

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)	
VIRGINIA ELECTRIC & POWER COMPANY)	Docket Nos. 50-338 OLA-1
(North Anna Nuclear Power Station,)	50-339 OLA-1
Units 1 and 2))	(Receipt of Spent Fuel)

NRC STAFF BRIEF IN SUPPORT
OF STAFF'S PROPOSED FINDINGS OF FACT

I. INTRODUCTION

On July 13, 1982 Virginia Electric Power Company (VEPCO or Licensee) applied for an amendment to Operating Licenses NPF-4 and NPF-7 for the North Anna Units 1 and 2. The proposed changes would add license conditions to the North Anna Unit 1 and Unit 2 existing licenses to allow the receipt and storage of 500 spent fuel assemblies from Surry Power Station, Unit Nos. 1 and 2. See 47 Fed. Reg. 41892 (September 22, 1982). This proceeding was designated Case OLA-1.

Concerned Citizens of Louisa County (CCLC) sought intervention opposing the proposed amendment.

The issues litigated as a result of CCLC's intervention are set out in Consolidated Contention 1:

The Staff's Environmental Assessment is inadequate and an Environmental Impact Statement should be prepared. The bases for this contention are two-fold. First, the Environmental Assessment, did not evaluate the probability and consequences of accidents occurring during the transportation of spent fuel casks from the Surry Station to the North Anna Station or which might be occasioned by acts of sabotage or by error of Applicant's employees in preparing the casks for shipment. Second, contrary to the National Environmental Policy Act, 42

U.S.C. 4332(2)(E), consideration was not given to the alternative method of constructing a dry cask storage facility at the Surry Station which is feasible, can be effected in a timely manner, is the least expensive and safest method for at least 50 years, and can be used on or offsite.

II. DISCUSSION ^{1/}

- A. The NRC staff adequately analyzed the probability and consequences of accidents and the analysis supports the Staff's conclusion that the transshipment proposal will not significantly affect the quality of the human environment.
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In Consolidated Contention 1 CCLC asserts that the Staff's Environmental Assessment (EA) is inadequate and that an Environmental Impact Statement (EIS) needs to be prepared due to the failure of the Staff to evaluate in the EA "the probability and consequences of accidents occurring during the transportation of spent fuel casks from Surry Station which might be occasioned by acts of sabotage or by error of Applicant's employees in preparing the casks for shipment".

Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C), provides in part that:

. . . all agencies of the federal government shall . . . (C) include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of human environment, a detailed statement by the responsible official on . . . the environmental impact of the proposed action . . .

NEPA does not require an EIS every time a federal agency takes an action; rather, before such a statement is required a proposed action must be "major" and its effect on the human environment must be signifi-

^{1/} The abbreviation "SF" is used in reference to either a staff proposed finding or to a Licensee's proposed finding which has been adopted by the Staff in a modified form. The abbreviation "LPF" is used in reference to a Licensee's proposed finding.

cant rather than negligible. See Duke Power Company (Amendment to materials license SNM - 1773 - Transportation of Spent Fuel from Oconee Nuclear Station for Storage at McGuire Nuclear Station), ALAB-651, 14 NRC 307 (1981), where the Appeal Board giving consideration to the risk of sabotage authorized on the basis of the Staff's EA the issuance of an amendment to a material license, allowing transportation of 300 spent fuel assemblies from Oconee Nuclear Station to McGuire Nuclear Station, a 170-mile distance; Public Service Electric & Gas Company, (Salem Nuclear Generating Station), ALAB-650, 14 NRC 43 at 65-67 (1981), where the Appeal Board affirmed a licensing board decision concluding that the Salem Spent Fuel Pool expansion was not a major action significantly affecting the environment; and Portland General Electric Company, (Trojan Nuclear Plant), ALAB-531, 9 NRC 263, 266-267 (1979), where the Appeal Board affirmed authorization of an operating license amendment to permit expansion of the spent fuel capacity noting that such expansion will not entail more than negligible environmental impacts.

The Appeal Board has also made it clear that remote and highly speculative consequences do not trigger the obligation to prepare an EIS. Duke, supra, ALAB-651, 14 NRC at 321. An agency must be given some latitude to decide whether remote risks need be discussed at all in an environmental assessment. City of New York v. U.S. Department of Transportation, 715 Fed. 2d 732, 750 (2d Cir. 1983). It is furthermore clear that the burden is on the party attacking an agency's environmental assessment to show that a significant impact does exist due to the proposed action. Save Our Wetlands v. Sands, 13 ELR 20851, 20855.

