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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
Philadelphia Electric Company)
)
(Limerick Generating Station,)
Units 1 and 2))

Docket Nos. 50-352^{OL}
50-353⁸⁵

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APPLICANT'S ANSWER TO MOTION OF AIR AND WATER
POLLUTION PATROL TO REOPEN THE RECORD ON
SUPPLEMENTARY COOLING WATER ISSUES

Preliminary Statement

On May 21, 1985, intervenor Air and Water Pollution Patrol ("AWPP"), by its representative Frank R. Romano, filed a request which appears to be in the nature of a motion to reopen the record for admission of new contentions related to the supply of supplementary cooling water for the Limerick Generating Station ("Limerick").

The request is deficient as a matter of law for several reasons. First, the presiding Atomic Safety and Licensing Board ("Licensing Board" or "Board") lacks jurisdiction over the request inasmuch as it raises new issues regarding the supply of supplementary cooling water for Limerick when water cannot be withdrawn from the Schuylkill River and Perkiomen Creek under the conditions imposed by the Delaware River Basin Commission ("DRBC") in allocating water for Limerick. Issues related to supplementary cooling water for Limerick have been finally adjudicated by this Board and

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reviewed by the Atomic Safety and Licensing Appeal Board ("Appeal Board") and the Commission, except for one isolated aspect not relevant here. Thus, jurisdiction no longer exists within the NRC to hear allegations on the matters raised by AWPP, except before the Director, Nuclear Reactor Regulation, pursuant to 10 C.F.R. §2.206.

Second, even if an adjudicatory board had jurisdiction, the statutory responsibility for allocating water resources to users throughout the Delaware River Basin resides in the DRBC, not the NRC. Thus, the issues raised by AWPP with respect to Applicant's request before DRBC, i.e., the DRBC "decision to declare a Drought Emergency" on May 13, 1985 and "the degree of natural reduction in water availability with harm and danger to the public" alleged by AWPP,^{1/} go to the very heart of the DRBC allocation function under the Delaware River Compact. Its allocations are not reviewable by the NRC.

Third, AWPP has failed to satisfy the requirements for admitting new, late contentions under 10 C.F.R. §2.714(a)(1)(i)-(v). It has not even addressed the separate criteria for reopening a closed record. In fact, its request is so vaguely articulated that it is impossible to discern exactly what issue(s) AWPP wishes to pursue. Where, as here, the grant of a full-power operating license is

^{1/} AWPP Motion at 1 (May 21, 1985).

imminent, an intervenor has a responsibility to bring any request to reopen the record into sharp focus by providing a clear statement of precise issues as well as very specific bases for their litigation. The instant request by AWPP falls far short of these requirements and should be denied.

Argument

I. AWPP Must Pursue Its Request for Relief
Before the Director, Nuclear Reactor
Regulation, Pursuant to 10 C.F.R. §2.206.

Applicant's plans for a supply of supplementary cooling water for Limerick have been the subject of numerous decisions by the Licensing Board and Appeal Board^{2/} as well as decisions of the Director, Nuclear Reactor Regulation, under 10 C.F.R. §2.206.^{3/} The "river-follower" method of supplying supplemental cooling water for Limerick, utilizing water supplies from the Delaware River when water is unavailable from the Schuylkill River or the Perkiomen Creek, is well understood and need not be further explained here.^{4/}

2/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-83-11, 17 NRC 413 (1983), aff'd in part, ALAB-785, 20 NRC 848 (1984), recon. denied, "Order" (October 10, 1984), dism. on remand, "Memorandum and Order" (November 8, 1984), aff'd, ALAB-804, 21 NRC ____ (April 10, 1985).

3/ Limerick, supra, "Director's Decision Under 10 CFR 2.206," DD-85-8 (May 17, 1985); DD-84-13, 19 NRC 1137 (1984); DD-82-13, 16 NRC 2115 (1982).

4/ See, e.g., Limerick, supra, ALAB-785, 20 NRC 848, 855-57.

