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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	Docket Nos.	50-440-OL
)		50-441-OL
CLEVELAND ELECTRIC ILLUMINATING)		
COMPANY, et al)		
)		
(Perry Nuclear Power Plant,)		
Units 1 and 2))		

MOTION FOR LEAVE TO FILE WITH THE PRESIDING
OFFICER SUNFLOWER ALLIANCE THIRD SET OF
INTERROGATORIES (WITH REQUESTS FOR PRODUCTION
OF DOCUMENTS) TO NRC STAFF AND FOR AN ORDER
FROM THE PRESIDING OFFICER TO REQUIRE THE
NRC STAFF TO RESPOND

On or about September 30, 1982, Sunflower Alliance Inc., et al, filed its Third Set of Interrogatories (with Request for Production of Documents) with the NRC Staff. Sunflower has been advised by the NRC Staff Attorney that the NRC Staff will not voluntarily respond to this discovery request. For the reasons following, Sunflower requests from the Presiding Officer an order requiring the NRC Staff to respond to this discovery request.

10 CFR 2.720(h)(2)(ii) provides that a party may file interrogatories with the Presiding Officer and the Presiding Officer may order the Staff to respond. Before the Presiding Officer may do this, there must be a finding that the answers to the interrogatories are necessary to a proper decision in the proceeding and that the answers are not reasonably obtainable from any other source.

This discovery request involves issue #3. Issue #3 states: Applicant has an inadequate quality assurance program that has caused or is continuing

to cause unsafe construction. This issue has an interesting history. The above language constitutes the language of the contention as admitted by this Board's order dated July 28, 1981. By an order dated September 10, 1981, this Board limited this issue to the quality assurance implications arising from the stop work order issued to it and the steps taken by it to remedy alleged deficiencies leading up to the stop work order (February, 1978). Sunflower has filed two motions to expand the Quality Assurance contention and in each case this Board has denied the Motions. The reason given is that the issue is not yet ripe for resolution. Yet, at the same time, the Board stated that discovery would extend beyond the technical limitations of the February, 1978 stop work order. In its March 3, 1982 order, the Board wrote:

...In that context relevance may be broadly interpreted in the interests of full disclosure and it is doubtful that serious discovery requests, related to the safety or environmental consequences of quality deficiencies would be irrelevant to the admitted contention. Even old deficiencies may be related to the damage that may have been caused by the quality assurance problems leading to the stop work order. More recent deficiencies may be related to the effectiveness of the steps taken to remedy the previous deficiencies...

Thus, even though the Board limited the contention it did not limit the scope of discovery. The scope of discovery has been broadened to cover all aspects of the Applicant's Quality Assurance Program.

10 CFR 50.57(a)(1) states that before a license can be issued there must be a finding that construction of the facility has been done in compliance with the rules and regulations of the Commission. 10 CFR 50.34 includes within the contents of an application a quality assurance program. Appendix B to Part 50 of 10 CFR details quality assurance criteria.

The purpose of a Quality Assurance program is two-fold:

...The quality assurance functions are those of (a) assuring that an appropriate quality assurance program is established and effectively executed and (b) verifying, such as by checking, auditing, and inspection, that activities affecting the safety related functions have been correctly performed... 10 CFR Part 50, Appendix B.

Thus, it is appropriate to a decision in this case that Applicant's Quality Assurance program be effectively executed.

Interrogatories 1,2,3,4,5,6,8,9,10,11,12,13,14,15,16,18,18(A),19, 20,21,22,23,24,26,28,29,31,32,33,34, and 35 all deal in one way or another with Quality Assurance. A Quality Assurance program entails:

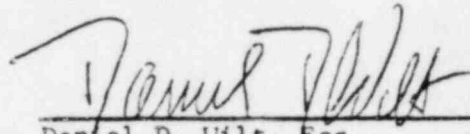
...The applicant shall identify the structures, systems, and components to be covered by the quality assurance program and the major organizations participating in the program, together with the designated functions of these organizations. The quality assurance program shall provide control over activities affecting the quality of the identified structures, systems, and components, to an extent consistent with their importance to safety. Activities affecting quality shall be accomplished under suitably controlled conditions... 10 CFR, Part 50, Appendix B.

The propounded interrogatories seek to discover how well the controlled activities worked. As such, the information sought is necessary to a proper decision in this matter.

The next requirement is that the information not be readily available elsewhere. Interrogatories 1,2,3,4,5,6,8,9,10,12,13,14,15,16,18,18(A), 19,20,21,22,23,24,26,28,31,32,33,34,35 can only be answered by an appropriate official of the Staff. The information simply is not available anywhere else on a reasonable basis.

For these reasons, Sunflower requests that this Motion be granted.

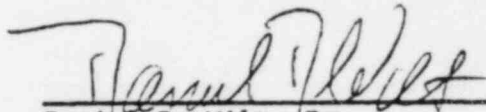
Respectfully submitted,



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PROOF OF SERVICE

The undersigned certifies that a copy of this Motion has been sent
to all persons on the Service List on this 10 day of November,
1982.



Daniel D. Wilt, Esq.
Attorney for Sunflower Alliance Inc.