# Inventory of the

# DeKalb Area Alliance for Responsible Energy/Sinnissippi Alliance for the Environment

DeKalb, Illinois Rockford, Illinois

Records

In the

Regional History Center

**RC 212** 

#### INTRODUCTION

Diane Chavez, Intervention Coordinator for DeKalb Area Alliance for Responsible Energy (DAARE)/Sinnissippi Alliance for the Environment (SAFE), donated the DAARE/SAFE records to the Northern Illinois Regional History Center on November 18, 1992. Addenda to the records were added at later dates by Stanley Campbell, Linda Lahey, and Paul Holmbeck.

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#### SCOPE AND CONTENT

The DAARE/SAFE records date from 1969 to 2008 and consists of material created, researched, and collected by the two organizations during their legal battle with Commonwealth Edison and the Nuclear Regulatory Commission (NRC) Staff contesting the issuing of an NRC operating license for the Byron Nuclear Plant. The collection is divided into eleven series: 1) Early DAARE/SAFE Records; 2) Official Docket Filings; 3) Other Plant Filings and Issues; 4) Intervenor Issues Litigated in Federal Court; 5) Contentions Litigated by League of Women Voters Only; 6) DAARE/SAFE Admitted Contentions; 7) NRC Generated Documents Relative to Byron and Generic Notices; 8) NRC & Edison Byron Plant Correspondence; 9) NRC Staff and Edison Generated Review of Documents and Internal Proceeding Relative to Byron; 10) Illinois Commerce Commission (ICC) Filings; and 11) Braidwood Filings.

Series 1, the Early DAARE/SAFE Records, is comprised of information created and collected by the two organizations. These records include newsletters, correspondence, press releases, and programs generated by DAARE/SAFE. Additional materials were later added that complete this series.

The Official Docket Filings (Series 2) includes all the legal filings by each of the parties participating in the licensing proceeding: DAARE, SAFE, the Rockford League of Women Voters, Commonwealth Edison, and the NRC Staff. The legal process leading to the licensing decision was 1) the separate submittal by both DAARE/SAFE and the League of "issues" or contentions about Byron to litigate; 2) Motion for Summary Disposition of non-issues; 3) Responses to Motions for Summary Disposition; 4) Hearing testimony; 5) 1982 Atomic Safety Licensing Board (ASLB) Hearing transcripts; 6) Parties Filings of Findings of Fact and Conclusions of Law; 7) the ASLB's Initial Decision; 8) the appeal by Edison to the NRC ASLB Appeal Board; 9) the Appeal Boards remanding of the hearings back to the ASLB; 10) the

ASLB's final decision. Additional materials were later added that complete this series.

The Other Plant Filings and Issues (Series 3) contains the research on other nuclear plants used by the intervenors to create their case.

Series 4, Intervenor Issues Litigated in Federal Court, are the Need for Power & Financial Qualifications Contentions. This series contains filings, exhibits, correspondence and briefs filed in federal court by Business and Professionals in the Public Interest (BPI), challenging the NRC Commissions deletion of regulations requiring utilities to demonstrate capacity in both issues before licensing. Additional Materials were later added that complete this series.

The Contentions Litigated by Rockford League of Women Voters Only (Series 5) consists of three contentions: liquid pathways; sabotage; and seismic.

Series 6, DAARE/SAFE Admitted Contentions is divided into six subseries: Contention 1, Quality Assurance/Quality Control; Contention 2, ALARA, radiation as low as reasonable achievable; Contention 3, Emergency Planning and Evacuation Surrounding Byron; Contention 6, Byron Fuel Cladding Susceptibility; Contention 8, Decontamination and Decommissioning; and Contention 9, Steam Generators. The Steam generator contention is divided into 9a, the waterhammer problem in piping and 9c, the tube vibration problem. Addendum 5 adds to Subseries C and includes documents related to citizen intervention in the licensing hearings for the Byron Nuclear Power Plant, primarily the citizen groups criticism of the emergency plants for the plant.

The NRC Generated Documents Relative to Byron and Generic Notices (Series 7) includes Byron ASLB Board and NRC Commission notifications, press releases, and the reports and bulletins from the Office of Inspections and Enforcement (I&E) Reports. The I&E Reports deal specifically with the Byron Plant while the I&E Bulletins are generic notifications from the NRC to all utilities.

Series 8, NRC & Edison Byron Plant Correspondence, is the correspondence between the NRC & Commonwealth Edison on the Byron Nuclear Plant.

The NRC Staff and Edison Generated Review of Documents and Internal Proceeding Relative to Byron (Series 9) consists of technical documents filed by Commonwealth Edison and reviewed by the NRC Staff before the final approval of an operating license can be granted. These documents include the Safety Evaluation Reports (SER), Final Environmental Statements (FES), and Final Safety Analysis Report (FSAR).

Series 10, Illinois Commerce Commission, includes the filings from the ICC concerning the Byron Plant.

Series 11, Braidwood Filings, is comprised of documents pertaining to the licensing proceeding for the Braidwood Plant, Units 1 & 2, Byron's sister plant in Braidwood, Illinois.

Series 12, added at a later date, Global Nuclear Concerns, is comprised mostly of newspaper articles pertaining to national and international nuclear topics. The series is further divided into subseries. Subseries A contains newspaper articles on nuclear power plants throughout the United States and are organized by state. Subseries B is comprised of newspaper articles on nuclear weaponry, while subseries C includes articles on nuclear and hazardous waste accidents, including the accidents at Three Mile Island and Chernobyl. Documents on antinuclear protests comprise subseries D. Subseries E includes newsletters and correspondence from various anti-nuclear and environmental activist groups.

Documents pertaining to the Midwest Low Level Waste Compact comprise Series 13, also added at a later date. The first subseries contains document related to the compact, including statements, amendments, and hearings, as well as newspapers and correspondence with government officials during the time period. Subseries B is comprised of reports and publications on low level waste, while subseries C contains newspaper articles on waste disposal and management. Subseries D includes articles on waste sites throughout the United States, and are organized by state. Newspaper articles and reports on the environmental effects of hazardous waste comprise subseries E.

#### HISTORICAL SKETCH

"DAARE and SAFE are consensus organizations actively opposed to the use of nuclear power in all its forms and which support PEACE, ALTERNATIVE ENERGY, and ENERGY CONSERVATION."

In January 1978, the DeKalb Area Alliance for Responsible Energy (DAARE) and the Sinnissippi Alliance for the Environment (SAFE) filed formal petitions with the U.S. Nuclear Regulatory Commission (NRC) requesting public hearings on NRC plans to issue an operating license for the Byron Nuclear Power Plant, Units 1 & 2, to Commonwealth Edison. At the time local citizens residing near a plant had the regulatory right to request an NRC hearing to litigate issues which they could maintain with reasonable specificity would affect their health and safety if the plant went into operation. In August 1979, both DAARE and SAFE were granted "intervenor" status and participated jointly in the NRC proceeding as one intervenor, "DAARE/SAFE". The Rockford League of Women Voters also requested and was granted separate intervenor status.

Ten contentions were submitted by DAARE/SAFE for litigation. The ten contentions were: 1) Quality Assurance/Quality Control (QA/QC) - the assertion that the Byron plant was poorly designed and constructed by Commonwealth Edison and contractors; 2) "As Low As

Reasonably Achievable" (ALARA) Radiation- maintaining that the large number (13) of planned and operating nuclear power plants in Northern Illinois would expose the surrounding population to excessive radiation; 3) Emergency Planning - that there was inadequate emergency and evacuation planning for the 50 mile "ingestion zone" around the Byron Plant that the NRC believes might receive excessive radiation in the event of a plant accident; 4) Probability Risk Assessment - that NRC regulations fail to require the nuclear industry to calculate and protect against the chances of "multiple, mutually independent failures" occurring in more than one plant system at a time such as occurred at Three Mile Island (TMI); 5) Excess Capacity - that Commonwealth Edison already maintains an abundance of excess electrical generating capacity in Northern Illinois and that the Byron plant was not needed; 6) Decommissioning -Commonwealth Edison lacked the means and money to decommission and decontaminate Byron after the plant's official 30-year lifespan; 7) Fuel Cladding - evidence that the fuel cladding element used in the Byron reactor fuel rods will become brittle and susceptible to failure; 8) Hydrogen Explosion - the Byron plant lacked sufficient safeguards against hydrogen explosions such as at TMI; 9) Steam Generator Inadequacies - the steam generators (heat exchangers for the reactor) used at Byron were experimental Westinghouse Corp. models with two deficiencies that could result in inadequate core cooling: waterhammer in piping and excessive tube vibration; and 10) a generic contention - a list of six unresolved deficiencies applicable to all Westinghouse designed nuclear power plants.

