

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

11/7/81

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'81 NOV 10 P12:56

In the Matter of

APPLICATION OF TEXAS UTILITIES  
GENERATING COMPANY, ET AL. FOR AN  
OPERATING LICENSE FOR COMANCHE  
PEAK STEAM ELECTRIC STATION  
UNITS #1 AND #2 (CPSES)

Docket Nos. 50-445  
and 50-446



- (1) MOTION FOR RECONSIDERATION OF  
CONSOLIDATION ON CONTENTION 5; AND  
(2) TRANSMITTAL OF ADDITIONAL INFORMATION

CASE (Citizens Association for Sound Energy), Intervenor herein, hereby  
files this, its (1) Motion for Reconsideration of Consolidation on Contention 5;  
and (2) Transmittal of Additional Information in support of its previous motions  
for postponement and setting of dates for pre-hearing conference.

STATEMENT OF CONTENTION

CONTENTION 5: The Applicants' failure to adhere to the quality assurance/  
quality control provisions required by the construction permits for Comanche  
Peak, Units 1 and 2, and the requirements of Appendix B of 10 CFR Part 50,  
and the construction practices employed, specifically in regard to concrete work,  
mortar blocks, steel, fracture toughness testing, expansion joints, placement  
of the reactor vessel for Unit 2, welding, inspection and testing, materials  
used, craft labor qualifications and working conditions (as they may affect  
QA/QC, and training and organization of QA/QC personnel, have raised substantial  
questions as to the adequacy of the construction of the facility. As a result,  
the Commission cannot make the findings required by 10 CFR 50.57(a) necessary  
for issuance of an operating license for Comanche Peak.

BACKGROUND

Soon after the Board's 6/16/80 acceptance of Contention 5 (as worded above)<sup>1</sup>,

<sup>1</sup> Order Subsequent to the Prehearing Conference of April 30, 1980 (June 16, 1980).

DSO  
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CASE began discovery regarding this contention. On 7/7/80, we filed CASE's First Set of Interrogatories to Applicant, which dealt primarily with Contention 5; and on 12/1/80, we filed CASE's Second Set of Interrogatories to Applicants and Requests to Produce, which dealt exclusively with Contention 5. In its Order of 10/31/80<sup>2</sup>, the Board stated that it construed Contention 5 to cover the Inspection and Enforcement Reports identified by ACORN in its Offer of Proof of 8/29/80.<sup>3</sup>

In their 12/22/80 Answers to CASE's Second Set of Interrogatories (received by CASE 12/29/80), Applicants objected to our rewording of Contention 5 to include the subjects of the Inspection and Enforcement (I&E) Reports included in ACORN's 8/29/80 Offer of Proof.

At this point, CASE normally would have prepared a Motion to Compel complete answers regarding our Second Set of Interrogatories to Applicants. Under NRC regulations 10 CFR 2.730(c) and 2.710, this Motion to Compel would have had to be mailed by 1/6/81. However, on 12/31/80, the Board ordered that ACORN become the lead party-intervenor regarding Contention 5, indicating that all future discovery should be handled by ACORN. This effectively stopped discovery in process by CASE. Applicants also affirmed their understanding of the effect of the Board's Order in their January 7, 1981 letter to CASE (copies to ASLB,

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<sup>2</sup> Rulings on Objections to Board's Order of June 16, 1980 and on Miscellaneous Motions, page 8, item 5.

<sup>3</sup> ACORN's Offer of Proof in Support of Its Motion for Reconsideration of the QA-QC Contention.

Marjorie Rothschild, and Geoffrey Gay), in which they stated:

"On December 31, 1980 the Board issued a Memorandum and Order which consolidated the party-intervenors for all purposes (including discovery) with respect to certain contentions. Since the Board designated ACORN as lead party-intervenor on Contention 5 regarding quality assurance/Quality control, ACORN is now the intervenor with whom discovery concerning Contention 5 will be conducted. Nevertheless, Applicants will maintain in their Dallas offices all documents concerning CASE's discovery requests on Contention 5 which were placed there prior to the Board's December 31 Order."

ACORN withdrew from the proceedings on 6/16/81.<sup>4</sup> During the time when ACORN was lead intervenor on Contention 5, not one question was asked regarding Contention 5, nor was any follow-up done regarding previous interrogatories which had been asked by CASE. This was due to a variety of factors, including difficulties in getting in touch with ACORN's representative in Fort Worth, some thirty miles from Dallas.

Since Applicants had indicated in their 12/22/80 Answers to CASE's Second Set of Interrogatories that they had no intention of answering any questions regarding the subjects covered in ACORN's Offer of Proof, it was obvious that the wording of this contention needed to be clarified (regardless of whether CASE or CFUR was made lead intervenor after ACORN's withdrawal) and that such clarification could come only from the Board. For this reason, CASE filed its 7/28/81 Motion for Board Clarification of Wording of Contention 5 (prior to receiving notification from the Board that CFUR had been made lead party-intervenor regarding Contention 5). The Board struck this CASE motion on 8/3/81.

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<sup>4</sup> ACORN's 6/16/81 Motion for Voluntary Dismissal.

On 7/28/81, CASE also filed its Motion for Reconsideration Regarding Pre-hearing Conference. Included as suggested items to be considered at such prehearing conference were: "The status of Contention 5, including designation of lead party-intervenor if proper, status of pursuit of CASE's Second Set of Interrogatories and Requests to Produce, clarification of wording of Contention 5, and any other applicable issues regarding Contention 5." The Board struck this CASE motion on 8/3/81 also.

The Board's 7/24/81 Memorandum and Order granting ACORN's Motion for Voluntary Dismissal (received by CASE later the same day after we had mailed our 7/28/81 Motions) designated CFUR as lead party-intervenor for Contention 5, thereby again precluding CASE from pursuing this Contention.