Initially, the Licensing Board determined that intervenor Delaware Unlimited, Inc. ("Del-Aware") had standing to pursue issues relating "to the supplementary cooling water system."^{5/} Following a hearing on the admitted contentions relating to allegedly adverse impacts of operating the supplementary cooling water system, the Licensing Board found that there would be no adverse impacts upon local American shad and shortnose sturgeon populations, recreational activities or the tranquility of the proposed Point Pleasant Historic District.^{6/} That result was affirmed by the Appeal Board, subject to remand on refiled contentions concerning salinity and other impacts on the Point Pleasant Historic District.^{7/}

Subsequently, Del-Aware sought reconsideration of ALAB-785 to assert the right to reformulate and resubmit its previously filed contention regarding alleged "toxic pollution caused by discharge of water into the Perkiomen Creek and Schuylkill River."^{8/} The Appeal Board stated that Del-Aware had not previously sought review of this aspect of

^{5/} Limerick, supra, LBP-82-43A, 15 NRC 1423, 1440-41 (1982).

^{6/} Limerick, supra, LBP-83-11, 17 NRC 413, 416 (1983).

^{7/} Limerick, supra, ALAB-785, 20 NRC 848 (1984).

^{8/} Limerick, supra, ALAB "Order" (October 10, 1984) (slip op. at 1).

its contention and that it was consequently "too late for Del-Aware to attempt to raise such new arguments now."^{9/}

Following remand from the Appeal Board, the Licensing Board denied Del-Aware's reformulated contentions relating to alleged salinity impacts and Historic District impacts,^{10/} which decision the Appeal Board affirmed.^{11/} In the meantime, the Commission informed the parties on March 1, 1985 that it had declined to review ALAB-785, which, accordingly, became final agency action on February 22, 1985.^{12/}

While the exact relief requested by AWPP is far from evident, its motion relates to Applicant's proposal before DRBC for interim measures to assure an adequate supply of supplementary cooling water for Limerick.^{13/} As an

^{9/} Id. at 3.

^{10/} Limerick, supra, "Memorandum and Order" (November 8, 1984).

^{11/} Limerick, supra, ALAB-804, 21 NRC ____ (April 10, 1985).

^{12/} Letter from Samuel J. Chilk, Secretary of the Commission, to Troy B. Conner, Jr., counsel for the Applicant (March 1, 1985). An identical letter was sent to counsel for Del-Aware.

^{13/} A copy of Applicant's application under Section 3.8 of the Delaware River Basin Compact was sent to the Boards and parties by Applicant's counsel on March 19, 1985. Additional materials relevant to that application were transmitted on April 26 and May 8, 1985. On May 29, 1985, the DRBC denied the application insofar as it sought an interim supply of supplementary cooling water
(Footnote Continued)

adjudicatory matter, however, the NRC concluded its consideration of the supplementary cooling water system, except for the narrow issues of salinity impacts in the Delaware River and impacts upon the Point Pleasant Historic District, when the Commission determined that it would not review ALAB-785.^{14/}

In two decisions, the Appeal Board has clarified the passage of jurisdiction from a licensing board upon appeal

(Footnote Continued)

from the Blue Marsh Reservoir or other Basin water supply storage. AWPP's allegations are therefore moot. See Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit 1), CLI-83-3, 17 NRC 72, 74 (1983); United States Department of Energy (Clinch River Breeder Reactor Plant), CLI-82-23, 16 NRC 412, 419 (1982); Consolidated Edison Company of New York (Indian Point, Unit No. 2), CLI-81-7, 13 NRC 448, 449 (1981); Public Service Company of Oklahoma (Black Fox Station, Units 1 and 2), CLI-80-8, 11 NRC 433, 435 (1980).

Also on May 29, 1985, DRBC granted Applicant's request to temporarily substitute a dissolved oxygen monitoring program for the temperature constraint of 59°F contained in the docket decision authorizing Schuylkill withdrawals. Apparently, AWPP does not allege any impact related to the latter action by DRBC. Although it mentions "dissolved oxygen" among other water parameters in alleging environmentally adverse "interactions," its claims appear to relate solely to decreased water supplies in the Schuylkill. A copy of DRBC's decision will be furnished to the Boards and parties as soon as it becomes available to Applicant.

^{14/} By memorandum to the Board and parties dated May 31, 1985, the Secretary announced that the Commission declined to review ALAB-804, which affirmed the Licensing Board's denial of Del-Aware's reformulated contentions on those discrete issues. Accordingly, that decision became final agency action on May 20, 1984.

of a final or otherwise appealable order.^{15/} In those decisions, the Appeal Board has held that where finality has attached to a licensing board's order, the board lacks jurisdiction over that aspect of the proceeding covered by the order if reopening is sought while the order is being reviewed on appeal. Similarly, once the Appeal Board has acted upon a discrete matter, it lacks jurisdiction to consider new allegations relating to that matter, absent remand by the Commission or a reviewing court.^{16/} Thus, neither the Licensing Board nor Appeal Board has jurisdiction over AWPP's claims because all remaining adjudicatory

^{15/} Limerick, supra, ALAB-726, 17 NRC 755 (1983); Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), ALAB-699, 16 NRC 1324 (1982).