In its separate intervention, the Rockford League of Women Voters submitted 142 contentions for litigation. The League was represented at the time by attorney Myron Cherry, of the Chicago private law firm Cherry & Flynn.

The NRC Commission assigned a panel of three NRC members (one attorney and two technical experts) to comprise the Atomic Safety and Licensing Board (ASLB) empowered to hear evidence and render a decision on the operating license for the Byron plant. In 1979, the ASLB established a timetable for discovery leading to official hearings. Discovery between the official parties: intervenors, NRC Staff, and Commonwealth Edison began and extended until 1983. In October 1981, Commonwealth Edison petitioned the ASLB to impose sanctions against both intervenors for failure to respond to interrogatories. The ASLB expelled the League from the proceeding because of the failure of it's counsel to respond. DAARE/SAFE was not expelled by the ASLB because while representing itself "pro se", it was attempting to comply with discovery.

The League filed an appeal of its expulsion to an appeal board of the ASLB, and was finally re-admitted under new counsel in June 1982.

Meanwhile, DAARE/SAFE proceeded through discovery and Motions for Summary Disposition with its ten contentions. Of those ten, the QA/QC, ALARA, Emergency Planning, and Steam Generator contentions survived as issues to be litigated. The rest of the contentions were not litigated because of financial and technical constraints. As citizen groups neither

DAARE nor SAFE had any funding sources other than voluntary member contributions. Approximately \$7,000 was raised for the intervention effort, but DAARE/SAFE could neither afford legal counsel nor research or witness outlays.

In 1981 DAARE/SAFE obtained free legal counsel from Business and Professionals in the Public Interest (BPI), a Chicago public interest law firm to represent both it and the League in challenging an NRC regulatory change on the issues of "Need for Power" and "Financial Qualifications". The issues were first entered before the Byron ASLB but quickly moved to federal court. From that experience, BPI was recruited to represent both DAARE/SAFE and the League on QA/QC, a contention issue shared by both groups.

Upon it's re-admittance to the proceeding, the League's contentions were consolidated into five issues: QA/QC, Steam Generators, Seismic, Sabotage, and Liquid Pathways. All except the liquid pathways contention proceeded to litigations by agreement of the parties. The League obtained separate representation from attorney David Thomas of the Chicago Kent College of Law upon the Steam Generator contention.

Hearings upon the contentions took place in federal court in Rockford, Illinois, beginning March 1, 1983. The hearings began with Limited Appearances by members of the public and extended into evidentiary testimony before the ASLB. According to the ASLB's dictate, the intervenors were joined in litigation of common issues and a "Lead Intervenor" was designated per issue. DAARE/SAFE was lead intervenor on the QA/QC contention with representation by Jane Whicher from BPI. The League was lead intervenor on the Steam Generator contention regarding tube vibration. DAARE/SAFE maintained its separate waterhammer issue.

DAARE/SAFE was also designated lead intervenor on the Emergency Planning contention, and obtained limited free legal counsel from Rockford attorney, Bryan Savage. Shortly before the hearings started it was stipulated between all parties that the issue would be excluded from hearing and resolved "privately" over a designated time period. Commonwealth Edison and the State of Illinois Department of Emergency Services and Disaster Agency (ESDA) promised to rectify glaring "short comings" in the Byron emergency and evacuation planning. The ASLB retained jurisdiction over the issue in the event the parties failed. Resolution of the issue outside of court continued until 1986.

The hearings continued before the ASLB throughout 1983. They were well attended and generated much media attention regionally. During the course of the hearing, a lawsuit was filed by the Rockford Register Star newspaper in response to the ASLB holding session "in camera" on sensitive QA/QC testimony.

On January 13, 1984, the ASLB issued a decision ruling in favor of Commonwealth Edison on all issues except QA/QC and denying it an operating license for the Byron plant. This was an historical decision-the first time any NRC ASLB had denied an utility a license to operate

a nuclear power plant. The decision generated national media attention and was regarded as a serious blow to the nuclear industry as a whole and the viability of continuing to construct nuclear power plants. The ASLB basically concluded that Commonwealth Edison had failed to demonstrate that the Byron plant was constructed safely due to the inadequate QA/QC program it followed throughout plant construction.

Commonwealth Edison immediately appealed the decision to the ASLB Appeal Board and generated a "reinspection program" at the Byron plant, a direct and statistical reinspection and analysis of all construction inspection activities at the plant since construction. Edison also hired expert firms to analyze inspection records and personnel certifications. Most of this activity was not direct verification of construction adequacy since most plant construction was built-over and not available to direct inspection. However, Edison used this basis to request that the ASLB decision be remanded for re-hearing.

The ASLB Appeal Board remanded the decision back to the Byron ASLB and after extended hearings, the ASLB on October 16, 1984, issued final decision in favor of Commonwealth Edison and awarded it an operating license for the Byron units.

#### **SUBJECT TRACINGS**

American National Red Cross

Byron (Ill.)

Byron Nuclear Plant

Corcoran, Thomas

Commonwealth Edison Company

DeKalb Area Alliance for Responsible Energy (DAARE)

DeKalb (Ill.)

Energy

Illinois Commerce Commission

League of Women Voters (Rockford, Ill.)

Nuclear Energy

Nuclear disarmament--United States--Nuclear Freeze

**Public Utilities** 

Rockford (Ill.)

Sinnissippi Alliance for the Environment (SAFE)

U.S. Nuclear Regulatory Commission

## **COLLECTION INVENTORY**

BOX	<u>FOLDER</u>	DESCRIPTION
Series I. Earl	ly DAARE/SAFE R	lecords
1	1	DAARE newsletters, 1977-1987
	2	Early DAARE/SAFE files, legal representation, expenses,
		witnesses, notes, 1979-1980
		SAFE:
	3	Newsletters, 1979-1985, n.d.
	4	Correspondence in regard to Byron hearing, 1982-1989
	5	Newsletter, correspondence, articles, mailing list, skits,
		1982-1983
	6	Programs, 1979-1988
	7	A Small Reader on Commonwealth Edison's Nuclear Fuel
		Cycle, 1981
	8	World Information Service on Energy (WISE), 1979-1987
	9	Electrical franchises, 1985
	10	Press releases, 1980-1989
	11	Commonwealth Edison's Annual Reports, 1984-1987

Additional Materials were later added that complete this series. Please see Addenda

Series II. Official Docket Filings

	DAARE/SAFE:
12	Official docket service list, n.d.
13	Correspondence, docket petitions, discovery, responses, 1978-1982
14	Correspondence - official docket correspondence, 1982
15	Correspondence - official docket correspondence 1984
	Rockford League of Women Voters:
16	Initial decisions, 1980
17	Early filings - Myron Cherry; correspondence, discovery, 1979-1984
18-19	General docket correspondence, ICC 1980-1982
20	General docket correspondence, NRC, 1980-1981
21	General filings, 1981-1984
22	NRC Staff correspondence & filings, official docket, 1979- 1982
23-24	NRC Staff correspondence & filings, official docket