Finally, to determine the adequacy of the Staff's environmental review the Licensing Board must look at the entire record and not just the environmental assessment. Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-84-31, 20 NRC 446, 552-53 (1984); Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), ALAB-262, 1 NRC 163, 197 n. 54 (1975); Arizona Public Service Company, et al. (Palo Verde Nuclear Generating Station, Units 2 and 3), ALAB-742, 18 NRC 380, 382 (1983); Public Service Electric and Gas Company (Salem Nuclear Generating Station, Unit 1), ALAB-650, 14 NRC 43, 64-65 n. 33 (1981).

1. Sabotage

The subject of sabotage was not discussed in the Staff's EA. ^{2/}
See Staff Ex. 1. The Staff's analysis of sabotage was analyzed in the Staff's Safety Evaluation (Staff Ex. 2, at 3-8, 3-9, 4-3, 4-4) which was issued together with the Staff's EA on June 3, 1984. SF 6. In addition,

^{2/} The Commission has explained in the Statement of Considerations concerning Table S-4 values for environmental effects of transportation of fuel and waste that the effects of sabotage are beyond the scope of the S-4 rule and are, therefore, subject to consideration in individual reactor licensing proceedings. 40 Fed. Reg. 1005, 1007 (January 6, 1975).

the Licensee ^{3/} and the NRC staff ^{4/} presented witnesses to testify on the issues of probability and consequences of accidents occurring during the transportation of spent fuel from the Surry Station to the North Anna Station which might be occasioned by acts of sabotage. CCLC did not present a single witness or conduct any cross examination on this issue. LPF 32.

The uncontroverted evidence presented on this aspect of CCLC Consolidated Contention 1 supports a Board finding that the probability and consequences of acts of sabotage against spent fuel casks from Surry to the North Anna Station are small. SF 30. In particular, the evidence in the record shows that the likelihood that a saboteur could carry out an attack on spent fuel shipment is small (LPF 11), that an attack if carried out is unlikely to succeed (LPF 26), and that if such an attack does succeed the consequences would be small. SF 25; LPF 32.

^{3/} "Testimony of Robert M. Jefferson", ff. Tr. 326. Mr. Jefferson is a private consultant who until April 1985 was Manager of the Transportation Technology Center operated by Sandia National Laboratories for the Department of Energy. "Testimony of Marvin L. Smith (II)", ff. Tr. 328. Mr. Smith is a supervisor, Nuclear Engineering for VEPCO.

^{4/} The Staff witnesses testifying on sabotage were: William R. Lahs, Jr., a senior project manager and nuclear engineer in the Office of Regulatory Research at the Nuclear Regulatory Commission, Carl B. Sawyer, a senior safeguards analyst in the Office of Nuclear Material Safety and Safeguards at the Nuclear Regulatory Commission, Justin T. Long, a senior chemical engineer in the Office of Nuclear Material Safety and Safeguards at the Nuclear Regulatory Commission, and Leon B. Engle, an operating reactor project manager in the Office of Nuclear Reactor Regulation at the Nuclear Regulatory Commission. See "NRC Staff Testimony of William R. Lahs, Jr., Carl B. Sawyer, William H. Lake, John P. Roberts, Donald P. Cleary, Justin T. Long, and Leon B. Engle Regarding CCLC Consolidated Contention 1," ff. Tr. 346.

Moreover, the evidence in the record shows that there is no identified threat of sabotage of spent fuel (SF 13, 14); that spent fuel would not be an appealing target (LPF 7-10); that the structural features of the cask, including those required by 10 C.F.R. Part 71, enable the cask to withstand accident-like events (SF 17-19); that the 10 C.F.R. § 73.37 physical protection system increases the complexity and therefore reduces the likelihood of a successful sabotage (LPF 14-16); that mechanical disassembly of the cask to reach the fuel would be extraordinarily difficult, dangerous and time consuming (SF 21, LPF 20-23); that use of projectiles would not be effective (LPF 24); and that a release of spent fuel would require skillful use of explosives by persons with knowledge of both explosives and shipping cask design parameters (SF 23). Finally, even if it's assumed that sabotage of the proposed spent fuel cask is attempted and is successful the maximum possible harm of such sabotage is one-half a latent cancer. LPF 32.