^{16/} Florida Power and Light Company (St. Lucie Nuclear Power Plant, Unit No. 2), ALAB-579, 11 NRC 223, 225-26 (1980); Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-551, 9 NRC 704, 707 (1979); Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-513, 8 NRC 694 (1978). Under the standard enunciated by the Appeal Board, a board lacks jurisdiction over a newly pleaded matter absent "a rational and direct link to the limited matters over which [the board has retained] jurisdiction." St. Lucie, supra, ALAB-579, 11 NRC 223, 226. More recently, the Appeal Board ruled that where "wholly unrelated, discrete issues" could not be "easily separated" from matters over which the Board had jurisdiction, a "reasonable nexus" exists. Louisiana Power & Light Company (Waterford Steam Electric Station, Unit 3), ALAB-797, 21 NRC 6, 8 (1985).

issues related to the supplementary cooling water system for Limerick were decided in ALAB-804.^{17/}

The Commission itself no longer has jurisdiction to reopen or accept late contentions with regard to issues concerning Limerick's supplementary cooling water system. Its jurisdiction ceased with the expiration of the 60-day period within which an aggrieved party might have sought judicial review of ALAB-785 under the Hobbs Act, 28 U.S.C. §2347.^{18/} Thus, any relief available to AWPP must be sought by way of a petition pursuant to 10 C.F.R. §2.206.^{19/} As

^{17/} In a recent Memorandum and Order, the Appeal Board left open the question of whether an adjudicatory board would still have jurisdiction over allegations pertaining to the subject application filed by Applicant with the DRBC. The Appeal Board held that the relief requested by the intervenor, an order requiring Applicant to withdraw its application before DRBC, was so clearly beyond the NRC's authority that the issue need not be addressed. Limerick, supra, ALAB Memorandum and Order (May 2, 1985) (slip op. at 3 n.4).

^{18/} See St. Lucie, supra, CLI-80-41, 12 NRC 650, 652 (1980). As noted, the only other adjudicatory matters related to Limerick cooling water supplies are the two issues decided by ALAB-804, i.e., alleged salinity impacts in the Delaware and impacts upon the Point Pleasant Historic District. There is no "rational and direct link" between those issues and the issues pleaded by AWPP, which ostensibly relate to alleged impacts upon the Schuylkill resulting from an increased use of water storage supplies. Thus, even though the Commission could reconsider its decision not to review ALAB-804 by July 19, 1985, it likewise lacks jurisdiction over AWPP's request to reopen as an adjudicatory matter.

^{19/} Waterford, supra, ALAB-797, 21 NRC 6, 9; St. Lucie, supra, ALAB-579, 11 NRC 223, 226; Seabrook, supra,
(Footnote Continued)

noted, the Director has already issued three decisions upon other requests for relief relating to the operation of the supplementary cooling water system for Limerick.^{20/}

The Appeal Board faced a similar situation in Union Electric, where it supplemented a decision denying the intervenors' motion to reopen, noting that the safety issue alleged by intervenors was still under NRC Staff review:

Thus, it is possible that new information bearing upon the safety of the manually welded embeds will be forthcoming. But, particularly given the staff's monitoring on an ongoing basis of the construction and operation of individual nuclear facilities, the potential for new developments affecting litigated issues always exists. Litigation must nevertheless at some point come to an end. . . . Any new developments can be brought to the attention of either the Commission (if it still has jurisdiction over this proceeding at the time) or the Director of Nuclear Reactor Regulation.^{21/}

(Footnote Continued)

ALAB-513, 8 NRC 694, 696. As noted by the Director of Nuclear Reactor Regulation in his most recent "Director's Decision Under 10 CFR 2.206," Applicant must "adhere to the terms of its Environmental Protection Plan (EPP) which is a condition of its operating license issued by the Nuclear Regulatory Commission and which is appended as Appendix B to the operating license for Limerick Unit 1." Limerick, supra, DD-85-8, 21 NRC _____ (slip op. at 6). Accordingly, the relief sought by AWPP may be requested before the Director.