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	9
1	25	correspondence, 1982-1984 Commonwealth Edison correspondence & filings, official docket correspondence, 1979-1981	
	26	Commonwealth Edison correspondence & filings, official docket, 1981-1982	
2	1-2	Commonwealth Edison correspondence & filings, official docket, 1982-1985	
	3	Atomic Safety and Licensing Board (ASLB) board orders, 1980-1984	
	4	ASLB filings & correspondence, 1979-1984	
	5	Rockford League of Women Voters expulsion issue - general docket correspondence, 1981-1982	
	6	Appeal briefs of all parties on reconsideration of League expulsion from proceedings for failure to respond to discovery, 1982-1983	
	7	Byron appeal board decision on Rockford League of Women Voters expulsion, 1982	
	8-9	Motion of Commonwealth Edison Company for summary disposition of DAARE/SAFE contentions, 1982	
	10	NRC Staff motion for summary disposition of DAARE/SAFE contentions, 1982	Ξ
	11-12	Response to motion for summary dispositions to NRC/ Commonwealth Edison - rough draft	
	13	DAARE/SAFE response to Commonwealth Edison & NRC Staff motions for summary disposition, 1982	
	14	Witness subpoenas issued in hearings, 1983	
	15	Limited Appearance session (evidentiary hearing) transcripts, March 1, 1983	1
	16	Limited Appearance session (evidentiary hearing), exhibits, March 1, 1983	
	17	Hearing transcripts, August 18, 1982	
	18	Hearing transcripts, March 28, 1983	
	19	Hearing transcripts, March 29, 1983	
	20	Hearing transcripts, March 30, 1983 (1 of 2)	
3	1	Hearing transcripts, March 30, 1983 (2 of 2)	
	2-3	Hearing transcripts, April 7, 1983	
	4	Hearing transcripts, April 8, 1983	
	5	Hearing transcripts, April 11, 1983	
	6	Hearing transcripts, April 20, 1983	
	7-9	Hearing transcripts, July 23, 1984	

BOX	<u>FOLDER</u>	DESCRIPTION	10
3	10	Hearing transcripts, n.d.	
	11	Edison's Proposed Findings of Facts & Conclusions of Law 1983	,
	12	NRC Proposed Findings of Facts & Conclusions of Law, 19	983
	13	DAARE/SAFE Proposed Findings of Facts & Conclusions Law, 1983	
	14	League of Women Voters Proposed Findings of Fact & Conclusions of Law, 1983	
	15	ASLB initial decision - Byron operating license, January 13 1984	,
	16	Byron Appeal Board general docket correspondence, 1984- 1985	
	17	Byron Appeal Board orders, 1981-1984	
	18	Byron Appeal Board hearings, April 19, 1984	
	19	All parties appeal briefs on boards initial license denial to Edison, 1984	
	20	Commonwealth Edison's proposed supplemental initial decision (QA/QC hearings), 1984	
	21	Intervenors' proposed supplemental initial decision (QA/QC hearings), 1984	7
	22	Byron Appeal Board decision, 1984	
Series III. Ot	her Plant Filings and	d Issues	
	23	Filing from other plants, 1979-1984	
	24	Filings from other plants, Callaway Plant, 1981	
4	1	Filings from other plants, South Texas Project, 1984	
	2	General nuclear plant research, 1981	
	3	Social and economic aspects of radioactive waste disposal: considerations for institutional management, 1982	

Series IV. Intervenor Issues Litigated in Federal Court

	Need for Power & Financial Qualifications Contention:
4	Original Intervenor filing, 1982
5-10	Exhibits to petition of DAARE/SAFE for waiver of or
	exception to financial qualifications regulations, 1982
11-14	Contention information, 1981-1982
15	General correspondence, 1982-1984
16	Other docket information, 1984
17	Appeal Board briefs, 1984

11

#### Series VI. DAARE/SAFE Admitted Contentions

#### Subseries A. Quality Assurance/Quality Control

	21	Docket correspondence 1979-1984 (1 of 3)
5	1-2	Docket correspondence 1979-1984 (2 & 3 of 3)
	3	Commonwealth Edison Company's response to Intervenors' first set of interrogatories, June 1984
	4	Motion to consider summary disposition, 1982
	5	Reports - In camera hearing sessions, 1983-1984
	6	"In camera" hearings before Byron ASLB, August 9-10, 1983
	7	Appeal Board & Byron Board memos & orders, 1983-1984
	8	NRC Staff hearing testimony, 1982, 1984
	9	Reports - NRC follow up on allegations, 1984
	10	Plant status reports showing unusual events, 1987
	11	Intervenor handwritten hearing notes, exam & cross exam questions, n.d.
	12	Findings of Fact and Conclusions of Law - Edison & Intervenor versions, 1983
	13-15	Edison testimony - work quality, 1983-1985
	16	NRC Staff testimony work quality, n.d.
	17	Testimony & attachment - James Binder, Commonwealth Edison, June 1984
	18	Testimony & attachments - Walter Shewski, Commonwealth Edison, July 1984
	19	Testimony & attachments - Peter Stomfay-Stitz, Intervenor testimony, 1978-1983
	20	Whistleblower, 1987-1989
	21	Sargent & Lundy - Technical & contractor specifications, different components, 1976, 1983
	22	Affidavits - Blount Brothers Corp., 1983
	23	Exhibits - Hunter Corp Commonwealth Edison's testimony, 1984
	24	Audits - Hunter Corp., 1979, 1982
	25	Attachment 2-21, 1983-1984

BOX	<u>FOLDER</u>	DESCRIPTION	12
5	26	Edison testimony on Byron reinspection program, 1982-198 (1 of 2)	4
6	1	Edison testimony on Byron reinspection program, 1982-198 (2 of 2)	4
	2	Independent Design Review for Commonwealth Edison Company - Interim Report - Bechtal Corp. Study commissioned by Edison, May 1984	
	3	Independent Design Review for Commonwealth Edison Company - Interim Report - Bechtal Corp. Study commissioned by Edison, June 1984	
	4	Integrated Design Inspection - Response to Bechtal Study, 1983-1984	
	5	Testimony of NRC Staff on reinspection program, n.d.	
	6	Intervenor testimony reinspection report, 1982-1984	
	7	Byron reinspection, attachment 22-30, 1981-1984	
	8	Report - Byron inspection chronology, 1978-1982	
	9	Byron QC Inspector Reinspection Program Report, February 1984	У
	10-11	Byron QC Reinspection Program Report Errata, Addenda & Supplement, June 1984	·
Subse	ries B. As Low As	Reasonable Achievable (ALARA)	
	12-13	Early Intervenor contention research & studies, 1969-1987	
	14	Rad effects - general research studies (Intervenors), 1984- 1986	
	15	Radiation exposure occupational - General research studies other dockets, 1980-1981	&
	16	Inspection report for Intervenors furnished by NRC Staff, 1985	
	17	Intervenor discovery responses to Edison, 1982-1983	
	18	Byron Risk Study: A Probabilistic Risk Evaluation Based on the Zion Probabilistic Safety Study Commonwealth Edis Study, 1983	
	19	Commonwealth Edison's policy & procedures for maintaining occupational radiation exposures ALARA, 1981	ng
	20	Commonwealth Edison's radiation protection standards for	

stations, 1982

Instructor's Guide for Nuclear General Employee Training

(N-GET) - Edison Training Manual, 1983

21

BOX	<u>FOLDER</u>	DESCRIPTION 13
6	22	Sargent & Lundy Engineers, Byron Plant technical specification, 1978
	23	Affidavit of Dr. E.J. Sternglass/studies & testimony for Intervenors, 1982
	24	Deposition, Dr. Karl Z. Morgan - Intervenor witness, May 27, 1982
	25	Testimony & research, Dr. Karl Z. Morgan - Intervenor witness, 1983
	26	Deposition - Dr. Michio Kaku, Intervenor witness, March 12, 1982
	27-28	Testimony - Edison witnesses, 1982-1983
	29-30	Testimony - NRC Staff witnesses, 1982, n.d.
S	Subseries C. Emerger	ncy Planning Contention
	31	Initial contention on emergency planning, n.d.
	32	IL Emergency Services and Disaster Agency (IESDA) PR information explaining Illinois Plan for Radiological Accidents (IPRA), 1986-1987
	33	IPRA schedule for Byron, n.d.
	34	Edison and IESDA Initial IPRA and IPRA Training Manuals, 1983-1984
7	1	Initial IPRA profiles of shelters for Byron evacuees, 1982
	2	Byron Generating Station emergency plan - old plan parts, 1982-1984
	3	Byron Plant Accident Standard IPRA Operating Procedures for Ogle County, IPRA revised, 1983-1984
	4	Sheltering provisions of IPRA for evacuees from Byron, n.d.
	5	Role of American Red Cross in sheltering IPRA evacuees, 1982, 1986
	6	Sheltering, 1983
	7-9	Edison & IESDA Training Manuals for IPRA - revised, 1984
	10	Training issue, other dockets, 1983-1984
	11	Edison GSEP revision 3, November 1981
	12	Edison GSEP and other station documents, 1984
	13-15	General docket correspondence, 1982-1985
	16	Motions for & responses to summary disposition, 1982, n.d.
	17	Board orders, 1983
	18	Intervenor notes and general correspondence, 1983-1984
	19	Hearing transcript, April 25, 1983
	20	Hearing transcript, April 6, 1983