Accordingly, the evidence in the record demonstrates that the risk of sabotage has been adequately considered by the Staff and supports the Staff conclusion in its safety evaluation report that the risks of sabotage is "very small" (SF 30). See Limerick, supra, LBP-84-31, 20 NRC at 452-53; Limerick, supra, ALAB-262, 1 NRC at 197. In fact the evidence in the record supports the finding that the probability and consequences of sabotage accidents occurring during the proposed transshipment from Surry Station to the North Anna Station are so small that they can be considered "remote and highly speculative", not requiring preparation of an EIS (Duke, supra, ALAB-651, 14 NRC at 321) or not requiring any consideration in the EA at all (City of New York, supra, 715 Fed. 2d

at 750). Moreover, in failing to present any evidence or conducting any cross examination, CCLC has failed to meet its burden to show that the EA's conclusion of "no significant impact" is incorrect.

Save Our Wetlands, supra, 13 ELR at 20855.

2. Employee Error

The Licensee 5/ and the NRC staff 6/ presented witnesses to testify on the likelihood of human error in preparing spent fuel casks for shipment. CCLC failed to present any testimony on human error in cask handling (LPF 43) and, therefore, failed to meet its burden of showing the existence of a significant environmental impact. Id.

The uncontroverted evidence presented on the cask handling aspect of CCLC Consolidated Contention 1 supports a Board finding that the risks of release of radioactive material due to human error in transportation of spent fuel casks is unlikely. LPF 41, 42. This finding is supported by the evidence that there is a low frequency of improper cask closure (LPF 41, 42), that design features of the TN-8L cask minimize the potential for producing human error in cask handling (LPF 52-61), that

5/ "Testimony of Paul N. McCreery," ff. Tr. 220. Mr. McCreery is the Manager for Aiken Operations for Transnuclear, Inc. "Testimony of Joseph M. Pickworth," ff. Tr. 222. Mr. Pickworth is the refueling senior reactor operator for VEPCO's Surry Power Station.

6/ The NRC staff witness testifying on the subject of cask handling error was: William H. Lake, a mechanical engineer with the Transportation Certification Branch of the Office of Nuclear Material Safety and Safeguards at the NRC. See Lahe, et al., ff. Tr. 346.

the TN-8L cask is designed pursuant to 10 C.F.R. § 71.73 (LPF 46, 61), ^{7/} that detailed site specific procedures are used with supervisory "check-off" at each step and "self-checking" operations for handling the TN-8L (LPF 62-69), and that VEPCO employees have been properly trained to implement the cask handling procedures (LPF 70, 71).

Accordingly, the uncontroverted evidence establishes that the risk of an accident occurring during the transportation of spent fuel casks from Surry Station to the North Anna Station which might be occasioned by sabotage or by error of VEPCO's employees in preparing the casks for shipment is small and does not trigger the NEPA § 102(2)(c) requirement of preparing an EIS for major Federal Actions significantly affecting the quality of the human environment.

Moreover, as the Staff witness testified, the generic environmental survey entitled the "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants" (WASH-1238, December 1972) includes consideration of human error. LPF 40. WASH-1238 and its supplement ^{8/} provide the data supporting the values in Table S-4. The Staff in its analysis of the proposed transshipment relied on Table S-4 and testified that the impacts from the proposed action

^{7/} The Appeal Board stated in the Duke transshipment case, ALAB-651, supra, 14 NRC at 318, in finding that preparation of an EIS was not required, that the spent fuel must be "transported in specially designed and manufactured casks which offer a high degree of protection against the release of radioactivity in the event of an accident. Specifically, the casks must comply with the stringent safety and other requirements which have already been prescribed by the Commission (10 C.F.R. Parts 71 and 73)". (footnote omitted).

^{8/} NUREG-75/038 April 1975. See 10 C.F.R. § 51.52 Table S-4 n. 1.

would be less (by a factor of at least 30) than that shown in Table S-4. LPF 37. CCLC has made no showing that the Table S-4 values are not applicable. LPF 43. Furthermore, this Board has ruled as a matter of law that the Staff properly relied upon the values in Table S-4.

Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), Docket Nos. 50-338/339 OLA-1, Memorandum and Order (Ruling on Motions for Partial Summary Disposition), at 8 (January 7, 1985). Since the impacts due to human error are considered in the Table S-4 values, such impacts need not have been considered in this proceeding. ^{9/}

In sum, the record supports the Staff's conclusion that the Licensee's proposed action would not significantly affect the quality of the human environment. See, Duke, supra, ALAB-651, 14 NRC 307.

B. A discussion of the dry cask alternative was not required by NEPA Section 102(2)(E).

CCLC asserts in Consolidated Contention 1 that contrary to section 102(2)(E) of NEPA, 42 U.S.C. 4332(2)(E), adequate consideration was not given to the alternative of dry cask storage. ^{10/} Section 102(2)E of

^{9/} Under the current regulation there can be no challenge to the values set forth in Table S-4 except in accordance with 10 C.F.R. § 2.758. Potomac Electric Power Company (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-218, 8 AEC 79, 88-89 (1974). Under Section 2.758, the regulation must be challenged by way of a petition requesting a waiver or exception to the regulation on the sole ground of "special circumstances." CCLC has not filed such a petition.

^{10/} In addition, CCLC asserted that the dry cask alternative was "less expensive". The Appeal Board has made clear that consideration of an alternative based on economic superiority (and not environmental superiority) is not a responsibility of this agency. Virginia Electric Power Company (North Anna Power Station, Units 1 and 2), ALAB-584, 11 NRC 451, 456 (1980).

NEPA directs federal agencies to "study, develop, and describe appropriate alternatives and to recommend courses of action in any proposal which involves conflicts concerning alternative uses of available resources". This requirement must be complied with whether or not preparation of an EIS is required by NEPA section 102(2)(C). Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-584, 11 NRC 451, 457 (1980); Consumers Power Company (Big Rock Point Plant), LBP-82-78, 16 NRC 1107, 1111 (1982).

The question presented here is whether the proposed transshipment of Surry spent fuel to North Anna involves a conflict concerning alternative uses of available resources, requiring a discussion of alternatives. Resources that have been considered for purposes of a section 102(2)(E) analysis have included hours of labor and quantities of materials such as tons of steel used in a spent fuel pool modification. See North Anna, supra, ALAB-584, 11 NRC at 458 n.14. It does not appear that "available resources" would include the space in the North Anna spent fuel pool. The Appeal Board in the Duke transshipment case held that the transportation of 300 spent fuel assemblies over a 170-mile distance between two reactors does not involve a "substantial national resources commitment question." ^{11/} Duke, supra, ALAB-651, 14 NRC at 322. Space in a fuel pool was also not considered as a Section 102(2)(E) "available resource"

^{11/} The instant proposal is similar to the transshipment proposal that the Appeal Board in Duke found lacking in terms of raising a natural resources commitment question. The instant proposal involves shipment of up to 500 Surry spent fuel assemblies from the Surry station to the North Anna station, a distance of 159 to 177 miles depending on the selected route. Staff Exhibit 1 at 4-7, 11, 27, 28, 30.

in two spent fuel expansion proceedings, the Trojan proceeding (ALAB-531, supra, 9 NRC at 266) and the North Anna proceeding (ALAB-584, supra, 11 NRC at 458).

NRC staff witness Donald P. Cleary, the Acting Chief of the Site Analysis Branch and Section Leader of the Regional Impact Analysis Section at the Nuclear Regulatory Commission, evaluated the proposed transshipment proposal with regard to the existence of a section 102(2)(E) conflict in the use of available resources and determined that such conflict will not exist. He concluded that the proposed action did not involve any noteworthy conflict in the use of resources. LPF 104.

Accordingly, the evidence establishes that there is no NEPA section 102(2)(E) conflict in the use of available resources with regard to the transshipment proposal. Thus, a discussion of alternatives, including the dry cask alternative, is not required by section 102(2)(E). This conclusion is consistent with the conclusion of the Appeal Board in the Duke transshipment case where the Appeal Board citing an earlier decision stated: 12/

"neither Section 102(2)(C) nor 102(2)(E) of NEPA obligates the federal agency 'to search out possible alternatives to a course which itself will not either harm the environment or bring into serious question the manner in which this country's resources are being expended.'"

