

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONDOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '83 SEP 12 A11:14

In the Matter of

HOUSTON LIGHTING AND POWER
COMPANY, ET AL.(South Texas Project,
Units 1 and 2)()
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()Docket Nos. 50-498 OL
50-499 OLOFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCHCCANP SUPPLEMENTAL ANSWERS TO APPLICANTS'
SIXTH SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO CCANP

I. Introduction

In accordance with schedules established by the Board, the Applicants filed their "Sixth Set of Interrogatories and Requests for Production of Documents to CCANP" on March 10, 1983. CCANP submitted its responses and objections to these discovery requests on April 5, 1983 (hereinafter "CCANP Response"). On April 18, 1983, the Applicants submitted a motion to compel CCANP to provide additional responses to their interrogatories and requests for production. The Board gave CCANP until May 31, 1983 to respond to Applicants' motion to compel. CCANP responded to Applicants' motion by reurging the objections expressed in the original answers. The Board granted Applicants' motion in a Memorandum and Order dated June 22, 1983 (hereinafter "Board Order").

In granting the Applicants' motion, the Board rejected CCANP's objection that the Applicants' interrogatories "are extremely burdensome, requiring CCANP to analyze hundreds of findings on multiple issues." CCANP Response at 2. The Board referred to this objection as a "general claim of burden - a claim which clearly is not sufficient." Board Order at 3.

CCANP notes that in Applicants' Answers and Objections to State of Texas's First Set of Interrogatories to Applicants on Quadrex (hereinafter "Applicants' Answers") that Applicants responded to a question regarding the notification requirement for each Quadrex finding, a question very similar to Applicants' questions to CCANP, by stating:

"It is impractical to give detailed reasons for this conclusion [that the Most Serious Findings other than those notified did not require notification] with respect

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to each of the findings because in the case of most of the findings, there are several of the criteria that were not satisfied; and HL&P has not made a rigorous analysis to identify each of the criteria not satisfied."

Since Applicants consider such a general approach to such questions as sufficient, CCANP assumes Applicants will not object if CCANP similarly takes a general approach to answering Applicants' interrogatories.

In its Memorandum and Order of June 22, 1983, the Board also sets forth the Board's approach to the Phase II hearings, an approach which CCANP finds both disturbing and unwarranted. The Board says:

"As all parties recognize, the Quadrex Report and the reviews of that report by Bechtel Corp. and the NRC Staff, respectively, embody an extensive amount of factual information. Much of that information bears on the safety issues in this proceeding, but other portions do not -- in particular, some information appears to raise economic questions that are beyond the proper scope of our review." Board Order at 4.

The character of the Applicants is a "safety issue." For this reason, the inquiry may well reach beyond what is strictly a safety issue. For example, the Serious Findings, which relate to the reliability rather than directly to the safety of STNP, may be relevant as showing an abdication of knowledge or a failure to remain informed so fundamental that it violated the internal corporate value system. Specifically, the Applicants failure to be adequately concerned with whether the plant would work or not is proof of a far reaching negligent attitude. If Applicants were not protecting their immediate financial interests, how much less were they protecting the more amorphous public interest?

The Board says CCANP's task is to pinpoint those safety issues which "arise from the Quadrex Report and have not, in its opinion, been adequately resolved through the Bechtel or NRC Staff reviews." Board Order at 4. Once again, the distinction CCANP sought in the earliest stages of this proceeding -- the distinction between past acts standing alone and remedial acts -- appears to be lost. The Board seems to believe that with Brown and Root gone there is no need to dwell on past failures.

At the risk of being tiresome, CCANP once again asserts that there is an Issue A in this proceeding and that the Commission itself

spoke of past acts as possibly an independent and sufficient basis for denying a license. From the vantage point of Issue A, all acts demonstrating a lack of character or competence, whether remedied or not, are relevant to this proceeding.

Furthermore, CCANP asserts the report taken as a whole should have been turned over to the Board and NRC Staff. To assess that contention, the reports as a whole must be examined.