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	14
7	21	Edison testimony, 1983	
	22	NRC testimony, 1982-1983	
	23	Deposition-Ruth Little, Intervenor witness, 1983	
	24	Intervenor testimony of James Murphy in adequacy of Intervenor survey of medical services and facilities in IPRA, n.d.	
	25	Nursing homes administrator testimony, Intervenor witness 1983	3,
	26	Intervenor witness testimony prior to stipulation, 1983	
	27	Cross questions-Intervenor, n.d.	
	28	Findings of Facts and Conclusions of Law, 1983	
8	1-2	Intervenor survey of medical services and facilities involve in IPRA, 1983	d
	3	Emergency response survey - Intervenor study, 1983	
	4	Research and surveys of schools participating in initial IPR 1982-1983	A,
	5	School evacuation dockets (Other than Byron), 1983-1984	
	6	Liability issues, 1979-1983	
	7	NRC medical requirements for contamination, 1981-1983	
	8	Original commitments correspondence from Edison to Intervenors, 1983-1984	
	9	Intervenor responses to Edison's notifications to Intervenor that it satisfied commitment requirements A-Z per stipulation, 1984	S
	10-16	Commitments A-Z	
	17	Byron emergency exercise, 1984	
	18	News media exercise information, news releases, 1985	
	19	Adequacy of siren notification to the public, 1981, 1984	
	20	Byron accident notification to public thru radio media, 197 1984	8-
	21	Transients/figures & recreation areas around Byron, 1983	
	22	Byron Plant public information brochure, 1982, 1985	
	23	Public information brochure - Intervenor verification of brochure distribution, n.d.	
	24-25	Public information brochures (other than Byron)/Other dockets, 1981-1984	
	26	Time Estimates Study Guidelines Report, 1984	
	27	Intervenor research resources, FOIA, NRC public documen room, 1982-1984	ıt
	28	New York Public Interest Research Group's (NYPIRG) emergency planning testimony and research, 1982-1984	

BOX	<u>FOLDER</u>	<u>DESCRIPTION</u> 1	5
8	29	Nuclear Information and Resource Service (NIRS) and Weiss 1982-1985	,
	30	NYPIRG testimony & reports, 1981-1983	
	31	Evacuation ruling and other dockets, 1984	
	32	General evacuation studies, 1975	
	33	Expert studies, general research, 1979-1984	
	34	Evacuation studies, 1978, 1982	
	35	Emergency planning/other dockets, 1979-1981	
	36	Evacuation planning/other dockets, 1982-1984	
	37	Rad. mon./other dockets, 1981-1982	
	38	Mon. emergency planning/other dockets, 1982-1983	
	39	Limerick Generating Station-emergency planning contention hearings, 1984	
	40	Catawba Nuclear Station emergency planning contention hearing transcript & affidavit, 1983	
	41	RAD studies & adequacy of Federal Emergency Management Agency (FEMA) requirements, 1966-1984	
	42	US Environmental Protection Agency (EPA) protective action guidelines for nuke accidents, n.d.	1
	43	Information on NRC evacuation standards, 1979-1983	
9	1	FEMA finding on adequacy of IPRA, 1982-1984	
	2	Batelle Evacuation Study, 1978, n.d	
	3	US EPA Evacuation Study, 1974	
	4	DeKalb Mayors Task Force on Emergency Planning, 1987	
	5	DeKalb emergency plan for Byron accident, 1979-1986	
	Subseries D. Accident	s & Fuel Cladding Susceptibility	
	6	Earl A. Gulbransen, 1982	
	7	Information, 1982-1985	
	8-9	Zion Study, 1980	
	Subseries E. Decontan	nination	
	10-12	Decontamination contention, 1975-1982	
	Subseries F. Steam Ge	nerators	
	13	9a & 9c: Final Safety Analysis Report (FSAR) steam generator sections, 1979-1982	

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	16
9	14	9a & 9c: Sargent & Lundy technical Specifications for Byro Steam Generator Equipment, 1973-1976	n
	15	9a & 9c: Westinghouse modifications of Byron steam generators, 1979-1983	
	16	9c: Edison proposed modifications to Byron Plant steam generators, n.d.	
	17	9a & 9c: Safety Evaluation Report by NRC Staff of propose steam generator modifications, March 1983	ed :
	18	9a & 9c: Utility group evaluation of proposed steam general modifications, July 1983	tor
	19	9a & 9c: General docket correspondence, April-July 1983	
	20	9a: Waterhammer, Edison testimony, 1982	
	21	9a: Waterhammer, Deposition of Edison witnesses, 1983	
	22	9a: NRC Staff testimony, 1983	
	23	9a: Waterhammer Intervenor cross-exam notes, 1983	
	24	9a: Hearing transcript, March 4, 1983	
	25	9a: Hearing transcript, March 7, 1983	
	26	9a: Waterhammer Findings of Facts and Conclusions of Lav 1983	W,
	27	9a: Waterhammer research from Westinghouse, 1982	
	28	9a: Waterhammer research, 1981-1982	
10	1	9c: NRC Staff Regulating Guidelines for Steam Generator Operation, 1975	
	2	9c: Byron NRC Staff Safety Evaluation Report with Respect to Steam Generator, n.d.	;t
	3	9c: General contention Intervenor testimony, March 1983	
	4	9c: Intervenor cross-exam questions notes, 1982	
	5	9c: Intervenor cross-exam, notes questions on summary disposition response, 1980-1983	
	6	9c: General contention, NRC Staff testimony, n.d.	
	7	9c: Depositions of NRC witnesses, July 7, 1982	
	8	9c: Deposition of Edison witnesses, February 8, 1983	
	9-10	9c: General contention Edison testimony, 1983	
	11-12	9c: Deposition of Edison witnesses, February 7, 1983	
	13	9c: Finding of Fact and Conclusions of Law, 1983	
	14	9c: Hearing transcript, April 13, 1983	
	15	9c: General research, 1972-1976	
	16-17	9c: Flow-induced vibration, Krsko Plant research, 1982	
	18-19	9c: Flow-induced vibration, 1982	
	20	9c: Stress-corrosion (incomplete report), 1979, n.d.	

