



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar

In the Matter of _____

HOUSTON LIGHTING & POWER COMPANY 6

(Allens Creek Nuclear Generating Station, Unit 1)

Docket No. 50-466

NOTICE OF APPEAL

DONALD D. WEAVER, by and through his attorney of record
STEPHEN A. DOGGETT, hereby gives notice of his appeal of the Order dated
November 19, 1979 by the Atomic Safety & Licensing Board ruling that
his petition for leave to intervene dated July 17, 1979 will be treated
as merely a request to make a limited appearance as opposed to a petition
for leave to intervene as a full party.

BRIEF IN SUPPORT OF APPEAL

The Atomic Safety and Licensing Board Order dated November 19, 1979 is erroneous in its treatment of DONALD D. WEAVER's petition for 3 reasons:

- (1) the publication of notice in the Federal Register only is a denial of fair notice and due process;
- (2) the Supplemental Notice of Intervention Procedures dated June 12, 1979 published in the Federal Register is defective in requiring Petitioners to state that they failed to file petitions for leave to intervene pursuant to the Board's prior notices because of restrictions in those notices; the defective notices are tantamount to no notice and the requirement of a statement or proof of intimidation by the restrictions in prior notices denies due process;
- (3) DONALD D. WEAVER in fact failed to intervene because of the restrictions in prior notices, as was stated in the record by Mr. J. Morgan Bishop. Mr. Weaver was unable to be present as he was in Hawaii during the hearings.

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Applicant in a Motion to Schedule Special Prehearing Conference pursuant to 10 CFR § 2.751a dated 7/30/79 requested that the Board require petitioners to be present and respond under oath to inquiries as to the basis of their statements that they failed to file petitions for leave to intervene under the Board's notices of May 31 and September 11, 1978. The NRC Staff's Response to Applicant's Motion dated August 3, 1979 took the position that extensive inquiry into the circumstances surrounding the filing of each petition was not necessary and that petitioners should not be required to respond under oath. The Board's Order Scheduling Special Prehearing Conference dated August 6, 1979 makes no mention of this issue. Nor did the Board's Supplemental Order dated September 13, 1979 address this issue. DONALD D. WEAVER did appear through counsel and counsel presented information to the Board through Mr. J. Morgan Bishop on the issue of prior notice intimidation. To reject this information on the basis that it is hearsay would be unfair in light of the Board's notices regarding the hearing and related pleadings filed by the Applicant and Staff which certainly did not put Mr. Weaver on notice that he would have to personally appear at the conference and on the contrary, implied that prior intimidation would be only a minor issue. Moreover, the Board's Order rejecting Mr. Weaver's petition places form over substance in basing its decision on Mr. Weaver's failure to explain why he did not say in his petition that he was intimidated in the face of the statement by Ms. Bishop that Mr. Weaver stated that he was in fact intimidated.

Respectfully submitted,

SL a. n. —
Stephen A. Doggett

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