CASE had thought that we could work better with CFUR than had been the case with ACORN and we looked forward to again pursuing Contention 5. However, at the August 11, 1981 discovery conference between Applicants and CFUR, "Applicants and CFUR also agreed that any and all discovery between them until October 29, 1981...will be confined to those issues scheduled for trial starting on December 2, 1981. The purpose of this agreement is to permit Applicants and CFUR to focus their attention and resources at this time on discovery related only to those contentions to be tried in December."<sup>5</sup> Since Contention 5 was not among those to be litigated in the 12/2/81 hearings, this precluded

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<sup>5</sup> 8/20/81 Report of Applicants and CFUR Regarding Results of Discovery Conference, second paragraph of page 2 continued on page 3.

discovery regarding this contention during that time period. Although CASE was made aware of and invited to this conference, we did not attend because we were under the impression that it was strictly for the purpose of discussing contentions which would be litigated in the 12/2/81 hearings. We were not aware that any agreement regarding Contention 5 was contemplated or made until after the fact. Had we known, we would have most stringently objected.

Thus, because of a series of events including Board rulings and orders, CASE has been effectively precluded from pursuing discovery regarding Contention 5 since 12/31/80, when consolidation was first ordered. We are not suggesting that it was deliberate on the part of the Board, but the fact remains that from 12/31/80 through at least 10/29/81 there will have been not a single question asked of Applicants or NRC Staff regarding this very important contention, because the Board has made every other Intervenor the lead Intervenor on this contention except CASE, which is the only Intervenor which has ever asked a single question about it.

CASE was in the middle of asking interrogatories and seeking documents regarding the patched dome of Unit 1 (see copy of excerpts from Inspection and Enforcement Report 79-11, attached to the Board's copies of this pleading) when ACORN was made lead party-intervenor on this contention and CASE's discovery was in effect brought to a halt. There are still numerous questions which need to be asked and answered regarding this matter and others contained in I&E Reports on Comanche Peak's construction. In these I&E Reports, many problem areas

have been identified, and led to the NRC's making this statement in their Regional Evaluation of the utilities' performance<sup>6</sup>:

"...there is a need to make this group (Brown and Root Construction Supervision and Labor Force) more aware of nuclear power plant construction requirements."

The severity of the problems at Comanche Peak has been emphasized by the recently announced two-year delay in construction completion and Applicants' request that construction permits be amended to reflect the "latest date of completion" of August 1, 1985 for Unit 1 and August 1, 1987 for Unit 2.<sup>7</sup> The severity of Brown and Root's construction problems has been further emphasized by recent developments at the South Texas Nuclear Project (STNP):

On 9/24/81 Houston Lighting and Power replaced Brown and Root as architect design-engineer with Bechtel Power Corporation; Sometime during the last week of October, Citizens for Equitable Utilities, an intervenor in the STNP operating license hearings, filed a petition with the NRC asking that construction work be halted pending a full review of all aspects and details of the Brown and Root design and the Quadrex Report (a review commissioned by Houston Lighting and Power by Quadrex Corporation, a California-based consulting firm);

Thurs. 11/5/81, it was announced that Brown and Root has pulled out of the STNP as constructor by mutual agreement with Houston Lighting & Power because of inability to negotiate a new contract for Brown and Root to continue as constructor only; and

On 9/10/81 Citizens for Equitable Utilities filed eight new contentions in the STNP proceedings regarding "major structural steel that did not conform to the requirements of the American Welding Society,"

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<sup>6</sup> Nuclear Regulatory Commission's Regional Evaluation of the utilities' performance for 8/1/79 through 7/31/80 (the most recent evaluation) reported 11/12/80, Inspection and Enforcement Report 80-25.

<sup>7</sup> Application for Amendment of Construction Permits to Reflect New Latest Completion Dates, June 19, 1981, which was included as Attachment 2 to NRC Staff's 11/2/81 Answer to Applicants' and CASE's Motions to Postpone Hearing.



"defective steel (which) was considered acceptable by Brown and Root personnel involved in vendor surveillance..." and allegations that "many, if not most, of the deficiencies were not discovered by quality control inspectors at the South Texas Project site." As part of the supporting documentation for these contentions, Citizens for Equitable Utilities includes "I&E Report No. 80-23, under cover letter dated November 19, 1980, concerning the failure of Brown and Root vendor surveillance in the area of steel procurement at the Comanche Peak plant. (See Item 6a on page 5 of the I&E Report). This new evidence related to the South Texas Project and the Comanche Peak failures of Brown and Root confirm CEU's belief that the heart of the problems at the South Texas Project is Brown and Root. The evidence establishes that the company simply does not give adequate attention to quality and is not capable of adhering to the strict standards required for nuclear construction. We urge the Board, the NRC Staff, and the Applicant to short circuit and simplify this extraordinarily cumbersome hearing process by recognizing that Brown and Root must be replaced and doing so immediately."<sup>8</sup> (Emphasis added.)

It is obvious from the preceding that there is now an urgent need to investigate the possibility of other similarities in construction problems, quality assurance/quality control, vendor surveillance, and other problems common to Comanche Peak and the South Texas Nuclear Project. Further credibility has been given to this possibility by recent telephone conversations between this Intervenor and the representative of Citizens for Equitable Utilities, which indicate that there may indeed be many other shared problem areas. CASE is in the process of obtaining a copy of the Quadrex Report in the STNP proceedings and other information which may be helpful in making an analysis of such similarities.

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<sup>8</sup> Citizens for Equitable Utilities' 9/10/81 Motion to File Additional Contentions Based on New Information and to Establish a Discovery and Hearing Schedule with Respect to the New Contentions, In the Matter of Houston Lighting and Power Company (South Texas Project, Units 1 and 2), Docket No. 50-498 and 50-499.