$\underline{BOX}$	<u>FOLDER</u>	DESCRIPTION	17
10	21	9c: Stress corrosion cracking/other dockets, 1978-1981	
	22	9c: Electric Power Research Institute (EPRI) Stress Corrosio Reports, 1980-1981	n
	23	9c: Water chemistry-Edison Plant procedures, 1978	
	24	9c: Water chemistry research, 1981-1982 (1 of 2)	
11	1	9c: Water chemistry research, 1981-1982 (2 of 2)	
	2	9c: Water chemistry/other dockets, 1980-1983	
	3-4	9c: Tube degradation research, 1982	
	5	9c: Tube integrity/tube plugging/accident conditions, 1975-1982	
	6	9c: Tube ruptures, 1982	
	7	9c: Tube denting research, 1983	
	8	9c: Steam generator replacement-Surry Plant, 1979	

Additional Materials were later added that complete this series. Please see Addendum

Series VII. NRC Generated Documents Relative to Byron and Generic Notices

	9-13	Board notifications, 1979-1984
	14-20	Commission and Board notifications, 1981-1984
	21-28	Office of Inspection and Enforcement (I&E) Reports, 1977- December, 1982
12	1-23	I&E Reports, September, 1982-September, 1985
13	1-24	I&E Reports, October, 1985-August, 1990
14	1-5	I&E Reports, October, 1990-November, 1991
	6-10	I&E Bulletins, 1979-1983
	11	NRC senior reactor operator license examination for Byron, 1989
	12	NRC press releases, 1990-1991
	13	Byron Plant tour packet, May 15, 1984

## Series VIII. NRC & Edison Byron Plant Correspondence

	14-23	Correspondence,	1979-1984
15	1-6	Correspondence,	1984-1990

Series IX. NRC Staff and Edison generated review of documents and internal proceeding relative to Byron

	relative to Byron	
15	7-8	Preliminary site data for Byron - testimony & evidence used to give Edison an initial construction permit prior to licensing stage, 1979
	9	Safety Evaluation Reports (SER), NRC Staff generated, August 1975
	10	Final Environmental Statement (FES) from construction permit, NRC Staff generated, July 1974
	11	ASLB initial decisions, Byron & Braidwood construction permits, 1974-1975
	12	Draft Environmental Statement, NRC Staff generated, 1981
	13	FES, Edison generated NRC findings, April 1982
	14-16	SER, NRC generated, 1982-1987
	17	Advisory Committee on Reactor Safety transcripts, 1982
	18-20	Advisory Committee on Reactor Safety transcripts, 1982
	21	EPA dumping permit & hearing, 1985
	22-23	FSAR, Byron/Braidwood Stations
16	1-18	FSAR, Byron/Braidwood Stations
17	1-21	FSAR, Byron/Braidwood Stations
18	1-8	FSAR, Byron/Braidwood Stations
	9	FSAR, Answers to Questions from NRC Staff, 1981
	10-26	FSAR, Amendments, January, 1979-March, 1981
19	1-18	FSAR, Amendments, March, 1981-May, 1982
20	1-18	FSAR, Amendments, May, 1982-June, 1984
21	1-7	FSAR, Amendments, June, 1984-October, 1987
	8-11	Byron technical specifications - Edison generated document governs operation standards for plant, October 1984 & February 1985
	12	Licensing Event Reports (LER), 1985-1987
	13	Byron Plant - miscellaneous equipment, 1972-1975
	14	Westinghouse reactor vessel technical specifications, n.d.

BOX	<u>FOLDER</u>	DESCRIPTION	20
22	22-23	Evidentiary hearing, October 29, 1985	
		ADDENDUM 1	
	24	Anti-nuke coalitions, 1984-1994	
	25	Black Hills Paha Sapa Report, 1980	
	26	Citizen Alert, 1991	
	27	Citizens Utility Board, 1990	
	28	Construction Hearings, 1982-1983	
	29	Correspondence - Congress people, 1991	
	30	Environmental, 1990-1995	
	31	Environmental/Local Groups, 1986-1996	
	32	Green Movement, n.d.	
	33	Hibakusha Peace Tour/Alliance of Atomic Veterans, 1985- 1991	
	34	IEPA Environmental Progress, 1990-1994	
	35	Illinois Groups, 1981-1991	
	36	KU Lines, 1971-1978	
	37	Nuclear Information and Resource Service (NIRS), 1985-19	994
	38	Oak Ridge Environmental Peace Alliance, 1990-1993	
	39	On The Watch, 1990-1994	
	40	Personalities, 1980	
	41	Protect Our Water and Environmental Resources (P.O.W.E.R.), 1991	
	42	Public Citizen, 1985-1992	
	43	Radiation, 1987-1994	
	44	Rockford Products dumpings, 1984-1987	
	45	SAFE - 10 <sup>th</sup> Anniversary Information and Research, 1985- 1994	
	46	SAFE Accounting Records, 1978-1979	
	47	SAFE Energy Communication Council (SECC) Mythbuster 1990-1992	s,
	48	SAFE Energy Communication Council (SECC) Reports, 1983-1988	
	49	SAFE - Regulations, 1992-1995	
	50	Save The Land, n.d.	
23	1	Sinnissippi Audubon Society, 1993-1996	
	2	Technology and Ethics: Reflections after Chernobyl, 1986	
	3	Toxics, 1984-1986	
	4	Tru-Green Corp. Pesticide Spraying Complaint, 1985	
	5	Vegetarians, 1991-1995	

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	21
		ADDENDUM 2	
23	6	Byron Intervention, Supporting Papers, 1987	
	7	Commonwealth Edison, 1982-1992	
	8	Commenting, 1984-1987	
	9	Correspondence, SAFE, 1985	
	10	Energy Roundtable Newsletter, 1986	
	11	GE Stockholders' Alliance Against Nuclear Power, n.d.	
	12	Groundwork, Issue # 3, n.d.	
	13	Ideas for Byron, 1986	
	14	Logos and Other Art, n.d.	
	15	National Consumers League, Bulletin, 1990	
	16	Natural Resources Defense Council (NRDC) Newsline, Jul 1991	У
	17	Newspaper Articles, 1979-1994	
	18-19	No Nuclear News, October 1979-December 1980	
	20	Nuclear Information and Resource Service (NIRS) Board Resources, 1985, 1991, n.d.	
	21	Nuclear Power Facts, Nuclear Energy Information Service, 1992	
	22	Nuke Waste, 1989, 1992	
	23	Articles, 1986-1992	
	24	ICC Waste Hearings, 1986-1987, 1990-1991	
	25	General and Government, 1985-1988	
	26	Morris Dump, 1980-1985	
	27	Transportation, 1980-1994	
	28	Nukewatch, <u>Pathfinder</u> , Spring 1995	
	29	Other Power Plants, 1979-1993	
	30	Braidwood and LaSalle, 1985-1986	
	31	Chernobyl, 1987, 1994	
		Public Citizen Reports:	
	32	Money For Nothing, 1988	
	33	Power Surge, 1989	
	34	Too Costly to Continue, 1987	
	35	Turning Down the Heat, 1988	
	36	Public Citizen's <u>Nuclear Power Safety Report: 1981</u> by Richard A. Udell	
	37	Radioactive Waste Company, The Report, 1990	
	38	Radwaste Report, 1990	
	39	Rate Hike Case, 1983, 1987, n.d.	
	40	Reference: The Nuclear Data Base, October 25, 1985	
	41	SAFE Papers, 1984, n.d.	

BOX	<u>FOLDER</u>	<u>DESCRIPTION</u> 22	2
23	42	Saving Energy, 1985	
	43	Strategies, 1983-1991	
	44	Whistle Blowers, 1986-1990	
	45	Worldwatch Paper 69, "Decommissioning: Nuclear Power's Missing Link" by Cynthia Pollock, 1986	
		ADDENDUM 3	
	46	Commonwealth Edison, Electric Ordinance, Loves Park, 1974 Machesney Park, 1981	;
	47	Conservation, 1982-1993, n.d.	
	48	Correspondence, 1999-2001	
	49	Energy Options/Renewable Energy, 1984, 1990-1993, n.d.	
	50	General Nuke Information, 1979-1992, n.d.	
	51	Land Fill/Save the Land, 1983-1987, n.d.	
	52	Low Level Waste, 1991, n.d.	
	53	Newsletters from Various Organizations, 1985-1989, 1997 (1 of 2)	
24	1	Newsletters from Various Organizations, 1985-1989, 1997 (2 of 2)	
		Nukes:	
	2	Articles, 1984, 1987	
	3	Cartoons, Poems, Editorials, Advertisements, 1973-1987	
	4	Illinois Department of Nuclear Safety Conference, October 22-23	
	5	Publications, Illinois Environmental Protection Agency, 1980- 1986	
	6	Recycling, 1988-1992, n.d.	
	7	Rules and Regulations, State of Illinois, Title 35: Environmental Protection, Subtitle G: Waste Disposal, Chapter 1: Pollution Control Board, July 1, 1983	
	8	Solar, 1991, 1994	
	9	Windpower, 1991	
		ADDENDUM 4	
Series I. Ear	ly DAARE/SAFE R	Records	
25	1	NRC Annual Report, 1986	
4J	2	NRC News Articles, 1979-1991	
	3	NRC News Announcement of Byron Fines, 1985-1987	
	-		