12/ The Appeal Board cited its decision in Portland General Electric Co. (Trojan Nuclear Plant), ALAB-531, 9 NRC 263, 266 (1979).

Duke, supra, ALAB-651, 14 NRC at 321, 322. Under these circumstances the consideration of any alternative was gratuitous. ^{13/}

CCLC relying on the Second Circuit decision, City of New York, supra, appears to be arguing that if there is an impact (any impact) on the environment, there must be an agency consideration of alternatives regardless of whether or not a 102(2)(E) "unresolved conflict" exists. See "Concerned Citizens of Louisa County's Post-Hearing Brief", (hereinafter CCLC Brief), at 4-7. This was not the holdings of City of New York with regard to Section 102(2)(E) of NEPA.

The two cases that the Second Circuit relies upon in the City of New York decision regarding NEPA Section 102(2)(E), Hanley v. Kleindienst, 471 F.2d 823, 834-36 (2d Cir. 1972) and Trinity Episcopal School Corp. v. Romney, 523 F.2d 88, 93 (2d Cir. 1975)), do not "write-out" of Section 102(2)(E) the words "unresolved conflicts". ^{14/} The only proposition these two cases stand for is that "[F]ederal agencies must consider alternatives under § 102(2)(D) of NEPA without regard to the filing of an EIS." ^{15/} In other words, the two decisions relied upon by the Court in City of New York say that whether or not an agency must consider alternatives to a proposed action is not limited to whether that

^{13/} See Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Unit 1), ALAB-650, 14 NRC 43, 65 n.33 (1981).

^{14/} See City of New York, supra, at 742.

^{15/} Trinity Episcopal School Corp. v. Romney, supra, at 93; see Hanley v. Kleindienst, supra, at 834. NEPA Section 102(2)(D) is now Section 102(2)(E).

proposed action is a major Federal action significantly affecting the quality of the human environment.

Accordingly we submit that these two cases as well as the decision in City of New York do not stand for the proposition that an agency ignore the language of Section 102(2)(E), especially the words "unresolved conflicts."

Moreover, the Court in City of New York does not tell us that an agency must consider alternatives pursuant to NEPA § 102(2)(E) for just any action regardless of the potential impact of that action. Rather the Court tells us that in determining whether or not an action triggers the need to consider alternatives pursuant to NEPA § 102(2)(E) the agency must look to the "sufficiency" of the impact of the proposed action. The Court stated:

Under the standards developed in Hanley v. Kleindienst, supra, and Trinity Episcopal School Corp. v. Romney, supra, we conclude that HM-164 has sufficient impact on the environment to require DOT to consider alternatives to the action. [emphasis added]

City of New York, supra, at 742.

Finally, the City of New York case is factually inapposite regarding the question of the need to consider alternatives pursuant to NEPA § 102(2)(E). The proposed action there, issuance of a Department of Transportation Final Rule (HM-164) which establishes the manner in which large quantities of radioactive materials will be moved around the entire country can not be likened to the proposed action, an amendment allowing transportation of 500 spent fuel assemblies (cooled at least 730 days) up to 177 miles. Rather, the instant proposal is like the action the Appeal Board in Duke, supra, said "will not either harm the environment or bring

into serious question the manner in which this country's resources are being expended." Duke, supra, ALAB-651, 14 NRC at 321, 322.

Furthermore, CCLC misconstrues the LaCrosse decision ^{16/} which was a Licensing Board and not an Appeal Board decision. See CCLC Brief, at 4. This case does not support CCLC's "no threshold" argument. CCLC Brief, at 4-7. The Licensing Board stated:

The applicability of Section 102(2)(E) of NEPA does depend upon there being a "proposal which involves unresolved conflicts concerning alternative uses of available resources."

LaCrosse, supra, 11 NRC at 73.

This is consistent with the Appeal Board's holding in North Anna that Sections 102(2)(C) and (E) of NEPA require consideration of alternatives only when the proposed action is a "major" one "significantly affecting the quality of the human environment" or "involves unresolved conflicts concerning alternative uses of available resources."

North Anna, supra, 11 NRC at 456-459.