BOARD RULINGS ON CONSOLIDATION HAVE LED TO DELAYS

CASE was consolidated with the other two Intervenor in this proceeding over its strong objections,<sup>9</sup> and many of the concerns expressed in our 11/20/80 Motion to Grant CASE Separate Intervenor Status have now proven to be well founded. Despite the assertion that "consolidation would not prejudice the rights of any intervenor,"<sup>10</sup> the rights of Intervenor CASE have now been severely damaged.

Further, such consolidation has not saved time but has instead acted to delay these proceedings in that it has effectively precluded CASE's discovery regarding Inspection and Enforcement report problem areas. Had CASE been allowed to pursue discovery as a separate and individual party rather than being consolidated, we would have already been able to complete discovery regarding earlier I&E reports. As it is, there are still numerous items yet to be explored in that regard. CASE will be forced to pick up where we left off on discovery some ten months ago and pursue these older I&E areas, in addition to now pursuing the numerous questions raised by the recently announced two-year delay in construction completion at Comanche Peak, as well as similarities between problems at STNP and Comanche Peak. With the amount of information which will need to be obtained and explored in this regard, and considering the amount of

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<sup>9</sup> CASE's 11/20/80 Motions to Grant CASE Separate Intervenor Status and to Appoint CASE as Lead Party for Consolidated Contentions; see also Board's 12/31/80 Memorandum and Order (Rulings on Consolidation of Parties, etc.)

<sup>10</sup> Board's 12/31/80 Memorandum and Order, page 10, first paragraph.



time now available before hearings begin on Contention 5, CASE submits that it is unnecessary and detrimental to have hearings on Contentions which are premature (Contention 22) or the subject of proposed rule changes (Contention 25); this would serve to further delay pursuit regarding Contention 5 by diverting time and resources to those contentions between now and the time the 12/2/81 hearings are concluded. 11

Under these circumstances, if the 12/2/81 hearings are held as scheduled, the possibility that "a few questions may go unasked and answered on cross-examination, that some facets of some issues will not be raised, that Applicants will be relieved of some of their rightful burden in these proceedings," (as stated in CASE's 11/20/80 Motion to Grant CASE Separate Intervenor Status, page 5, item 8) and that the record in these proceedings will not be as complete as it otherwise would and should have been, is greatly increased.

Additional delays will occur by continuing with the present consolidation. Even if CASE is able to work more successfully with CFUR than was the case with ACORN, there are built-in delays with such procedures which are, we believe, totally unnecessary. For example, if CASE wants to file interrogatories, we

11 It was this to which CASE referred when we stated on page 1 of our 10/26/81 Motion for Postponement of Hearings "To do so (proceed with 12/2/81 hearings prematurely) would be a waste of everyone's time and resources and, in fact, will actually serve to delay the proceedings because of the cut-off of discovery prematurely on issues yet to be fully explored. This is especially true regarding Contentions 22 and 5." Although no official cut-off of discovery has been ordered by the Board on Contention 5, to have the 12/2/81 hearings as scheduled will in effect mean that from 12/31/80 through the conclusion of the 12/2/81 hearings CASE will realistically be unable to pursue discovery on Contention 5. (The NRC Staff, as they have so often in the past, has again misconstrued CASE's intent and position regarding this statement -- see NRC Staff's 11/2/81 Answer to Applicants' and CASE's Motions to Postpone Hearing, page 3, footnote 4.)

will have to type them up, mail them to CFUR's representative in Hurst, Texas, have him sign them and put them in the mail. This one additional step alone would delay our interrogatories for a minimum of three up to seven days. Further delays will result from CASE's efforts to coordinate discovery with CFUR. Where is the justification for such unnecessary delays? CASE submits that with the amount of work to be done on this contention, which has been exacerbated by the delay in discovery already imposed upon CASE, coupled with present efforts by the NRC and Congress to speed up the licensing process, there is no reasonable justification for the Board's making any rulings which would unnecessarily delay these proceedings, as continuing with the present consolidation would.

#### "BENEFITS" OF CONSOLIDATION

The "benefits" of consolidation thus far have been nonexistent. The only "benefit" to date has been that both Applicants and the NRC Staff have been able to avoid answering CASE's legitimate interrogatories during the past ten months. Perhaps this has been of some small benefit to Applicants and Staff, since it has saved some time, effort and resources. But is this the purpose of these proceedings, at the expense of arriving at the true facts? And even this very limited "benefit" is questionable because it will only mean that more time will have to be spent now and later to obtain this information. Also, in the process, this Intervenor's rights have been severely damaged, which may mean future additional delays because of possible appeals which may be considered by this Intervenor in the future.

GRANTING OF CASE'S MOTION WILL NOT DELAY THESE PROCEEDINGS AND WILL NOT PREJUDICE  
THE RIGHTS OF ANY PARTY

As stated in the preceding, the present forced consolidation has acted to delay these proceedings and will continue to do so; in addition, the rights of CASE have already been severely damaged by such consolidation. However, there is no evidence to suggest that to allow both CASE and CFUR to pursue discovery regarding Contention 5 as separate intervenors, without the additional delays involved with trying to work together, will in any way delay these proceedings or damage the rights of any party.

To the contrary, CASE maintains that it would in fact do the reverse: it would speed up these proceedings by allowing CASE to get on with the job at hand, while serving to prevent further damage to CASE's rights in this regard. At the same time, it would preserve CFUR's rights by allowing them to also pursue discovery on their particular areas of interest on Contention 5.

There is nothing in the record to suggest that this will in any way increase the burden on Staff or Applicants; therefore, their rights will also be preserved. In addition, the Board has the authority at any time to step in should Applicants or Staff be overburdened by discovery from both CASE and CFUR.