BOX	<u>FOLDER</u>	DESCRIPTION	23
25	4	Letter-to-the-Editor, 1983-1986	
	5	League of Women Voters, not dated	
		SAFE:	
	6	Newsletters, 1983-1985	
	7	Petitions, not dated	
	8	Events, 1984-1988	
	9	Publications, not dated	
	10	Notes, not dated	
	11	Byron Licencing Hearing, 1983, 1984	
	12	Finances, 1982, 1983	
	13	Correspondence, 1986, not dated	
	14	DAARE, 1982-1985, not dated	
	15	DAARE Mailing List, 1986, 1987, not dated	
	16	Bulk Mailing, not dated	
	17	Byron Nuclear Plant: News Articles, 1981-1989	
	18-19	Licencing, 1981-1987	
	20	Fines, 1982-1988	
26	1	Shutdown, 1983-1988	
		Rate Increase	
	2	Commonwealth Edison, 1979-1999	
	3	Annual Report, (1978-1985)	
	4	Magic Pellet, not dated	
	5-7	Rate Increase, (1980-1993)	
	8	Notes, (1975-1987)	
	10	Cities Drop Commonwealth Edison	
	11	Byron Nuclear Power Plant Cost, 1984, 1985, 1988	
27	1	Citizen Energy Council, 1985-1988	
	2-3	Citizen Utility Board, (1983-1999)	
	4	Elections, 1984-1985	
	5	Electric Ratepayers Protection Project, 1984	
	6	Labor Coalition on Public Utilities, (1988-1994)	
	7	Alternative Energy, not dated, 1981-1990	
	8	Electricity's Future: The Shift to Efficiency and Small-	
		Scale Power, 1984	
	9	Energy Efficiency, 1986, not dated	
	10	Energy Information Pamphlets, not dated	
	11	A Guidebook to Nuclear Reactors, 1979	
	12	Environmental Standard Review Plan for the Review of	
		Licence Renewal Application for Nuclear Power Plants,	,
		1991	•

$\underline{BOX}$	<u>FOLDER</u>	<u>DESCRIPTION</u> 24
27	13	Final Environmental Impact Statement and Resource Management Plan
	1 vol.	Generic Environmental Impact Statement for License Renewal of Nuclear Plants, 1991
28	1 vol	Generic Environmental Impact Statement for License Renewal of Nuclear Plants, 1991
	1	Guidance for the Preparation of Supplemental  Environmental Reports in Support of an Application to Renew a Nuclear Power Station Operating Licence, 1991
		Government Agencies:
	2	Department Of Energy, 1981-1990
	3	Environmental Protection Agency, 1980-1999
	4	Illinois Commerce Commission, (1982-1991)
	5	Illinois Department of Energy and Natural Resources, 1985-1988
	6	Illinois Environmental Agency, 1982-1989

## Series VI. DAARE/SAFE Admitted Contentions

# Subseries C. Emergency Planning Contention

	7 8	NRC Regulation Change, (1890-1991) Emergency Planning Stipulation Official Docket, 1981-1984
29	1-3 4-5 6-7 8	Emergency Planning Stipulation Official Docket, 1985-1987 Emergency Planning Reports, not dated DeKalb Disaster Plan Meeting, 1983-1989 DeKalb Disaster Plan Notes, not dated
30	1 2 3 4 5 6 7 8 9-10	DeKalb Disaster Plan Addresses, not dated DeKalb Disaster Plan Correspondence, (1983-1988) DeKalb Emergency Plan, (1979-1986) Earthquake, 1983-1987 Tornado, 1987 DeKalb Emergency Plan News Articles, 1985-1987 DeKalb County Yearbooks and Directories, 1986-1988 American Red Cross, (1971-1987) Procedures, 1974-1981 Board Meetings, 1983-1987
31	1	Bylaws, 1987

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	25
31	2	Correspondence, 1983-1987	
31	3	Addresses, not dated	
	4	Disaster Training, 1985-1988	
	5	Emergency Food and Shelter National Board Program,	
	-	1986-1988	
	6	Events, 1986-1987	
	7	Presentations, 1986, 1987	
	8	Finances, 1983-1986	
	9	United Way Fundraising, 1985-1988	
	10	Statements of Understanding, (1975-1985)	
	11	Vacancies, 1985	
	12	DeKalb City Chapter Closure	
	13	Salvation Army	
	14	Commonwealth Edison Emergency Information, 1985, not dated	
	15	Byron Emergency Plan Notes, 1984-1987	
	16	Byron Emergency Plan Newspapers, 1983-1987	
	17	DeKalb City Maps, 1983, 1986, not dated	
	18	Comprehensive Health Planning of Northwest Illinois, 198 1985	4-
	19	Radio Emergency Associated Citizens Team, 1986	
	20	Mutual Aid Agreement with DeKalb County Firemen's Association	
		Health Risks:	
	21	Potassium Iodine Tablets, (1983-1987), not dated	
	22	Radiation Health Risks, (1981-1991)	
		, ,	
32	1	Guidance on Offsite Emergency Radiation Measuremen Systems: Phase–Water and Non-Dairy Food Pathway	
	2	Food Irradiation, 1984, 1987	=
	3	Magnetic Imaging Resonance, 1986, 1987	
	4	Ministry of Concern for Public Health, 1984, 1985, 198	7
	5	Physicians for Social Responsibility	
	6	Linda Lahey Observations of Byron Emergency Evacuation	a
		Drill, 1983	
	7	Emergency Plan Newspapers, 1983-1988	
	8	Emergency Plan Events, 1983-1988	
	9	Nuclear Safety Preparedness Act, 1985-1988	
	10-12	Illinois Plan for Radiological Accidents, 1981, 1985	
	13	American Red Cross, Illinois Plan for Radiological Respon (1982-1986)	ıse,
	14	Emergency Services for Disaster Agency, 1981-1990, not	

BOX	<u>FOLDER</u>	<u>DESCRIPTION</u> 26
		dated
33	1 vol.	Federal Emergency Management Agency, Job Aid Manual, 1983
	1	Federal Emergency Management Agency Survey of DeKalb Buildings, circa 1980
	2	DeKalb Welfare and Shelter Plans, not dated
	3	Shelter Agreement with American Red Cross, 1983-1988
	4	Ogle County Shelter Guide, 1984
	5	Grundy County Emergency Plan, 1985
	6	Kishwaukee Community Hospital Emergency Plan, 1983-1985
	7	Other Emergency Plans, 1984, 1986, not dated
	8-9	Severe Accident Risks: An Assessment for Five Nuclear
		Power Plants, 1989
34	1	Reactor Safety Study: An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants, 1975
	2	Price-Anderson Nuclear Insurance Act, (1974-1988)
Series XII. C	Global Nuclear Conc	eerns
	3	Nuclear Power Plants, not dated, (1980-1990)
	4	Nuclear Finances, (1981-1986)
	5	Nuclear Industry, 1980-1991
	6	Faulty Bolts, 1986-1988
	7	Jumpers, 1982
	8	Superconducting Super Collider, (1983-1988)
	9	Fermi National Accelerator Laboratory, 1982, 1983
	10	The Chemistry of Noble Gases, 1967
	11	Controlled Nuclear Fusion, 1967
	12	Source of Nuclear Fuel, 1968
	13	Thorium and the Third Fuel, not dated
Subs	eries A. National Nu	uclear Power Plants
	14	Nuclear Power Plants by State, 1986-1987 California:
	15	Sacramento, Rancho Seco Power Plant, 1987
	16	San Luis Obispo, Diablo Canyon Power Plant, 1982, 1985
	17	Florida, 1984, 1988
	1.0	TII' ' (1000 1000)

Illinois, (1980-1988)