As to identifying the issues to be litigated, CCANP made an extensive effort to do so in its Motion for New Contentions filed November 23, 1981. The Applicants and NRC Staff rejected the CCANP approach and urged that Quadrex be litigated under simply the handling and substance categories of inquiry. The Board accepted that framework for the Quadrex hearings. Now it seems the Board wants CCANP to "take the lead" in separating out more discrete issues. CCANP will make some effort to do so in answering Applicants' interrogatories.

Finally, the Board Order of June 22, 1983 requested the NRC Staff brief various issues. The Board said:

"We desire the Staff to provide further analysis of its determination that most items under the Quadrex Report are not reportable, including the basis for its conclusion that various designs had not been 'released for construction' (within the meaning of 10 CFR Section 50.55(e)(1)(ii))." Board Order at 6.

First of all, CCANP trusts that a clear distinction will be made between notification and reporting. 50.55(e) requires notification first and then reporting if the item turns out to be reportable. The question on the handling of Quadrex is very much whether the findings were "notifiable," if such a word can be coined for this proceeding. The notification decision is made within 24 hours of the discovery of the deficiency. The reporting determination can take a long time. For the NRC to address the adequacy of Applicants' compliance with 50.55(e), the NRC must assess the notifiability of the findings as well as the reportability.

Second, the Board focusses on 50.55(e)(1)(ii). In its answers to Applicants' sixth set of interrogatories, CCANP stated:

"Specifically, we challenge the Applicants to even argue, let alone prove, that only three of the hundreds of findings represent a breakdown in their quality assurance program."
CCANP Response at 2.

The CCANP reference is clearly to 10 C.F.R. Section 50.55(e)(1)(i). The Board request to the NRC Staff could (and hopefully will) be construed to include all segments of 50.55(e), but the Board did not specifically ask the NRC Staff to explain why Quadrex items were not notifiable under 50.55(e)(1)(i). Given the heavy focus on the Quality Assurance Program of Applicants in Phase I and the critical role of Quality Assurance in deciding the issues in this proceeding, this crucial point needs to be fully explored. The Board not specifying this item is an indication to CCANP that the Board may not consider this element as critical as CCANP does.

II. Supplemental Answers

1. Does CCANP contend that HL&P failed to comply with any NRC requirement to report any information or finding contained in the Design Review of Brown and Root Engineering Work for the South Texas Project prepared by Quadrex Corporation (the "Quadrex Report")?

Yes.

2. If the answer to Interrogatory 1 is affirmative state for such CCANP contention as follows:

(a) If CCANP contends that any information or finding contained in the Quadrex Report was required to be reported by 10 C.F.R. Section 50.55(e), (i) identify each separate item which CCANP contends should have been so reported, (ii) for each such item state which clauses of 10 CFR 50.55(e) CCANP contends to be applicable to such item and state the factual basis for CCANP's contention that such clauses apply to such item, and (iii) identify each expert witness that CCANP expects to testify on its behalf with respect to such item.

(b) If CCANP contends that HL&P failed to comply with any NRC reporting requirement other than 10 CFR Section 50.55(e) with respect to any information or finding contained in the Quadrex Report, (i) identify each such separate item which CCANP contends to be applicable, including a citation to the specific NRC regulation or other NRC authority that contains such requirement, (iii) state the basis for CCANP's contention that such requirement applies to such item, and (iv) identify each expert witness that CCANP expects to testify on its behalf with respect to such item.

Answer 2(a): CCANP contends that all items in the "Most Serious Findings" category of the Quadrex Report should have been reported to the NRC. By definition, Quadrex determined these findings posed a serious threat to licensability. Since the NRC has never denied an operating license, a deficiency in the design and engineering process serious enough to threaten the operating license obviously is of a magnitude requiring notification of the NRC. Quadrex even included that such a finding "addresses a matter of serious concern to the NRC at this time."

Since there were more than 100 Most Serious Findings scattered throughout the Quadrex Report, the entire report should have been given to the NRC, so these findings and their context would be available to the NRC.

While Applicants may wish to hide behind some restrictive reading of 10 C.F.R. Section 50.55(e), the purpose of 50.55(e) is to be sure the NRC is aware of any serious or potentially serious problem in the design and engineering of a nuclear plant. Applicants handling of the Quadrex Report violated the spirit of 50.55(e), frustrated the purpose of 50.55(e), and obstructed the NRC from conducting its regulatory responsibilities.

