

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

ARIZONA PUBLIC SERVICE COMPANY,)
et al.)

(Palo Verde Nuclear Generating)
Station, Unites 2 and 3))

Docket Nos. STN 50-529
STN 50-530

WEST VALLEY AGRICULTURAL PROTECTION COUNCIL, INC.'S
MEMORANDUM IN SUPPORT OF MOTION TO COMPEL RESPONSES
TO INTERROGATORIES

Joint Applicants have objected to five interrogatories on the ground of privilege and to one interrogatory on the ground that it is irrelevant and burdensome. Neither of these objections is compelling and Joint Applicants should be ordered to respond to the questions in the manner suggested in this memorandum:

The Privilege Objection

Joint Applicants have objected to Interrogatories Nos. 2, 3, 4, 7 and 9 of West Valley's Second Set of Interrogatories (Interrogatories) on the ground that answers to certain questions propounded in these Interrogatories would require identification of documents and correspondence subject to the attorney work product and/or the attorney client privilege. Each of these objections is to the same type of question: a request that Joint

Applicants identify documents prepared subsequent to the filing of the petition, including documents relating to:

- a) cooling tower, spray pond and evaporation pond salt emissions (Interrogatories Nos. 2, 3 and 4 respectively);
- b) salt drift deposition patterns (Interrogatory No. 7); and
- c) the effect of salt drift on crops (Interrogatory No. 9).

The overbroad nature of this objection can best be seen in the context of Interrogatory No. 9 which seeks reports relating to the effects of salt on crops. Under that objection, Joint Applicant would not have to produce the crop study now being prepared by the University of Arizona even though that crop study is recognized by Joint Applicant and in the discovery schedule as a critical document in this proceeding. All other studies, reports, etc. prepared since the filing of this petition would be withheld by Joint Applicants under this objection.

Thus, the objection encompasses documents that clearly should be produced. Petitioner concedes, however, that some documents written since the filing of the petition may be subject to the attorney client privilege or work product doctrine. To solve issues of privilege in this context, we request that the Board order the Joint Applicants to identify each document they are withholding by author and date and that they include a summary of the subject matter of the document. At that point, Petitioner can review their objection and file a supplemental motion to require either production of documents or in camera review of

the document by the Board. In the alternative, Petitioner requests that Joint Applicants be compelled to produce all documents requested in the Interrogatories.

Interrogatory No. 8

Joint Applicant also objected to Interrogatory No. 8 in which Petitioner asks Joint Applicants to identify all documents concerning application of the "FOG" model to power plants other than the Palo Verde Nuclear Generating Station. The FOG model is the model used by Joint Applicants' contractor, NUS, to describe salt drift deposition patterns. It is Petitioner's contention that this model is both defective and that it cannot be used in the climatic conditions surrounding the Palo Verde Nuclear Generating Station. There is no more relevant question to resolving these contentions than one relating to how the model has been used in other situations. Therefore, Joint Applicants' response is frivolous when it alleges that this Interrogatory is irrelevant. Finally, to the extent that they argue that NUS' information is proprietary, they have waived any confidentiality relating to that model by utilizing it in this proceeding.

Conclusion

For the foregoing reasons, Petitioner's motion should be granted.

Dated: July 15, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to Compel Responses to Interrogatories and Memorandum in Support thereof have been served upon the following noted persons by deposit in the United States mail, properly addressed and with postage prepaid:

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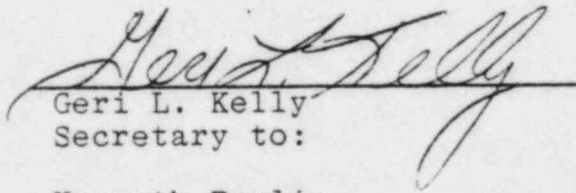
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