Braidwood, 1983-1988

18

19

BOX	<u>FOLDER</u>	DESCRIPTION	27
34	20	Clinton, (1982-1997)	
	21	Dresden, (1980-1989)	
	22	La Salle, (198-1988)	
	23	Metropolis, 1986	
	24	Zion, (1981-1998)	
	25	Indiana, 1981-1986	
	26	Michigan, (1985-1993)	
	27	Charlevoix, Big Rock Point Nuclear Power Plant, 1984, 1997	
	28	Midland, 1983, 1984	
	29	Monroe, Fermi Nuclear Power Station, 1984-1988	
	30	Missouri, 1984, 1986	
	31	New Hampshire, Seabrook Nuclear Power Plant, 1986- 1988	
		New York:	
	32	Buchanan, Indian Point Nuclear Power Plant, 1982-1983	3
35	1	Scriba, Nine Mile Point Nuclear Power Plant, 1983, 198	38
	2	Smithtown, Long Island, Shoreham Nuclear Power Plan 1983, 1987	t,
	3	Ohio, (1983-1988)	
	4	Cincinnati, Zimmer Nuclear Power Plant, 1982-1984	
	5	Toledo, Davis-Besse Nuclear Power Plant, 1985-1986	
	6	Pennsylvania, 1985-1986	
	7	Peach Bottom Nuclear Power Plant, 1983, 1985	
	8	Tennessee, (1981-1988)	
	9	Oak Ridge, Clinch River Breeder Reactor, 1981-1983	
	10	Texas, 1987, 1989	
	11	Washington, 1983-1986	
	12	Wisconsin, 1985, 1987	

# Subseries B. Nuclear Aggression

13	Nuclear War, 1982-1984, 1986
14-15	Nuclear Weapons, (1976-1996)
16	Nuclear Power at Sea, 1983, 1986
17	Strategic Defense Initiative, 1985
18	Extremely Low Frequency Antenna, 1981-1984
19	Nuclear Power and World Order: Why Denculearization,
	1978

Subseries C. Nuclear and Hazardous Waste Accidents

BOX	<u>FOLDER</u>	DESCRIPTION 28
35	20 21	Three Mile Island, Middleton, Pennsylvania, 1979-1989 <u>Report of the President's Commission on the Accident at</u> <u>Three Mile Island: The Need for Change: The Legacy of</u> TMI, 1979
	22	Three Mile Island: Report to the Commissioners and to the Public, 1980
	23	A Reporter at Large: Three Mile Island Part II: The Paper Trail, 1981
	24	Chernobyl, Pripyat Ukraine, 1986-1988, 2008
36	1 2	<u>Chernobyl: The Emerging Story</u> , 1986 <u>Reassessing Nuclear Power: The Fallout from Chernobyl</u> , 1987
	3	Soviet Radiation Release, 1986-1987
	4	Goiania, Brazil, Cesium-137 Accident, 1987
	5	Gore, Oklahoma, Uranium Accident, 1986
	6	Nuclear Accidents, (1986-1988)
		Dioxin Spills:
	7	Great Lakes, 1983
	8	Illinois, 1983, 1987
	9	Midland, Michigan, 1983
	10	Missouri, 1982, 1983
	10	Times Beach, 1982-1983
	11	
	12	New Jersey:
	12	Clifton, 1983
	13	Newark, 1983
Subse	eries D. Anti-Nuclea	r Protest
	14	Nuclear Protest, (1979-1989)
	15	Whistle Blower Protection Act, 1987-1988
	16	Karen Silkwood, 1981, 1984
	17	Peter Vlahakis, 1977-1978, 1984
	18	Government Accountability Office Reports, 1983-1984
	19	Richard Parks, 1983
	20	Anti-Nuclear Power Advertisement, not dated
	21	Nuclear "No Thanks" Sticker, not dated
Subse	eries E. Anti-Nuclea	r Activist Groups and Newsletters
	22	American Friends Service Committee, (1979-1988)
	23	Animals Agenda, 1988
	<del></del>	

$\underline{\text{BOX}}$	<u>FOLDER</u>	DESCRIPTION	29
36	24 25 26 27 28-29 30 31 32 33	Catholic Worker, 1987, 1988 <u>Via Pacis</u> Newsletter, 1988, 1989  Center for Defense Information, <u>The Defense Monitor</u> , 1987  Christic Institute, not dated, 1987  Citizen Alert, (1988-1994)  Citizens Clearinghouse for Hazardous Waste, Inc., 1988  Citizen's for a Better Environment, 1982-1984  Coalition for Nuclear Free Great Lakes, 1986-1988  Committee for Nuclear Responsibility, Inc., 1984  DeKalb Coalition for a Nuclear Free, (1983-1987)	7
37	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17-18 19	Energy Resource Center, Illinois Energy Newsletter, (1986-1990)  Environmental Action Foundation, (1984-1988)  Environmental Task Force, Resources, Newsletter, 1984-19 Illinois Environmental Council, 1981, 1983 Illinois Safe Energy Alliance, (1981-1987) Lake County Defenders, 1983 Land Educational Associates Foundation, Inc., Land Leaf Newsletter, (1983-1988) Latham Letter, 1987-1989 Maternal Majority, 1983 Minnesota Public Interest Research Foundation, 1985 Mobilization for Survival, 1988, 1989 Milwaukee Mobilizer Newsletter, (1985-1988) National Campaign for Radioactive Waste, Nuclear Waste News, 1983 National No-Nukes Prison Support Collective, The Nuclear Register, 1988 Northern Sun Alliance, Northern Sun Newspaper, 1981-198 No Nuclear News, 1982-1984 Nuclear Energy Information Service, 1983-1992 Nuclear Free America, The New Abolitionist Newsletter, 1988-1989 Nuclear Information and Resource Service: Brochures, not dated Resource Guide, not dated	85
38	1 2 3	Conferences, 1988 Correspondence, (1985-1992) Groundswell Newsletter, 1981-197 Nuclear Information and Resource Service:	

BOX	<u>FOLDER</u>	DESCRIPTION	30
38	4-5	The Nuclear Monitor Newsletter, 1985-19895	
	6	Nuclear Waste News, 1981, 1983	
	7	Nucleonics Week, 1986	
	8	PANE Newsletter, 1985	
	9	Plowshares, 1988	
	10	Pollution and Environmental Problems, Inc., not dated, 198 1983	32-
	11	Pollution Control Board, 1985, 1987	
		Progressive Foundation:	
	12	Don't Waste America, Lake Superior Region Nuclear	
		Waste Update, (1982-1984)	
	13	Nukewatch, (1984-2007)	
	14	Pathfinder Newsletter, (1991-2008)	
	15	Project Disarm, 1985	
	16	Public Action, 1982, not dated	
	17-18	Public Citizen, 1981-1988	
39	1	Residents Against a Polluted Environment, not dated	
	2	Rockford Peace and Justice Action Committee, 1987, 1989	)
	3	Safe Energy Communication Council, (1981-1992)	
	4	Robert Redford Reel-to-Reel, Public Service	
		Announcement, 1986	
	5	Viewpoint, 1992, 1993	
	6	Sierra Club, 1982	
	7	Radioactive Waste Campaign, 1988	
	8	The Waste Paper Newsletter, (1981-1988)	
	9	Technical Information Project, <u>Nuclear Waste Tips</u> Newsletter, 1985	
	10	Union of Concerned Scientists, (1975-1988)	
	11	Nucleus Newsletter, (1981-1988)	
	12	U.S. Public Interest Research Group, 1990-1991	
	13	Women's Action for Nuclear Disarmament, not dated	
	14	Women's International Coalition to End Nuclear Radioactivity, Radiation Perils Newsletter, 1988, 1989	
	15	Women's International League for Peace and Justice, <u>Peace</u> and <u>Justice</u> Magazine, 1987, 1988	<u>.</u>

Series XIII. Midwest Low Level Waste Compact

Subseries A. Low Level Waste Legislation

Midwest Compact for Low Level Waste Bill, (1980-1988)

