. Assertions, if any, by Joint Intervenors in the Motion to Reopen related to the basement which are unrelated to the three contentions they seek to raise should properly be addressed in their filings on the pending basement motion.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of)	
)	
LOUISIANA POWER & LIGHT COMPANY)	Docket No. 50-382
)	
(Waterford Steam Electric)	
Station, Unit 3))	

SERVICE LIST

Christine N. Kohl
Administrative Judge
Chairman, Atomic Safety and
Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

W. Reed Johnson
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Howard A. Wilber
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Sherwin E. Turk, Esquire
Office of the Executive
Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Sheldon J. Wolfe
Administrative Judge
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Harry Foreman
Administrative Judge
Atomic Safety and Licensing
Board
Director, Center for Population
Studies
Box 395, Mayo
University of Minnesota
Minneapolis, MN 55455

Walter H. Jordan
Administrative Judge
Atomic Safety and Licensing
Board
881 West Outer Drive
Oak Ridge, TN 37830

Docketing & Service Section (3)
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

LP&L
Service List-ASLAB
Page Two

Mr. Gary Groesch
2257 Bayou Road
New Orleans, LA 70119

Carole H. Burstein, Esq.
445 Walnut Street
New Orleans, LA 70118

Lynne Bernabei, Esq.
Government Accountability Project
1555 Connecticut Avenue, N.W.
Suite 202
Washington, DC 20009