^{20/} See note 3, supra.

^{21/} Union Electric Company (Callaway Plant, Unit 1), ALAB-750A, 18 NRC 1218, 1220 (1983).

II. The NRC Lacks Jurisdiction to Review
Any Decision by DRBC to Allocate Other
Sources of Supplementary Cooling Water
for Limerick.

Even if this Board should determine that adjudicatory jurisdiction exists to hear AWPP's claims, AWPP improperly seeks to challenge actions by DRBC in allocating water resources for Limerick. While the Appeal Board in ALAB-785 interpreted DRBC's allocation function differently than the Licensing Board, the Appeal Board definitely agreed "that the NRC may not reevaluate the DRBC's 'allocation decision itself.'"^{22/} Further, the Appeal Board agreed with the Licensing Board's finding that the "DRBC's function is to regulate water supply and control consumptive uses of water in the basin through development of the Comprehensive Plan."^{23/}

More recently, the Appeal Board reaffirmed this fundamental principle with regard to the very application before DRBC discussed by AWPP in its motion. The Appeal Board dismissed a petition for a stay and a request by intervenor Friends of the Earth ("FOE") asking for an order requiring Applicant to withdraw its March 15, 1985 application before the DRBC. Like AWPP, FOE alleged "that an environmental impact study of the proposed changes and NRC approval are

^{22/} Limerick, supra, ALAB-785, 20 NRC 848, 868.

^{23/} Id.

required before the DRBC can act."^{24/} The Appeal Board held:

[T]his Commission has no legal authority to order PECO to withdraw a filing before another agency. . . . [W]e can rule on only the federal issues raised in connection with an application filed with the NRC for authority to conduct activities within this agency's regulatory jurisdiction. . . . Rather, the DRBC is the proper forum for Anthony/FOE's complaints directed to the March 15 PECO application.^{25/}

Accordingly, DRBC's decision on May 29, 1985 to modify temporarily its allocation of Schuylkill water for Limerick by substituting a dissolved oxygen monitoring program for the 59°F temperature constraint imposed as a condition of the allocation^{26/} is not collaterally reviewable by the

^{24/} Limerick, supra, ALAB Memorandum and Order (May 2, 1985) (slip op. at 2).

^{25/} Id. at 2-3 (emphasis in original).

^{26/} See Application of Philadelphia Electric Company before the Delaware River Basin Commission (March 15, 1985). In Docket No. D-69-210 CP (March 29, 1973), the DRBC allocated cooling water for Limerick, subject to final approval under Section 3.8 of its Compact, with the following condition, inter alia, which it modified on May 29, 1985:

Schuylkill River water at the plant may be used for consumptive use when flow (not including future augmentations of flow from Commission-sponsored projects) as measured at the Pottstown gage is in excess of 530 cfs (342 mgd) with one unit in operation and 560 cfs (362 mgd) with two units in operation with the following exceptions:

(Footnote Continued)

NRC. It would be up to DRBC, not the NRC, to determine whether the temporary modification of its own allocation condition is consistent with a reasonable and equitable apportionment of Basin water resources.^{27/} The declaration of a drought emergency, cited by AWPP in its request, shows exactly why the DRBC, not the NRC, is best situated to decide any perceived "threat to the needs of [water] users" in the Delaware River Basin.^{28/}

III. AWPP Has Failed to Satisfy the Commission's Requirements for Reopening the Record and Admitting Late Contentions.

The Appeal Board recently restated in Waterford the test for reopening a closed record as follows:

1. We explained in ALAB-753 that a successful motion to reopen must be timely and address a significant safety or environmental issue. It must also show that a different result might have been reached had the newly proffered

(Footnote Continued)

- (a) There shall be no withdrawals when river water temperatures below the Limerick station are above 15°C [59°F] except during April, May and June when the flow as measured at the Pottstown gage is in excess of 1791 cfs (1158 mgd).

Final approval of the allocation for Limerick, which incorporated this condition, was given in Docket No. D-69-210 CP (Final) (November 5, 1975).

^{27/} See Delaware River Basin Compact §§3.2 (Comprehensive Plan and Water Resources Program), 3.3 (allocations to signatories) and 3.8 (allocations to individual users).