Thus, the granting of CASE's motion will not delay these proceedings and will not prejudice the rights of any party. Further, CASE believes that it would have the added benefit of speeding up the proceedings, in both the short and long term.

### TIMING OF ANNOUNCEMENT OF CONSTRUCTION DELAYS

There is another matter in these proceedings which it has now become obvious are in need of being investigated -- the matter of the timing of the announcement of construction delays. Specifically, the questions "How long has the NRC Staff been aware of such construction delays?", "How long have the Applicants been aware of such construction delays?", "Why weren't the Board and the other parties in this proceeding promptly advised of such delays?", and "Why did the Applicants find it necessary to pad the 'latest date of completion' by over two years from the time they are presently saying construction will be completed<sup>12</sup>?" need to be answered.

The Board's 10/20/81 Order indicated that its first notification of the revised completion date for Comanche Peak 1 from December, 1981 to June, 1982 came, not from the Applicants or the NRC Staff, but from the eleventh NRC Monthly Status Report to Congress (Bevill Report) of 9/30/81. The Board then specifically "requested and directed" the Staff and the Applicant "to inform the Board promptly and affirmatively of all changes that might have a bearing on scheduled dates, with a reasonable explanation thereof."

In spite of the Board's specific Order, it now appears that the first notification it had of the 10/26/81 announcement by Texas Utilities companies that the estimated completion dates of the Comanche Peak plant "have been revised to 1984 for Unit 1 and 1985 for Unit 2" (or "estimated operating dates are now 1984

<sup>12</sup> Applicants' 6/19/81 Application for Amendment of Construction Permits to Reflect New Latest Completion Dates, which was included as Attachment 2 to NRC Staff's 11/2/81 Answer to Applicants' and CASE's Motions to Postpone Hearing.

for Unit 1 and 1985 for Unit 2")<sup>13</sup> came, not from the NRC Staff or the Applicants, but from CASE.

On 10/26/81, CASE informed the Board by Express Mail of this latest delay and attached a copy of the news release from Dallas Power & Light Company (one of the Applicants) which had been issued that same day.<sup>14</sup> On 10/27/81, Applicants filed their (1) Motion for Reconsideration; (2) Report on Changes in Schedule; and (3) Motion to Postpone Hearing. In that pleading, it is stated "A copy of the press release and related information was attached to 'CASE's Motion for Postponement of Hearings,' dated October 26, 1981." Thus, it is clear that the Applicants had not previously transmitted this information to the Board.

On 11/2/81, the NRC Staff filed its Answer to Applicants' and CASE's Motions to Postpone Hearing. In that pleading, it is stated (last sentence of Footnote 2, page 2): "We would also note for the Licensing Board's information, that the Applicants have filed an application for an amendment to the Comanche Peak construction permits to extend the latest construction completion dates. (See Attachment 2)." From the wording of this statement, it would appear that this was the first notification the Board had of this construction permit amendment -- certainly it was the first notification CASE had of it.

In its 11/2/81 Transmittal of Additional Information, CASE provided the Board with House Report No. 97-277, in which it was indicated that "the NRC Staff

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<sup>13</sup> Applicants' 10/26/81 news release, page 1 of main news release and page 1 of background information, respectively.

<sup>14</sup> CASE's 10/26/81 Motion for Postponement of Hearings.



knew on or before August 17 that, not only was the then-projected completion date of December 1981 incorrect, but the June 1982 projected date was also incorrect..."<sup>15</sup> We also included information from the 1980 Dallas Power & Light rate hearings which demonstrated that "DPL chose not to present this information regarding the Panel's projection (the NRC Caseload Forecast Panel's 10/23/80 projection for a fuel load date for Unit 1 of December 1982, although Applicants projected December 1981) to the regulatory authorities in the rate hearings, even though CASE deliberately provided them with the opportunity to present it."<sup>16</sup>

Other information further indicates that Applicants have known for some time that severe problems exist at Comanche Peak. The following statements have been made in recent news stories:

"(Lou Fikar, vice president of Texas Utilities Generating Co.) said a 500-person engineering team is attempting to solve the pipe problem."

--DALLAS TIMES HERALD 10/27/81

"...a legion of engineers is working in a room the size of a basketball court to sort out the latest snafu. Planners designing the plant had attached supports for different sets of pipes. On paper, it looked fine. In the facility, the supports didn't fit. Special combination supports are now being designed."

"Last year, officials at the plant realized the drawings and diagrams for pipes, which must be so secure they won't move even in an earthquake, didn't work. Different engineers had designed supports for separate pipe systems. When workers tried to install them all, the supports didn't fit."

"The problem has been so complex, a 1,000-employee 'Hanger Information Tracking Service,' complete with a multimillion-dollar Data General 350 computer, has been set up."

--DALLAS TIMES HERALD 11/1/81

<sup>15</sup> CASE's 11/2/81 Transmittal of Additional Information, page 1, item (1).

<sup>16</sup> CASE's 11/2/81 Transmittal of Additional Information, page 2.

Obviously, it takes some time to gather a 500-person engineering team and to set up a 1,000-employee "Hanger Information Tracking Service;" this was not accomplished overnight.