Moreover, the language from the LaCrosse decision cited by CCLC which states that Section 102(E) comes into play "irrespective of the magnitude of the environmental impacts in question" was the Licensing Board's way of indicating that Section 102(2)(E) differs from Section 102(2)(C) in that Section 102(2)(E) is not limited to whether the

^{16/} Dairyland Power Cooperative (LaCrosse Boiling Water Reactor), LBP-80-2, 11 NRC 44 (1980). Reliance on another decision, City of New Haven v. Chandler, 446 F. Supp. 925, 929 (D. Conn. 1978) (See CCLC Brief at 4) is also misplaced. This case simply acknowledges that the Section 102(2)(E) requirements are independent of the agency's duty to file an EIS. See 446 F. Supp. at 933.

proposed action is a major Federal action significantly affecting the quality of the human environment.

Finally, there is no split in the Appeal Board regarding the requirements of NEPA Section 102(2)(E) as asserted by CCLC. See "Concerned Citizens of Louisa County's Proposed Findings of Fact and Conclusions of Law", at 4 (hereinafter CCLC Findings of Fact). As the Appeal Board states in the case cited by CCLC, Trojan, supra, ALAB-531, 9 NRC at 266, "there is no obligation to search out possible alternatives to a course which itself will not either harm the environment or bring into serious question the manner in which this country's resources are being expended." This is not inconsistent as asserted by CCLC with the Appeal Board's decision in Consumers Power Co. (Big Rock Point Nuclear Plant), ALAB-636, 13 NRC 312, 332 n.41. See, CCLC Findings of Fact, at 4. The particular reference to this decision made by CCLC is merely to language of the Appeal Board acknowledging that "Section 102(2)(E) of NEPA is not limited to major federal actions with significant effects on the environment and may require consideration of alternatives when even an EIS is not otherwise required." Further, on that same page the Appeal Board re-asserts that whether or not a Section 102(2)(E) alternatives consideration is necessary is dependent on "whether a proposal 'involves unresolved conflicts concerning alternative uses of available resources' -- the statutory standard of Section 102(2)(E)." Big Rock, supra, ALAB-636, 13 NRC at 332. We submit that a Section 102(2)(E) "unresolved conflict" of resources is not involved with the instant proposal. LPF 104.

C. The alternative of dry cask storage has been adequately analyzed

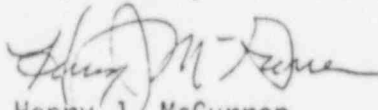
The Staff's EA relied upon the Commission's Final Generic Environmental Impact Statement (FGEIS) with regard to treatment of alternatives to the proposed action. SF 46. The FGEIS was the response of the NRC staff to a Commission direction to prepare a generic environmental impact statement which analyzes alternatives for the handling and storage of spent light water reactor fuel. SF 47. The Staff's EA noted in particular the finding of the FGEIS that the environmental impact costs of interim storage are essentially negligible regardless of the alternative chosen. SF 49. This is consistent with the Staff's analysis and conclusion in its EA regarding the Surry dry cask proposal. Staff Ex. 3. In that document the Staff fully considered the alternatives to and impacts of the Surry dry cask proposal and concluded that the proposal will not significantly affect the quality of the human environment. LPF 102. The uncontroverted evidence in the record, therefore, supports the conclusion that neither the proposed action nor the Surry dry cask alternative would significantly affect the quality of the human environment, that the dry cask alternative is not preferable to the proposed action, and that adequate consideration was given by the NRC staff to the Surry dry cask proposal. See Limerick, supra, LBP-84-31, 20 NRC at 452-53; Limerick, supra, ALAB-262, 1 NRC at 197.

III. CONCLUSION

Based on the extensive and uncontroverted evidence in the record in this proceeding on the issues raised in CCLC Consolidated Contention 1, this Licensing Board should find in favor of the Licensee and the Staff.

The Licensing Board should approve the issuance of the amendment which would revise Facility Operating Licenses No. NPF-4 and No. NPF-7 to permit the receipt and storage of 500 spent fuel assemblies from the Surry Power Station, Units No. 1 and No. 2. The Licensing Board should conclude that, insofar as the issues raised in CCLC Consolidated Contention 1 bear on the issuance of the Amendment, based on the evidence in the record, those issues have been conclusively resolved in favor of the Staff and Licensee positions and the Amendment should be issued.

Respectfully submitted,


Henry J. McGurran
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 18th day of July, 1985