^{28/} AWPP Motion at 1 (May 21, 1985).

material been considered initially. We stressed as well the need for more than bare allegations, and we observed that a newspaper article alone does not provide a basis for reopening a closed adjudicatory record. . . . The burden of satisfying these requirements is on the proponent of a motion to reopen and it is a "heavy" one.^{29/}

In this instance, AWPP has not even addressed, let alone satisfied, the heavy burden upon a proponent of a motion to reopen the record. First, as to timeliness, AWPP offers no plausible explanation for its delay in raising this contention more than two months after notification by Applicant of its pending application before DRBC. As to the second factor, demonstration of a significant environmental or safety issue, AWPP's enigmatic assertion of "the biochemistry of the interactions of organic matter, dissolved oxygen, and toxic chemicals"^{30/} leaves no clue as to exactly what environmental harm it perceives, nor does not supply any scientific or technical basis for its allegations. A fortiori, AWPP has not come close to meeting the third criterion that a different result would have been reached in the decisions of the Licensing Board and Appeal Board, which found that Applicant's supplementary cooling

^{29/} Waterford, supra, ALAB-786, 20 NRC 1087, 1089-90 (1984). See also Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit 1), ALAB-774, 19 NRC 1350, 1355 (1984).

^{30/} AWPP Motion at 1 (May 21, 1985).

water system would have no significant, adverse environmental impacts.^{31/}

In Diablo Canyon, the Appeal Board emphasized that a successful motion to reopen requires greater technical specificity than is required for an admissible contention at the outset of the proceeding. The Appeal Board held:

At a minimum, therefore, the new material in support of a motion to reopen must be set forth with a degree of particularity in excess of the basis and specificity requirements contained in 10 C.F.R. 2.714(b) for admissible contentions. Such supporting information must be more than mere allegation; it must be tantamount to evidence. And, if such evidence is to affect materially the previous decision (as required by the Commission), it must possess the attributes set forth in 10 C.F.R. 2.743(c) defining admissible evidence for adjudicatory proceedings. Specifically, the new evidence supporting the motion must be "relevant, material, and reliable."^{32/}

The AWPP motion falls far short of that standard.

Moreover, although AWPP has lightly touched upon the separate requirements for admitting late contentions,^{33/}

^{31/} See note 2, supra.

^{32/} Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-775, 19 NRC 1361, 1366-67 (1984) (emphasis added).

^{33/} The Commission has held that "[w]here a motion to reopen relates to a previously uncontested issue, the moving party must satisfy both the standards for admitting late-filed contentions . . . and the criteria established by case law for reopening the record.
(Footnote Continued)

none of the five factors weighs in its favor. First, no good cause for lateness has been shown. AWPP offers no excuse for waiting more than two months to file its proposed contention.^{34/} In denying FOE's request to stay Applicant's further pursuit of the same application which is the basis of AWPP's claims, the Appeal Board found an unexplained delay of over five weeks to be significant.^{35/}

Second, other means exist to protect AWPP's interest. AWPP's representative testified in the hearing before the DRBC on May 7, 1985 regarding Applicant's request for an interim supply of supplementary cooling water.^{36/} DRBC is not only an alternative, but the most appropriate forum before which AWPP can pursue its interest in water allocations.

(Footnote Continued)

Diablo Canyon, supra, CLI-82-39, 16 NRC 1712, 1714-15 (1982).

^{34/} Good cause exists where the late contention "(1) is wholly dependent upon the content of a particular document; (2) could not therefore be advanced with any degree of specificity (if at all) in advance of the public availability of that document; and (3) is tendered with the requisite degree of promptness once the document comes into existence and is accessible for public examination." Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460, 469 (1982), aff'd in relevant part, CLI-83-19, 17 NRC 1041, 1043-44 (1983).

^{35/} Limerick, supra, ALAB Memorandum and Order (May 2, 1985) (slip op. at 2n.2).

^{36/} Indeed, representatives of intervenors FOE and Limerick Ecology Action also provided testimony to the DRBC opposing Applicant's application.