Clearly this sort of information is of vital concern to the Board and all parties in this proceeding. The timing of construction completion has been perhaps the single most important factor in these proceedings for the past several months. The Board has made it abundantly clear what importance it attaches to such information:

"The Board's prior orders indicate that it is attempting to expedite the hearing schedules in order to alleviate the slippage between the completion of construction and the issuance of an operating license. Accordingly, it is obviously important for the Board to be informed promptly and directly of any changes that might affect the hearing schedules. This includes projected dates of issuance of Staff documents, the nature and extent of any slippages or delay, the date of completion of construction and any other matters that could impact upon the schedule."<sup>15</sup>

CASE's rights in these proceedings have been compromised because of the misinformation regarding construction completion dates. The Board set the 12/2/81 hearings based on the best information it had at the time. Because of this, CASE chose to withdraw from Contention 24 rather than expend additional time and resources in preparing a contention which might be disposed of in part or in whole by a pending proposed rule change. While it is unclear

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<sup>15</sup> 10/20/81 Board Order, page 2.

exactly what effect correct information regarding completion dates might have had on the Board's rulings in this regard, it is conceivable that such rulings might have been different and that Contention 24 might have been preserved. It is certainly likely that CASE, had we known that there was not as much of a need for rushing through the hearings because of the anticipated early construction completion date, would have spent more time and effort on preparation of supportive evidence that the Board should at least adopt Contention 24 sua sponte.

Further, CASE has expended considerable extra time and resources recently in preparing motions and mailing them by express mail with its increased costs, all of which was necessitated because of the brief time before the scheduled 12/2/81 hearings and the fact that this new completion date estimate has just come to light. Had this new information been available in a timely fashion, we would have been able to file these motions at an earlier time, under less pressure, at regular postal rates.

CASE moves that the Board instigate an investigation into this matter and that this topic be included in the pre-hearing conference proposed by CASE. Should investigation reveal and confirm that the Applicants and/or the NRC Staff have willfully and deliberately withheld this vital information from the Board and the parties in this proceeding, CASE plans to file a Motion for Sanctions against the offending party (or parties), including reimbursement for the extra time and expense of preparing and mailing by express mail the recent pleadings

which have been necessitated because of such withholding of information.

CASE has suspected since we were barred from touring the Comanche Peak facility with the Caseload Forecast Panel on 10/22/80 that there were major construction problems at the plant; however, we had insufficient information to substantiate a different construction completion date from that given by the Applicants (12/81). We were pursuing orderly discovery regarding Contention 5, which we believe would have disclosed the true facts much earlier than has been the case, when our discovery was effectively brought to a halt. We urge that the Board investigate the matter of the timing of announcement of construction delays and grant CASE separate intervenor status on Contention 5.

#### SUMMARY

For the reasons stated herein, CASE hereby moves that the Board:

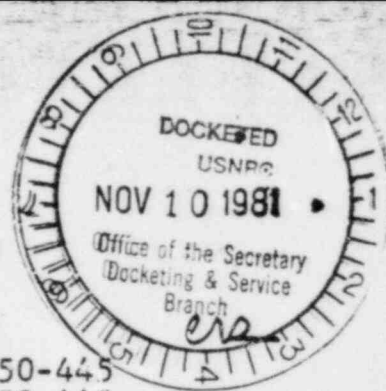
- (1) Grant CASE separate intervenor status to pursue Contention 5;
- (2) In the alternative, designate CASE as lead party-intervenor on Contention 5;
- (3) Instigate an investigation into the timing of announcement of construction delays as discussed herein; and
- (4) Set a date for a pre-hearing conference as suggested by CASE in its 10/26/81 Motion for Postponement of Hearings, either at the time suggested by CASE of 12/1/81 and 12/2/81 or at a later time designated by the Board.

Respectfully submitted,

*Juanita Ellis*  
(Mrs.) Juanita Ellis, President  
CASE (Citizens Association for Sound Energy)  
1426 S. Polk, Dallas, TX 75224  
214/946-9446; 214/941-1211, work, part-time

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

APPLICATION OF TEXAS UTILITIES  
GENERATING COMPANY, ET AL. FOR AN  
OPERATING LICENSE FOR COMANCHE  
PEAK STEAM ELECTRIC STATION  
UNITS #1 AND #2 (CPSES)

Docket Nos. 50-445  
and 50-446

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of  
CASE's (1) Motion for Reconsideration of Consolidation on Contention 5; and (2)  
Transmittal of Additional Information

have been sent to the names listed below this 7th day of November,  
1981, by First Class mail locally and by Express Mail where indicated by \*.

- \* Administrative Judge Marshall E. Miller  
U. S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Washington, D. C. 20555
- \* Dr. Kenneth A. McCollom  
Dean, Division of Engineering,  
Architecture and Technology  
Oklahoma State University  
Stillwater, Oklahoma 74074
- \* Dr. Richard Cole, Member  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555
- \* Nicholas S. Reynolds, Esq.  
Debevoise & Liberman  
1200 - 17th St., N. W.  
Washington, D. C. 20036
- \* Marjorie Ulman Rothschild, Esq.  
Office of Executive Legal Director  
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Washington, D. C. 20555
- David J. Preister, Esq.  
Assistant Attorney General  
Environmental Protection Division  
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Austin, TX 78711
- G. Marshall Gilmore, Esq.  
1060 W. Pipeline Road  
Hurst, Texas 76053
- Atomic Safety and Licensing  
Board Panel  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555
- Atomic Safety and Licensing  
Appeal Panel  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555
- Docketing and Service Section  
Office of the Secretary  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

cc: Homer Schmidt - Texas Utilities

*Juanita Ellis*  
Mrs. Juanita Ellis, President  
CASE (Citizens Association for  
Sound Energy)





UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 1000  
ARLINGTON, TEXAS 76011

May 14, 1979

In Reply Refer To:

RIV

Docket No. 50-445/Rpt. 79-11  
50-446/Rpt. 79-11

TO BE FILED IN

INSPECTION FILE

Texas Utilities Generating Company  
ATTN: Mr. R. J. Gary, Executive Vice  
President and General Manager  
2001 Bryan Tower  
Dallas, Texas 75201

Gentlemen:

This refers to the investigation conducted by Mr. R. G. Taylor and other members of our staff on April 2-3 and April 13-23, 1979, of activities authorized by NRC Construction Permits No. CPPR-126 and 127 for the Comanche Peak facility, Units No. 1 and 2, concerning allegations by a former Comanche Peak employee.

