

RELATED COMPANY

A circular postmark from the U.S. Navy. The outer ring contains the text "U.S. NAVY" at the top and "WASHINGTON, D.C." at the bottom. Inside the ring, the text "Docketed LISNAC" is at the top, "JUN 17 1983" is in the center, and "Office of the Sec. Convening Branch" is at the bottom. The date "JUN 17 1983" is stamped in a large, bold font.

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Clearly, the Staff has prematurely brought its Motion. The Staff is not now in a position to verify the adequacy of the proposed turbine maintenance program from the standpoint of missile probability. The Staff admits in the SER that it has not even reviewed the manufacturer (General Electric's) data, an apparent precondition for such verification. Evidently, there remains a genuine issue of material fact in this instance.

As to the Staff's amenability to let CEI operate PNPP for three years before having to secure NRC approval of its revised turbine maintenance program, Sunflower questions the legal substance of the NRC's conclusion. The Staff cites a report where the Staff, "in general" is not aware of turbine rotor rupture from crack propagation within three years of startup. Then the Staff has by affidavit bootstrapped that and successive undocumented conclusions into "evidence" to "prove" the nonexistence of genuine material fact issues.

10 CFR § 2.749(b) begins:

Affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(emphasis supplied)

It is possible that the Staff's affiant is competent to testify to the matters at issue. But the Staff has failed to prove, by competent evidentiary means upon which this licensing panel may base its findings, that the three-year leeway period is necessary or justified. What authority did the Affiant, and the Staff generally, rely upon in reaching this sweeping, undocumented conclusion? Without more, this licensing panel cannot determinatively rule that the Staff has resolved all issues in favor of public health and safety.

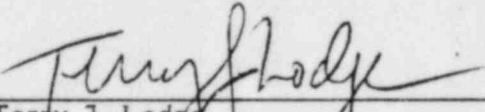
The standard to which the Staff's Motion must be held is extremely strict:

Even if no party opposes a motion for summary disposition, the movant's filings must establish the absence of a genuine issue of material fact.

Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 753-54 (1981), cited with approval, Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), _____ ASLB _____, Summary Disposition at 8 (January 31, 1983).

What is actually at issue here is whether the Board will simply approve the Staff's unembroidered SER findings, as the Affidavit accompanying the Staff's Motion adds no substance to the NRC's "Statement of Material Facts", but merely fulfills a 10 CFR § 2.749 requirement. See Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ASLB, Summary Disposition at 4-5 (January 31, 1983), where this Board discussed the hazards of accepting "unsupported staff statements".

WHEREFORE, Sunflower prays that the Staff's Motion be denied in every respect.


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CERTIFICATION

I hereby certify that copies of the foregoing "Memorandum Contra" were served by me via regular U. S. Mail, postage prepaid, upon all parties on the below Service List this 15th day of June, 1983.

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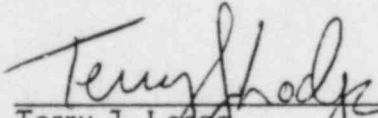
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Terry J. Lodge
Counsel for Sunflower Alliance

STATEMENT OF MATERIAL FACTS

1. The Commission's Affiant, was John Schiffgen, "principal contributor to Section 3.5.1.3, Turbine Missiles [sic], of Supplement No. 3 to the Safety Evaluation Report related to [PNPP]".

2. In the SER (NUREG-0887, Supp. No. 3, April, 1983), the following statement appears:

For these reasons (and because of inadequate data, controversial assumptions, and modeling difficulties), in the evaluation of P_4 , the staff gives credit for the product of the strike and damage difficulties of 10^{-2} for an unfavorably oriented turbine, and does not encourage calculations of them.

Id. at 3-4.
(emphasis supplied)

3. At Section 3.5.1.3.3 of the SER supplement, the following statement appears:

The staff requires that relevant General Electric analyses be submitted to the staff for review and acceptance in order to verify the adequacy of the applicant's turbine maintenance program in terms of the probability of generating turbine missiles. General Electric intends to submit their analyses to the NRC for review by June 1983 [sic].

Id. at 3-9.
(emphasis supplied)

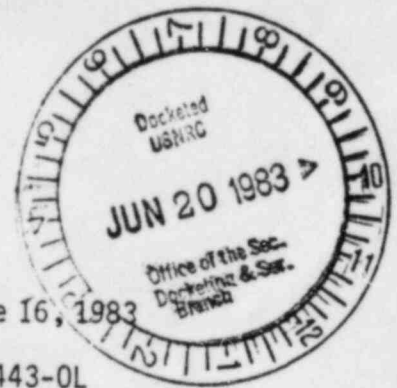
4. In the same Section, the following appears:

Concerning turbine generators, in general, the staff is not aware of any turbine rotor rupture resulting from crack propagation . . . that occurred within 3 years of startup. Furthermore, within 3 years of startup, no cracks have been observed in a General Electric turbine wheel with depths greater than one-half the critical crack depth calculated for that wheel. For these reasons, the staff is allowing applicant up to 3 years from initiation of power output to propose a revised turbine maintenance program . . . and obtain NRC approval of this program.

Id. at 3-10.
(emphasis supplied)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL
WASHINGTON, D.C. 20555



June 16, 1983

Docket Nos. 50-443-OL
50-444-OL

MEMORANDUM FOR: All Parties to the Seabrook OL Proceeding
Secretary, Docketing and Service

FROM: David R. Lewis, Esq. *DL*
Law Clerk to the Board

SERVED JUN 20 1983

SUBJECT: Addition to the Service List

Please add the following to your service lists:

Senator Gordon J. Humphrey
U.S. Senate
Washington, D.C. 20510
(Attn: Tom Burack)

and

Senator Gordon J. Humphrey
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Concord, NH 03301
(Attn: Herb Boynton)

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