Third, AWPP has made no attempt to show that its participation may reasonably be expected to assist in developing a sound record. No issues have been particularized, nor have the names of prospective witnesses (other than Mr. Romano himself) and their proposed testimony in summary been proffered.^{37/} Certainly, AWPP's representative has himself shown no expertise in water quality or water supply issues.^{38/}

Fourth, whether any party will protect AWPP's interest on the matters asserted is irrelevant inasmuch as those matters lie beyond the cognizance of the NRC.^{39/} Fifth, reopening the record and admitting new late contentions on behalf of AWPP will indisputably delay the proceeding and

^{37/} See Mississippi Power & Light Company (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-704, 16 NRC 1725, 1730 (1982). See also Washington Public Power Supply System (WPPSS Nuclear Project No. 3), ALAB-747, 18 NRC 1167, 1177 (1983); Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), ALAB-743, 18 NRC 387, 399 (1983).

^{38/} In an earlier aspect of the case, the Board found that, as a witness, AWPP's representative "displayed insufficient knowledge and expertise to be relied upon." Limerick, supra, LBP-84-31, 20 NRC 446, 455. His self-serving claims of expertise in biochemistry/bacteriology in AWPP's instant motion do not enhance his qualifications.

^{39/} Certainly, Del-Aware aggressively pursued those interests in litigating supplementary cooling water system impacts, as evidenced by the 12-day hearing on its contentions as well as its repeated requests to reopen and admit new contentions.

broaden the issues significantly.^{40/} Accordingly, AWPP has failed to satisfy the five criteria for admission of a late contention.

Finally, the request to reopen is utterly lacking in the specificity and bases required by 10 C.F.R. §2.714(b). As noted, the request does not even purport to frame particularized issues or contentions. This Board recently stated that "a licensing board has no duty to recast contentions offered by a petitioner to remedy the infirmities . . . for which they may be rejected, in order to make inadmissible contentions meet the requirements of 10 C.F.R. § 2.714."^{41/} Indeed, AWPP's request is even more vague than

^{40/} It is noted that the fifth factor under 10 C.F.R. §2.714(a)(1)(v) involves the delay of the proceeding, not delay of the operation of the facility. Detroit Edison Company (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-707, 16 NRC 1760, 1766 (1982), citing Fermi, supra, LBP-82-96, 16 NRC 1408, 1434 (1982). See also Shoreham, supra, LBP-83-30, 17 NRC 1132, 1146 (1983). Nonetheless, admission of new, late contentions at this very late stage would very likely result in delay of Applicant's program for ascension to full power and, ultimately, commercial operation of the facility. Insofar as AWPP asserts that Applicant has "electrical over-capacity without Limerick," its claims are impermissible. The Commission's regulations expressly prohibit re-examination of the "need for power" issue at the operating license stage. See 10 C.F.R. §50.53(c). In fact, such a contention was denied in this proceeding. Limerick, supra, LBP-82-43A, 15 NRC 1423, 1509-10. No waiver of the regulation was sought by AWPP or any other party.

^{41/} Limerick, supra, "Memorandum and Order on Graterford Prisoners Proposed Contentions" (April 12, 1985) (slip op. at 9).

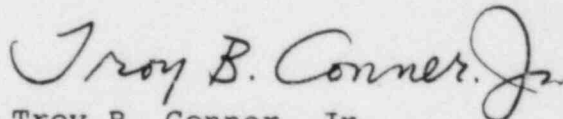
the contentions relating to the supplementary cooling water system, proposed by Del-Aware, which were denied by the Licensing Board for lack of specificity and bases.^{42/}

Conclusion

For the reasons discussed above, the NRC lacks jurisdiction over the matters asserted by AWPP as adjudicatory issues. In any event, AWPP has wholly failed to meet the NRC's requirements for reopening a record, admitting late contentions and providing reasonable specificity and bases in stating proposed contentions. Its request should therefore be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.



Troy B. Conner, Jr.
Robert M. Rader

Counsel for the Applicant

June 3, 1985

^{42/} Limerick, supra, "Memorandum and Order on Del-Aware's Remanded and Revised Environmental Contentions V-14 and V-16" (November 8, 1984), aff'd, ALAB-804, 21 NRC ____ (April 10, 1985).

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Motion of Air and Water Pollution Patrol to Reopen the Record on Supplementary Cooling Water Issues," dated June 3, 1985 in the captioned matter have been served upon the following by hand delivery or by deposit in the United States mail this 3d day of June, 1985:

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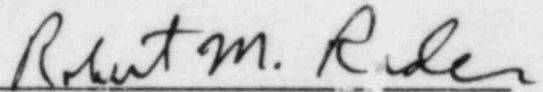
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