$\underline{BOX}$	<u>FOLDER</u>	DESCRIPTION	31
39	17	Hearing on Status of Interstate Compacts for the Disposal of Low Level Radioactive Waste, 1983	f
		Proposed Waste Sites:	
	18	Interagency Task Force on the Proposed Decommissionin of the Sheffield Nuclear Waste Disposal Site, 1979	ng
40	1	Sheffield, Illinois, (1980-1987)	
	2	Morris, Illinois, (1967-1986)	
	3-4	Newspaper Articles, 1980-1992	
	5	Public Information, 1978-1986, not dated	
	6	Correspondence, 1981-1991	
		Politicians Involved in Compact:	
	7	Government Representatives, not dated, 1991	
	8	Government Correspondence, 1981, 1982	
41	1	Illinois Government Handbook, (1980-1986)	
	•	Congressman Tom Corcoran:	
	2	Congressional Reports, 1981	
	3	Correspondence, 1981-1982	
	4	News from Corcoran, 1981-1983	
	5	News Articles, 190-1982	
	6	Senator Charles Percy, 1980-1982	
	7	Chicago Alderman Martin Oberman, 1986	
	8	President Ronald Reagan	
	9	Elections, 1986	
	10	Dennis Hastert, 1987	
	11	Dan McGrath, 1982, not dated	
	12	John O'Meara, 1982, not dated	
	12	Greg Sparrow, 1984	
	13	Patrick Welch	
	15	Illinois Department of Nuclear Safety, 1982-1987	
	16	Reports, 1985, 1987	
	17	Conferences, 1987	
	18	Radiological Response-Abilities Newsletter, (1982-1991	)
	19	United States Regulatory Commission, (1982-1987)	,
	20	Midwest Compact for Low Level Waste Amendments, (198 1985)	2-
	21	Midwest Compact for Low Level Waste Statements, 1981, 1983-1984	
	22	Midwest Compact for Low Level Waste Conferences, (1981)	l -
	23	Midwest Compact for Low Level Waste Meetings, 1980-19	93

BOX	<u>FOLDER</u>	<u>DESCRIPTION</u> 32
42	1	Midwest Low Level Waste Compact Notes, 1983, not dated
S	Subseries B. Reports a	and Publications
	2	What is commercial low-level radioactive waste?, not dated
	3	Answers to Most Frequently Asked Question About Low- Level Radioactive Waste Disposal, circa 1994
	4-5	Alternative Methods for Disposal of Low-Level Radioactive Waste, 1985
	6	America's Nuclear Waste Backlog, 1981
	7	Annual Report on the Survey of Low-Level Radioactive Waste Generators in Illinois, 1986
	8	Department of Energy's Initial Efforts to Implement the Nuclear Waste Policy Act of 1982, 1985
	9	Difficult Choices About Environmental Protection, not dated
	10	Regulatory Analysis of Proposed Amendments to Regulations
		Concerning the Environmental Review of Nuclear Power Plant Operating Licence, 1991
	11	Hazardous Waste: Future Availability of and Need for
		Treatment Capacity is Uncertain, 1988
	12	Interim Management Plan for Radioactive Waste in Illinois 1986-1992, 1985
	13	Midwest Low Level Waste Compact Publications, 1981-1983, not dated
	14	Living Without Landfills, 1988
43	1	Low Level Radioactive Waste: Building a Perspective, 1986
	2	Low Level Radioactive Waste Management, circa 1992
	3	Nuclear Waste Isolation Activities Report, 1980
	4	Nuclear Waste: Slow Progress Developing Low-Level Radioactive Waste Disposal Facilities, 1992
	5	Planning for Greater-Confinement Disposal Volume I: Alternatives and Methods, 1986
	6	Proposed Site Selection Criteria for a Low-Level Radioactive Waste Disposal Facility, 1995
	7	Siting a Low Level Radioactive Waste Disposal Facility in
	0	Illinois: Statewide Criteria, 1985

Southeastern Regional Environmental Characterization
Report: Executive Summary, 1985

Subseries C. Waste Disposal and Management

8

BOX	<u>FOLDER</u>	DESCRIPTION	33
43	9	Waste Disposal Methods, 1982-1993	
15	10	Hazardous Waste Transport, (1980-1991)	
	11	Toxic Waste Business, 1980-1989	
	12	Waste Management, Inc., 1982-1985	
	13	Towns Recruiting Waste Sites, (1982-1989)	
	14	Waste Sites, (1979-2002)	
	Subseries D. Waste Site	s by State	
	15	Waste Sites by State, 1980-1987	
	16	California, 1983-1997	
	17	Riverside, 1983-1984	
	18	Colorado, 1984	
	19	Great Lakes, (1983-1992)	
	20	Illinois, 1980-1989	
	21	Miscellaneous Sites Around Illinois, 1980-1999	
	22	Amboy, 1983	
	23	Antioch, 1981-1983	
44	1	Byron, 1987, 1989	
	2	Channahon, 1987	
	3	Cherry Valley, 1982	
	4	Chicago, 1983-1984	
	5	Commonwealth Edison PCB Leakage, 1981, 1983, 1	988
	6	Lake Calmuet, 1982, 1986, 1987	
	7	Chicago Heights, 1981, 1988	
	8	DeKalb, 1988, 1992	
	9	Northern Illinois University, 1982, 1994	
	10	DuPage County, (1981-1989)	
	11	Freeport, 1983, 1988	
	12	Hammond, 1981	
	13	Kishwaukee River, 1988	.1
	14	Lemont, Argonnne National Laboratory, 1983, not dated	1
	15	Ottawa, 1981  Pagataning Frink Industrial Wests, 1982, 1982, 1988	
	16 17	Pecatonica, Frink Industrial Waste, 1982, 1983, 1988 Rockford, 1982-1985	
	18	ACME Dump, 1983-1984	
	19	Waste Disposal Methods, (1982-1987)	
	20	Water Contamination, 1983, 1988	
	20	Roscoe, 1983	
	<b>∠</b> 1	Illinois:	
	22	Southern Illinois, 1983	

<u>BOX</u>	<u>FOLDER</u>	DESCRIPTION	34
44	23	Sycamore, 1987, 1988	
	24	Waukegan	
	25	West Chicago, 1983, 1985	
	26	Wilsonville, 1982	
	27	Indiana, 1983, 1987	
	28	Michigan, 1982-1986	
	29	Minnesota, 1983-1984	
		Nevada:	
	30	Beatty, 1985, not dated	
	31	Yucca Mountain, (1989-1997)	
	32	New Mexico, (1989-1998)	
	33	New York, 1983, 1984, 1987	
	34	Niagra Falls, Love Canal, (1980-1985)	
	35	Ocean Burial, (1980-1984)	
	36	Ohio, 1982, 1984	
	37	Washington, Hanford, (1984-1991)	
	38	Wisconsin, (1982-1987)	

Subseries E. Environmental Effects of Hazardous Waste

	39	<u>Difficult Choices About Hazardous Waste</u> , Audio Cassette, 1984
	40	Toxic Chemicals, (1983-1987), not dated
	41	Asbestos, (1982-1992)
	42	Dioxin, (1983-1987)
	43	Formaldehyde, 1983
	44	Methane Gas, 1986
	45	Pesticides, (1980-1993)
	46	Drug Resistant Bacteria and Viruses, 1986
	47	Plutonium, (1982-1988)
	48	Japanese Recycling Plutonium, 1981-1994
	49	Radon Gas, (1986-1994)
	50	Uranium, (1980-1990)
45	1	Environmental Concerns, (1983-2008)
	2	Pollution, 1980-1983
	3	Water Contamination, (1982-2008)
	4	Acid Rain, 1983, 1987, 1988
	5	Fish Kills, 1983, 1987
	6	Illinois Water Resource Conference
	7	Lead Poisoning, (1982-1992)
	8	Nuclear Films and Books, 1982-1985

BOX	<u>FOLDER</u>	DESCRIPTION	35
45	9	Chemofacts Coalition Press Guide, 1984	
46	1 2 3	Nevermore: Nuclear Waste in America, 1983-1985 Environmental Task Force, <u>Resource</u> Newspaper, 1984 Chicago Tribune Special Edition, 1985	
		ADDENDIM 5	

#### ADDENDUM 5

#### Series II. Official Docket Filings

4 Commonwealth Edison official dockets related to emergency planning, 1983-1984

## Series VI. DAARE/SAFE Admitted Contentions Subseries C. Emergency Planning Contention

5 Criticism of emergency planning