*Allegations -  
concrete of unknown  
quality in Unit 1  
containment dome  
confirmed*

*see esp.  
P. 8-10*

The investigation and our findings are discussed in the enclosed investigation report.

During the investigation, it was found that certain activities under your license appear to be in noncompliance with Appendix B to 10 CFR 50 of the NRC Regulations, "Quality Assurance Criteria for Nuclear Power Plants." The item of noncompliance and references to the pertinent requirements are identified in the enclosed Notice of Violation.

Sincerely,

W. C. Seidle, Chief  
Reactor Construction and  
Engineering Support Branch

Enclosures:

1. Appendix A, Notice of Violation
2. IE Investigation Report No. 50-445/79-11  
50-446/79-11

cc: w/enclosures  
Texas Utilities Generating Company  
ATTN: Mr. H. C. Schmidt, Project Manager  
2001 Bryan Tower  
Dallas, Texas 75201

79-73-242

Appendix A

NOTICE OF VIOLATION

Based on the results of the NRC investigation conducted during the periods April 2-3 and April 13-23, 1979, it appears that certain of your activities were not conducted in full compliance with the conditions of your NRC Construction Permit No. CPPR-126 as indicated below:

Failure to Implement the Quality Assurance Program For Civil Construction

10 CFR 50, Appendix B, Criterion II requires that a quality assurance program be established and implemented for the construction of the structures important to safety of the nuclear plant. The Texas Utilities Generating Company Comanche Peak Steam Electric Station Quality Assurance Plan affirms the intention to fulfill this requirement. The CPSES "Civil Inspection Manual" provides a body of inspection and testing procedures required to implement the Quality Assurance Plan.

Contrary to the above:

On January 18, 1979, personnel of the civil construction labor force placed an undetermined amount of concrete of an unknown quality on the dome of the Unit 1 containment without the knowledge of your Quality Assurance organization and without benefit of required inspections and testing of the concrete.

This is an infraction.

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U. S. NUCLEAR REGULATORY COMMISSION  
OFFICE OF INSPECTION AND ENFORCEMENT

REGION IV

Report No. 50-445/79-11; 50-446/79-11

Docket No. 50-445; 50-446

Category A2

Licensee: Texas Utilities Generating Company  
2001 Bryan Tower  
Dallas, Texas 75201

Facility Name: Comanche Peak, Units 1 & 2

Investigation at: Comanche Peak Steam Electric Station, Glen Rose, Texas

Investigation Conducted: April 2-3 and April 13-23, 1979

Inspectors:

*W. A. Crossman*  
for R. G. Taylor, Resident Reactor Inspector, Projects  
Section

*5/10/79*  
Date

*B. E. Hall*  
for D. P. Tomlinson, Reactor Inspector, Engineering  
Support Section (April 13, 1979, Interview)

*5/10/79*  
Date

*B. E. Hall*  
for A. B. Beach, Reactor Inspector, Engineering  
Support Section (April 23, 1979, Interview)

*5/10/79*  
Date

Approved:

*W. A. Crossman*  
W. A. Crossman, Chief, Projects Section

*5/10/79*  
Date

*B. E. Hall*  
R. E. Hall, Chief, Engineering Support Section

*5/10/79*  
Date

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(p. 2) Investigation Summary:

Investigation on April 2-3 and April 13-23, 1979 (Report 50-445/79-11; 50-446/79-11)

Areas Investigated: Special investigation of allegations received indicating that concrete had been placed on the Unit 1 dome during a rainstorm in January 1979, without QC or documentation; that pipe with sandblasted-off markings was being used in Unit 1; that steam system pipe was damaged by a handling accident and covered up; and that welders were not being properly qualified. The investigation involved thirty-six inspector-hours by the Resident Reactor Inspector and three inspector-hours by two Region IV based inspectors.

Results: The allegation relative to the concrete placement was confirmed (noncompliance - failure to implement the QA program - infraction). No items of noncompliance or deviations were identified relative to the balance of the allegations.

(p. 3)

INTRODUCTION

Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, are under construction in Somerville County, Texas, near the town of Glen Rose, Texas. Texas Utilities Generating Company is the Construction Permit holder with Brown and Root, Inc., as the constructor and Gibbs and Hill, Inc., as the Architect/Engineer.

REASON FOR INVESTIGATION

The Region IV Reactor Construction and Engineering Support Branch office received a telephone call from a former CPSES employee who reported several allegations indicating a potential breakdown in the CPSES Quality Assurance program.

SUMMARY OF FACTS

On March 30, 1979, the Region IV Reactor Construction and Engineering Support Branch received a telephone call from a party who identified himself as a former CPSES employee. The call was taken by an on-duty Reactor Inspector in the Projects Section who in turn provided the information to the assigned Resident Reactor Inspector at CPSES on April 2, 1979. The allegations, as received on March 30, 1979, were:

1. During a concrete pour on the Unit 1 containment dome in January 1979, a rain occurred which washed away part of the concrete. The affected area was repaired by the use of grout. Workers involved were requested to "keep it quiet." Two workers, who are still at the site, have knowledge of this occurrence.

- (p. 3)
2. The identity of a lot of "Q" and "non-Q" pipe (6" or less) being used for Unit 1 has been lost due to obliteration of heat numbers by sandblasting and loss of identifying tags. Workers are guessing as to the proper identification of the pipe.
  3. A steam pipe intended for the Unit 1 turbine fell off of a truck and struck a railroad track. It was taken back to a storage area and hidden.
  4. Third class helpers are being qualified in less than three months and are being used for safety related welding on Unit 1.

