

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '83 APR -8 AIO:36

In the Matter of ()
()
HOUSTON LIGHTING AND POWER () Docket Nos. 50-498 OL
COMPANY, ET AL. () 50-499 OL
()
(South Texas Project, ()
Units 1 and 2) ()

CCANP RESPONSE TO APPLICANTS' SIXTH SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO CCANP

Based on a conversation with attorneys for Applicants, CCANP is providing the following response to Applicants' sixth set of interrogatories and requests for production of documents. As will be clear from what follows, CCANP is not answering directly many of the interrogatories. The interrogatories are quite comprehensive and place a heavy burden on CCANP to analyze every finding in the Quadrex Report, Bechtel's responses, and the NRC's responses.

Instead, CCANP hereby sets forth the basic position of CCANP as to the issues CCANP intends to pursue and the basic position CCANP takes on those issues. Should this response not prove satisfactory to the Applicants, Applicants reserve the right to file motions to compel with the Atomic Safety and Licensing Board.

I. Introduction

This proceeding is an adversary proceeding. Under NRC regulations, the burden is on the intervenor (or any party other than the Applicant) to raise an issue which the ASLB agrees needs to be examined before any decision is made whether to grant or deny a license.

Once the issue is admitted, the Applicant bears the burden of proof on that issue. This burden is correctly placed since the Applicant is responsible for protecting the lives and property of tens of thousands of people.

In this proceeding, both the ASLB and the intervenor introduced issues related to the Quadrex Corporation study of the design and engineering process at the South Texas Nuclear Project.

Shortly after the ASLB received the Quadrex Report, the Board held a special meeting in Bethesda, Maryland. This meeting resulted in an order setting a special hearing to consider stopping all safety-related work on the nuclear project. The Board considered this order so important that all three administrative judges signed the order, rather than the customary chairman's signature.

The special hearing was never held because the Applicants voluntarily stopped work on the project.

CCANP submitted a lengthy motion for new contentions based on the findings in the Quadrex Report but subsequently agreed to the suggestion of the NRC Staff that the questions raised by the handling and substance of the Quadrex Report be admitted generally for consideration of all aspects of these two issues.

CCANP's position is that we challenge the Applicants to provide any credible explanation for their failure to turn the Quadrex Report over to the ASLB and the NRC Staff. That is their first burden.

We also challenge the Applicants to provide any credible explanation for their failure to report more than three of the hundreds of findings in the Quadrex Report pursuant to 10 C.F.R. 50.55(e). Specifically, we challenge the Applicants to even argue, let alone prove, that only three of the hundreds of findings represented a breakdown in their quality assurance program. That is their second burden.

We also challenge the Applicants to provide any credible explanation for their failure, as expressed in their earlier testimony, to doubt the quality of Brown and Root's work prior to firing Brown and Root as architect-engineer. That is the Applicants' third burden.

We also challenge the Applicants to provide any credible explanation for their failure to fire Brown and Root as architect-engineer before commissioning the Quadrex Corporation study or immediately after the delivery of the Quadrex Report. That is their fourth burden.

CCANP's position is that there are no credible explanations for the Applicants' failures other than a lack of character and competence.

CCANP similarly challenges the NRC Staff to provide any credible explanation for why they concluded there was no need for the Applicants to deliver the Quadrex Report to the ASLB and the Commission.

CCANP's position is that it is incredible that the NRC Staff could reach such a conclusion given the strong reactions of every NRC person coming into contact with the report, from the field investigators who discovered the report to the ASLB.

CCANP's position is that a prima facie case exists for the necessity of turning the Quadrex Report over to the Commission and for firing Brown and Root before the Quadrex Report and certainly after receipt of the report.

II. Response

The Applicants filed their Sixth Set of Interrogatories and Requests for Production of Documents to CCANP. This response is not a direct answer to these interrogatories but rather is for purposes of setting forth CCANP's position, so the Applicants will be on notice of what issues CCANP intends to litigate and CCANP's position on those issues.

The interrogatories are extremely burdensome, requiring CCANP to analyze hundreds of findings on multiple issues. CCANP does not have the engineering staff to do such a lengthy

analysis. CCANP offers this response in lieu of detailed answers and otherwise objects to answering the interrogatories, except as such answers are set forth herein.

1. YES!

2. CCANP's position is that the Applicants violated every regulation on the books regarding notification to the NRC regarding the Quadrex Report and its findings, including but not limited to 10 C.F.R. Part 50, Appendices A and B; 10 C.F.R. Part 20; and 10 C.F.R. 50.55(e).

3. CCANP does not question Applicants' "commissioning" of the Quadrex Report other than to note that the Applicants waited until the project was well along before commissioning an independent consultant to check on the work Brown and Root was doing. CCANP's position is that the Applicants showed poor judgment, lack of perception, and lack of resolve in waiting so long.

