

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of

CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, et al

Docket Nos. 50-440-OL  
50-441-OL

(Perry Nuclear Power Plant  
Units 1 and 2)

AMENDED SUNFLOWER APPLICATION FOR SUBPOENA

1. Pursuant to 10 CFR 2.720 Sunflower Alliance Inc. requestes the Presiding Officer to issue subpoenas to the following persons for the following reasons in connection with the hearings scheduled to begin on May 23, 1983 on Issue 3.

2. Sunflower requests that a subpoena be issued to Cyril M. Shuster, Cleveland Electric Illuminating Company, and that he be directed to bring with him at the hearings all of the contract performance reports in the possession of the Applicant or under the control of the Applicant. The general relevance of these reports to this hearing is as follows. This Board in its decision dated January 28, 1983 stated:

...What is at issue is the 'nonconformance trend analysis system' or 'overview program', including the use of in-depth reviews and efficient follow-up to cure problems identified in AROQPE's and CPR's. In the first instance, we are interested in the application of these systems to Comstock. In addition, we are interested in the use of these systems to control the quality of work of other contractors...



Clearly, in light of the above ruling the contract performance reports (CPR) have a general relevance to the issues to be raised dealing with issue 3.

3. Sunflower requests that a subpoena be issued to James Keppler, Regional Administrator, Nuclear Regulatory Commission to attend at the hearings. To require the attendance of Mr. Keppler, Sunflower, pursuant to 10 CFR 2.720(h)(2) must show exceptional circumstances. Mr. Keppler wrote to Applicant on September 27, 1982 a letter dealing with Applicant's Quality Assurance Program. The letter itself, but not the attached exhibits, is attached as Exhibit "A". Mr. Keppler wrote:

We are concerned that even though your continuing assessment of the electrical contractor's performance showed degradation of the quality assurance program, you failed to investigate in a prompt manner the elements contributing to the poor performance and require adequate corrective action to upgrade the program. Because of the several examples of noncompliance which we identified, we seriously considered whether these items collectively represented a breakdown in your electrical contractor's quality assurance program, and therefore whether a civil penalty was warranted...

Sunflower wishes to question Mr. Keppler on the reasons that led him to form these conclusions. Further, Mr. Keppler prepared an immediate action letter dated February, 1978 a copy of which has already been filed for the record. This letter set forth considerable concern with Applicant's Quality Assurance program. Sunflower wishes to question Mr. Keppler on the reasons that led him to write that letter. This information is directly at issue in this case and only Mr. Keppler can testify why he did what he did.


Wherefore, Sunflower Alliance Inc. requests that the above subpoenas be issued to the above cited individuals for attendance at the hearings commencing May 23, 1983.

Respectfully submitted,

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

PROOF OF SERVICE

The undersigned certifies that a copy of this Amended Request for Subpoena has been sent to all persons on the Service List on this 6 day of May, 1983.

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



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
799 ROOSEVELT ROAD  
GLEN ELLYN, ILLINOIS 60137

4750-  
C. H. Williams

RECEIVED

September 27, 1982

OFFICE OF  
D. R. DAVIDSON

Docket No. 50-440

Docket No. 50-441

The Cleveland Electric  
Illuminating Company  
ATTN: Dalwyn R. Davidson  
Vice President - System  
Engineering and  
Construction  
Post Office Box 5000  
Cleveland, OH 44101

Gentlemen:

This refers to the investigation conducted by Messrs. C. D. Braund, K. R. Naidu, C. H. Weil and C. C. Williams of this office during the period October 27, 1981 through March 19, 1982, of activities at the Perry Nuclear Power Plant authorized by NRC Licenses No. CPPR-148 and No. CPPR-149 and to the discussion of our findings with Mr. M. R. Edelman at the conclusion of the investigation.

The enclosed copy of our investigation report identifies areas examined during the investigation. Within these areas, the investigation consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

During this investigation, certain of your activities appeared to be in noncompliance with NRC requirements, as specified in the enclosed Appendix. A written response is required.

We are concerned that even though your continuing assessment of the electrical contractor's performance showed degradation of the quality assurance program, you failed to investigate in a prompt manner the elements contributing to the poor performance and require adequate corrective action to upgrade the program. Because of the several examples of noncompliance which we identified, we seriously considered whether these

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September 27, 1982

items collectively represented a breakdown in your electrical contractor's quality assurance program, and therefore whether a civil penalty was warranted. As a result of discussions with you and members of your staff during a management meeting on February 10, 1982, and during the enforcement conference held at our office on June 18, 1982, we concluded that a significant breakdown in the electrical contractor's quality assurance program had not occurred and that you were taking corrective action to upgrade the contractor's program. Consequently, no civil penalty is being proposed at this time. However, we wish to emphasize that escalated enforcement action will be considered if it is subsequently determined that the electrical contractor or any other contractor at your site operates with a degraded quality assurance program.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter and the enclosures will be placed in the NRC's Public Document Room. If this report contains any information that you (or your contractors) believe to be exempt from disclosure under 10 CFR 9.5(a)(4), it is necessary that you (a) notify this office by telephone within ten (10) days from the date of this letter of your intention to file a request for withholding; and (b) submit within twenty-five (25) days from the date of this letter a written application to this office to withhold such information. If your receipt of this letter has been delayed such that less than seven (7) days are available for your review, please notify this office promptly so that a new due date may be established. Consistent with Section 2.790(b)(1), any such application must be accompanied by an affidavit executed by the owner of the information which identifies the document or part sought to be withheld, and which contains a full statement of the reasons which are the bases for the claim that the information should be withheld from public disclosure. This section further requires the statement to address with specificity the considerations listed in 10 CFR 2.790(b)(4). The information sought to be withheld shall be incorporated as far as possible into a separate part of the affidavit. If we do not hear from you in this regard within the specified periods noted above, a copy of this letter, the enclosures, and your response to this letter will be placed in the Public Document Room.

The responses directed by this letter (and the accompanying Notice) are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

The Cleveland Electric  
Illuminating Company

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September 27, 1982

We will gladly discuss any questions you have concerning this inspection.

Sincerely,



*for* James G. Keppler  
Regional Administrator

Enclosures:

1. Appendix, Notice  
of Violation
2. Investigation Reports  
No. 50-440/81-19 and  
No. 50-441/81-19

cc w/encls:

DMB/Document Control Desk (RIDS)  
Resident Inspector, RIII  
Harold W. Kohn, Power Siting  
Commission  
Daniel D. Wilt, Attorney  
Helen W. Evans, State of Ohio  
Robert M. Quillin, Ohio  
Department of Health