(p. 4) On April 13, 1979, the Resident Reactor Inspector assigned to CPSES and accompanied by another Region IV inspector interviewed the alleged in an effort to obtain additional information on the allegations. The additional information is summarized as follows:

1. The concrete used for the repair was not grout as originally indicated but was known to contain gravel. The concrete came from the batch plant where it was mixed on the ground and carried in a bucket to a tower crane at the Unit 1 Containment Building and hoisted to the dome area. The work was accomplished sometime during the middle of the second shift, possibly around 10:00 to 10:30 p.m. (January 1979, no day specified).
2. The pipe in question was not prefabricated pipe but rather bulk pipe joints. Sometimes, the pipe is sandblasted on the outside (rate of occurrence not identified) which removes all of the heat marking used for traceability.
3. The steam pipe was being moved during the second shift from the "Dodd's Spur" storage area to the plant area when it was dropped off the truck. A couple of the large "cherry-picker" type cranes were dispatched to the incident to pick up the pipe and place it back on the truck. The crew with the truck decided instead to put the pipe back into the storage area and leave it there for another shift to pick up and perhaps be blamed for damaging the pipe. The alleged did not know if the pipe had actually suffered any damage. He was aware the pipe in question was "non-Q" but expressed a concern that if the craft could get away with a cover-up on "non-Q," they probably are also doing it on the "Q" pipe and other equipment.
4. The alleged indicated he was concerned with what must be incompetent welders working on "Q" welds, since they could not have very much experience and still only be considered third class labor.



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## CONCLUSIONS

Research of various records and interviews with both craft labor and Brown & Root QC personnel produced the following conclusions:

1. The allegation relative to the concrete placement on the dome of Unit 1 is essentially correct and is evidence of a breakdown in the licensee's Quality Assurance program. The incident will be considered an item of noncompliance.

- (p. 5) 2. The allegation relating to the loss of pipe traceability markings could not be confirmed. The Resident Reactor Inspector's finding was that on occasion the sandblasting, with attendant loss of readily visible markings, probably does occur through human error, but that there are other means which will re-establish the identity of the pipe without guessing on the part of the craft labor force,
3. The piping in the "Dodd's Spur" storage area is for the turbine portion of the plant and is not safety related from a nuclear standpoint and is therefore not within the jurisdiction of the NRC inspection program. The more generalized concern of cover-up of improper handling practices is not consistent with the observations of the Resident Reactor Inspector and other NRC inspectors made during the course of routine inspections. The allegation cannot be verified or refuted at this time, but should subsequent observations verify that the alleged situation is occurring, appropriate action will be taken.
4. Welders are qualified in accordance with the provisions of the ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications," as required by NRC regulations and the licensee's commitments as contained in the Safety Analysis Report submitted to obtain a Construction Permit. The labor classification, and therefore the pay, of the welders is not an element of the ASME Code welder qualification program, only the ability of the person being tested to weld on a specified weld coupon.

## DETAILS

### 1. Persons Contacted

#### Non-Licensee or Contractor Persons

The alleged is a former employee of Brown & Root (the site general contractor). The person identified himself as a former equipment operator and foreman of equipment operators.

#### Principal Licensee Employees

Construction Manager, Texas Utilities Generating Co.  
Supervisor of Product Assurance, Texas Utilities Generating Co./  
Gibbs & Hill

#### Brown & Root, Inc.

Project General Manager  
Construction Project Manager  
General Foreman, Building Department  
Superintendent, Building Department  
Quality Control Inspector, Civil

### 2. Preliminary Investigation - April 2-3, 1979

- a. Allegation 1: The Resident Reactor Inspector (RRI) initiated a preliminary investigation of the allegation as soon as received. The RRI was aware that a number of concrete placements had been necessary to complete the dome area of Unit 1 and that a substantial portion of these placements occurred in January 1979. Schedule completion data indicated that five of the total of thirteen dome placements occurred in January 1979. Rainfall data for January was then obtained from the licensee's meteorology unit which indicated rain had fallen on January 15, 1979 (with the rainfall totalizer reset to zero) and again in the period between January 15 and 22, 1979, when the totalizer was again zeroed. The data suggested that placement 101-8805-013, the final placement on the dome, was the most likely candidate since 2.72 inches of rain had occurred about the placement date of January 18, 1979. The RRI then examined the QC inspection records for the placement which stated, "Pour stopped at 8:00 p.m. 1/18/79 due to inclement weather. Pour was topped out all but to a 30' radius which was cleaned up and finished 1/19/79."

The RRI then interviewed the QC inspector of record for the placement and was informed that the placement had started under good weather conditions on January 18, but that the

weather subsequently developed into a light mist and drizzle which did not interfere with the placement. By late evening, the weather deteriorated further and became a full rainstorm with thunder and lightning. By 7:30 p.m. or so it was decided that the placement would have to be stopped for reasons of personnel safety. The placement area was covered to keep the rain off the fresh concrete and the second shift was instructed to water blast and clean up the area so the placement could be resumed the following day.

- b. Allegations 2, 3 & 4: No attempt was made to perform a preliminary investigation of these allegations since the information was too vague.

3. Licensee/Contractor Report of Allegations

During the course of the above preliminary investigation, personnel of the licensee's management and QA organizations approached the RRI and stated that they too had received an allegation relative to the dome placement. It was stated that licensee management had received a telephone call on or about March 19, 1979, on the subject and that licensee management had visited the alleged at his home on March 20, 1979, to ascertain the facts of the allegation. The alleged then was invited to visit the site and discuss the allegation, which the alleged is reported to have done on March 26, 1979. On the basis of these interviews, the licensee's Product Assurance personnel undertook an investigation which concluded that the allegation had no merit.

4. Interview with Allegor by NRC Personnel

The Region IV office made several attempts to establish contact with the alleged during the period following March 30, 1979, when the allegation was received, through April 12, 1979, when the interview date and location were established. The RRI and another NRC inspector met with the alleged and a friend on April 13, 1979.