CCANP further contends that a functioning Quality Assurance Program would never have permitted the situation found by Quadrex in the Brown and Root design and engineering process. The Most Serious Findings and the report as a whole document a massive breakdown in the Quality Assurance Program of both Brown and Root and the Applicants. The NRC, therefore, should have been notified of the Most Serious Findings and given the report as a whole pursuant to 10 C.F.R. Section 50.55(e)(1)(i).

Potential Problem Findings by definition required more study and could turn out to be a Most Serious Finding. Since further study could not be conducted in 24 hours, all the Potential Problem Findings were notifiable under the same rationale as the Most Serious Findings.

Answer 2(b): CCANP adopts Applicants' objection to the State of Texas Interrogatory 27, which in summary says all parties are going to brief reporting obligations in an order of presentation set out by the Board with the NRC Staff first.

3. Does CCANP contend, for reasons other than those provided in response to Interrogatories 1 and 2, that HL&P's "commissioning" or "handling" of the Quadrex Report did not comply with NRC requirements?

Answer 3: CCANP has nothing to add to its original answer.

4. If the answer to Interrogatory 3 is affirmative, state the basis for such CCANP contention as follows:

(a) Identify each alleged HL&P action or failure to act in connection with the handling or commissioning of the Quadrex Report which CCANP contends to have been improper.

(b) For each action or failure to act identified in response to Interrogatory 4(a), identify any HL&P officer, employee or agent involved in each such action or failure to act and when such action or failure to act occurred.

(c) For each action and failure to act identified in response to Interrogatory 4(a), identify (i) the NRC requirement or other legal requirement which CCANP contends to have been violated and (ii) the regulation or other legal authority which constitutes authority for the existence of the applicable requirement.

(d) For each action or failure to act identified in response to Interrogatory 4(a), identify each expert witness that CCANP expects to testify on its behalf with respect to such action or failure to act.

Answer 4(a) and 4(b): CCANP has nothing to add to its original answer.

Answer 4(c): See answer 2(b).

Answer 4(d): CCANP does not expect to call any expert witnesses.

5. Does CCANP contend that any statement, finding, or conclusion in the Quadrex Report reflected that any aspect of the design or engineering of the South Texas Project or of the manner in which such design or engineering was performed failed to satisfy an applicable NRC requirement?

By definition, a Most Serious Finding threatened the operating license. To threaten the operating license such a finding must document a design or engineering item which did not satisfy an applicable NRC requirement.

By definition, Potential Problem Findings could turn out to be Most Serious Findings, so each Potential Problem Finding could be a failure to satisfy an applicable NRC requirement.

6. If the answer to Interrogatory 5 is affirmative, state the basis for such CCANP contention as follows:

(a) Identify each aspect of the design or engineering of the South Texas Project or of the manner in which such design or engineering was performed which CCANP contends failed to satisfy an applicable NRC requirement.

(b) For each aspect identified in response to Interrogatory 6(a), (i) identify the NRC requirement which CCANP contends was not satisfied, (ii) state how the design or engineering or the manner in which the design or engineering was performed failed to satisfy such requirement, and (iii) identify each expert witness that CCANP expects to testify on its behalf with respect to such aspects.

Answer 6(a): By reading the Most Serious Findings and Potential Problem Findings, Applicants can answer this question for themselves.

Answer 6(b): See Answer 2(b).

7. Does CCANP contend that there are any significant errors, omissions, or improper conclusions in the Bechtel report entitled "Final Work Package for work package EN-619: Review of the Quadrex Report" (EN-619)?

Yes.

8. If the answer to Interrogatory 7 is affirmative, identify each such error, omission or improper conclusion, state the basis for CCANP's contention that each constitutes an error, omission or is improper, explain why each is significant, and identify each expert witness that CCANP expects to testify on its behalf with respect to such error, omission or improper conclusion.

Answer 8: The Bechtel report EN-619 only addresses certain parts of many Quadrex findings. It is impractical to give detailed reasons for this conclusion with respect to each of the findings because in many cases, there are several Quadrex points not addressed by Bechtel or merely answered by a "Bechtel does not do it that way" disposition; and CCANP has not made a rigorous analysis to identify each Quadrex concern Bechtel did not address. (See Applicants' Answers at 24-25.)