As to the "handling" of the Report, CCANP's position is that Applicants made a deliberate effort to deflect NRC attention from the Report by selecting a handful of findings to bring to the attention of the NRC, by not testifying about the Report when given the opportunity, and by not providing copies of the Report to the ASLB and the Commission.

4. (a) The improper act in the commissioning of the report was not acting sooner. The improper act in the handling of the report was the failure to turn the entire report over to the ASLB and the NRC or to notify the NRC of dozens of the findings.

(b) Jerome Goldberg and the others he consulted with regarding turning the report over to the NRC or notifying the Commission are responsible for the violations alleged.

(c)(i) 10 C.F.R. Part 50, Appendices A and B; 10 C.F.R. Part 21; the principles of disclosure enunciated in the Partial Initial Decision in Consumers Power Co. (Midland Plant, Units 1 and 2), 14 NRC 1768, LBP-81-63 (1981)

(ii) The Atomic Energy Act of 1954 as amended.

(d) At the moment, CCANP does not have the resources to call experts.

5. The Quadrex Report documents a chaotic and error-ridden design and engineering process as well as a non-functioning quality assurance program.

6. The Quadrex Report speaks for itself as to the chaos, errors, and quality assurance failures.

7. Not at this time.

8. See 7.

9. Not at this time. To reiterate what CCANP told Applicants' representatives on more than one occasion, CCANP has little interest in litigating Issue B given the "independent and

sufficient" mandate of the Commission. The only areas CCANP is interested in litigating regarding EN-619 are those areas where Bechtel disagreed with a Quadrex finding. In such areas, the Quadrex personnel who conducted the study which reached those findings should be called to respond to Bechtel's disagreements. Other than those areas, CCANP has already expressed its general objection that Bechtel was not truly independent but does not intend to explore Bechtel's "resolutions" of Quadrex findings.

10. See 9.

11. CCANP contends NRC I&E 82-02 is a repudiation of the NRC's own regulations regarding how the Applicants should have reacted to the Quadrex Report. CCANP contends the handling of the Quadrex Report should have been found to be a Severity Level III violation (failure to make a required 50.55(e) report) escalated to a Severity Level I violation for reasons of wilfulness, the nature of the omitted findings as constituting a material false statement, the length of time the violations existed prior to discovery, the opportunity available to Applicants for years to discover the violations, and the economic advantage to Applicants of hiding the report, so they would not have to fire Brown and Root. A civil penalty, an Order to Show Cause as to why the construction permit should not be revoked, and an immediate stop work order on the project were the appropriate NRC responses.

13. Not at this time.

14. In repeating the findings regarding the handling of the Quadrex Report, I&E 82-12 is seriously in error.

15. See 14.

16. Not at this time.

17. At this time, CCANP does not intend to call expert witnesses. Should resources become available to do so, CCANP will immediately notify all parties and support an extension of discovery time to enable all parties to explore the positions of CCANP's experts.

18. CCANP does not intend to call any witnesses, but may request the NRC to produce witnesses and the Board to call witnesses (depending on who the Applicants call).

19. CCANP relies on the Atomic Energy Act of 1954 as amended, the rules and regulations of the NRC, and the reports of Quadrex, Bechtel, Applicants, and the NRC - all of which are already available to the Applicants.

20. All answers are by Lanny Alan Sinkin.

Respectfully submitted,

Lanny Alan Sinkin

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Dated: April 4, 1983

STATE OF TEXAS (

COUNTY OF TRAVIS (

BEFORE ME, the undersigned authority, on this day personally appeared LANNY ALAN SINKIN, who upon his oath stated that he has answered the foregoing Interrogatories in Applicants' Sixth Set of Interrogatories and Requests for Production of Documents to CCANP in his capacity as counsel for Citizens Concerned About Nuclear Power, Inc. and that all statements contained therein are true and correct to the best of his knowledge and belief.

Lanny Alan Sinkin
LANNY ALAN SINKIN

SUBSCRIBED AND SWORN TO BEFORE ME by the said LANNY ALAN SINKIN on this 5th day of April 1983.

Barbara A. Benjamin
Notary Public in and for
Travis County, Texas

My Commission expires:

BARBARA A. BENJAMIN

--- MY COMMISSION EXPIRES 10-29-86

UNITED STATES OF AMERICA
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83 APR -8 10:36

CERTIFICATE OF SERVICE

I hereby certify that copies of CCANP RESPONSES TO APPLICANTS' SIXTH SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CCANP was served by deposit in the United States Mail, first class postage paid or by Express Mail (*) to the following individuals and entities on the 5th day of April 1983.

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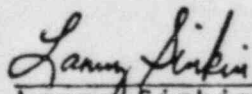
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