The alleged provided the following information about himself:

- a. He had been employed by Brown & Root at CPSES for 2-1/2 to 3 years and had quit in mid-March because he was dissatisfied with how the night shift equipment operators were being dispatched and supervised.
- b. He had been an equipment operator, primarily on cherry-pickers, and also a foreman for equipment operators at an earlier time.

- c. He stated that he had made the allegations to licensee management and Brown & Root management earlier but had not been at all satisfied with the answers he had received to his allegations.

The alleged provided the following additional information relative to each of the allegations:

Allegation 1: The incident occurred well after the time that the placement had been stopped. He could not be sure of the time but thought it was probably 10:00 to 10:30 p.m. when some equipment was dispatched to the concrete batch plant to bring down a bucket of concrete to Unit 1 and thought it strange. The concrete was taken to the same by a tower crane. He was sure that the concrete was not batched by the batch plant and certainly was not delivered by the usual concrete mix truck.

Allegation 2: The alleged made it clear that he was not referring to completed pipe spools but rather to bulk pipe. The cherry-picker operators routinely move the pipe from one location to another on the site and that the pipe involved was bulk pipe or joints. He stated that the pipe was sometimes sandblasted in such a way as to obliterate the heat number markings or tags and that he was pretty sure that there was a lot of unidentified pipe in the safety systems in Unit 1. This sandblasting sometimes happened to various steel forms used to make supports.

Allegation 3: The alleged described being dispatched with his equipment out to "Dodd's Spur" to pick up a length of pipe that had fallen off a truck after being loaded. The pipe had fallen on the spur railroad track. The KRI was not familiar with the term "Dodd's Spur." The alleged stated it was the area where the turbine components are stored. When he (the alleged) arrived at the site of the incident, he was told not to reload the pipe on the truck but to take it back into the storage area and put it down. The pipe crew indicated to him that they hoped that a day shift crew would come for the pipe and would probably be blamed for any damage that might have occurred to pipe when it fell. He stated that he did not know if the pipe had been damaged. He stated that he knew it was "non-Q" pipe but thought the NRC should be aware that such things were going on at the site.

5. Final Investigation - April 16-23, 1979

- a. Allegation 1. The RRI obtained the craft labor time sheets for both shifts for January 18 and 19, 1979. Review of the time sheets for the day shift on January 18 indicated that a portion of that shift worked on placement 101-3805-013. The records indicated that the day shift was terminated at approximately



8:30 p.m. relative to the placement as were the personnel at the concrete batch plant. The batch plant has no second shift operators. The RRI found that a large number of people, well in excess of fifty, had then worked on the placement during a substantial portion of the second shift. One crew of twelve people was shown by the time sheets to have been placing concrete, a notation not consistent with the fact that the batch plant was closed during the shift. The RRI then utilized the time sheets to develop a list of persons to be interviewed in connection with the incident with special concentration on the persons listed on the time sheet indicating "placing concrete 101-8805-013." The B&R personnel office records indicated that eight of the ten names included in this specific crew had been terminated at various times since January 18; the records did not suggest that any action was being taken to get rid of possible confirmatory personnel.

Late on April 17, 1979, two of the senior B&R construction management personnel very informally asked the RRI how the investigation of the allegations was coming along. The RRI responded that the on-site phase appeared to be complete and that NRC personnel would undertake the effort to locate and interview selected personnel immediately since it appeared that the allegation might be well founded. They asked the RRI if they could check with their people down to the General Foreman level as to the incident the night of January 18. The RRI indicated that such an inquiry on their part would probably not interfere with any future investigative action by the NRC.

On April 18, 1979, the licensee's Product Assurance Supervisor informed the RRI that he had information which indicated that the incident had occurred and that the craft General Foreman was the person responsible.

On April 23, 1979, the RRI, accompanied by another NRC Inspector, interviewed the General Foreman and his immediate supervisor, the night shift B&R Building Department Superintendent. These men related that on the night of January 18 the weather seemed to worsen and got to the point where the rain was so heavy that the people could hardly see. The freshly placed concrete developed into a problem when the plastic cover could not take the rainfall water load. Some of concrete began to sag back down the dome slope and one small area actually washed out and fell to the ground below. These men related that they and their entire crew of up to about one hundred-fifty worked on into the night trying to save a very bad situation. The sagged concrete was worked back into position and the crew protected it in any way they could to allow it to take a set.



The General Foreman went to the batch plant, got it open and operated the plant himself to make enough material to patch the washed out area. He stated that he found the design mix data used for the concrete on the dome and calculated the necessary weight of ingredients to prepare a half a cubic yard of concrete. The required data was put into the control system for the back-up dry batch plant, dropped into a skiff, and carried over to the quarter yard concrete mixer at the site test laboratory. It was mixed in two batches and placed into a skiff and carried to the dome where most of the half yard was used as a patch in the washed out area.

Both the General Foreman and his Superintendent were aware that there were no Quality Control personnel around to observe any of these actions since they had all gone home when the weather got really bad. Both men related to the RRI a picture of almost panic proportions in which the presence or absence of Quality Control simply did not matter; they were going to save a concrete placement from what they considered a disastrous situation, regardless. They indicated that while the night shift Assistant Construction Project Manager was generally aware of the situation on the dome that night, he probably was unaware of the fact that Quality Control personnel were not there or of the batching of the concrete under the conditions indicated.

In response to a question from the General Foreman as to "what happens now" the RRI stated that the NRC had no choice but to issue a Notice of Violation to the licensee since it had become very clear that the licensee's Quality Assurance program had broken down for the entire evening of January 18, 1979, and that a substantial amount of concrete on the dome was of an unknown quality. ✓