9. Does CCANP contend that Bechtel's analysis of the Quadrex Report, as reflected in EN-619 fails to properly address any significant concern contained in the Quadrex Report? If so, identify each such concern, state the basis for the contention that such concern is not properly resolved, state the resolution which CCANP contends to be appropriate, and the factual basis for such resolution and identify each expert witness that CCANP expects to testify on its behalf with respect to such concern.

Answer 9: Since so much of the Bechtel response to Quadrex is nothing more than mere promises and since only Region IV is available to ensure those promises are met, CCANP has little confidence in Bechtel truly fixing the mess Brown and Root left behind, assuming that it is possible for Bechtel to even discover all the flaws built in by Brown and Root.

Unfortunately, unless the project is cancelled or the NRC denies the operating license, we will have to wait until STNP is turned on to know for sure how poorly Brown and Root and Bechtel perform under HL&P's direction (or non-direction as the case may be).

See also Answer 8.

10. Other than the information provided in response to Interrogatories 8 and 9, does CCANP disagree with any significant statement, finding or conclusion contained in EN-619? If so, identify each such statement, finding, or conclusion with which CCANP disagrees, state the basis for such disagreement, and identify each expert witness that CCANP expects to testify on its behalf with respect to such statement.

Answer 10: See Answers 8 and 9. CCANP does not have any expert witnesses CCANP can afford to call.

11. Does CCANP contend that there are significant errors or omissions in the NRC Staff Investigation Report 82-02 (I&E Report 82-02), concerning the handling of the Quadrex Report or that I&E Report 82-02 fails to properly address any significant concern regarding the handling of the Quadrex Report.

Answer 11: Yes.

12. If the answer to Interrogatory 11 is affirmative, identify each such error, omission, or unaddressed concern, state the basis for CCANP's contention that each constitutes an error, omission, or unaddressed concern, explain why each is significant, and identify each expert witness that CCANP expects to testify on its behalf with respect to such error, omission or unaddressed concern.

Answer 12: See original Answer 11 [sic].

13. Other than the information provided in response to Interrogatories 11 and 12, does CCANP disagree with any statement, finding or conclusion contained in I&E Report 82-02? If so, identify each statement, finding and conclusion with which CCANP disagrees, state the basis for such disagreement and identify each expert witness that CCANP expects to testify on its behalf with respect to such statement, finding or conclusion.

Answer 13: Not at this time.

14. Does CCANP contend that there are significant errors or omissions in NRC Inspection Report 82-12, related to the review of the Quadrex Report (I&E Report 82-12), or that I&E Report 81-12 fails to properly address any significant concern contained in the Quadrex Report?

Answer 14: Yes.

15. If the answer to Interrogatory 14 is affirmative, identify each such error, omission, and unaddressed concern, state the basis for CCANP's contention that each constitutes an error, omission, or unaddressed concern, explain why each is significant, and identify each expert witness that CCANP expects to testify on its behalf with respect to such statement, finding, or conclusion.

Answer 15: The NRC Inspection Report 82-12 is a masterpiece of NRC obfuscation. The distortions of the Quadrex Report are multiple. The torturing of the English language (resolved meaning incomplete or not even started; NUREG 0948 at 26) is epidemic. The anxious affirmation of Bechtel is unseemly for a regulatory agency. The absence of any enforcement action is perhaps a classic even by NRC standards of non-regulation (though perhaps not for Region IV).

It is impractical to give a detailed response to this question as the NRC distortions, omissions, and error permeate NUREG 0948; and CCANP has not made a rigorous analysis to identify all such errors, omissions, and unaddressed concerns. (See Applicants' Answers at 24-25.)

16. Other than the information provided in response to Interrogatories 14 and 15, does CCANP disagree with any statement, finding, or conclusion contained in I&E Report 82-12. If so, identify each statement, finding and conclusion with which CCANP disagrees, state the basis for such disagreement, and identify each expert witness that CCANP expects to testify on its behalf with respect to such statement, finding or conclusion.

Answer 16: Not at this time.

17. Identify each person CCANP intends to call as an expert witness at the Phase II hearing, for whom CCANP has not provided an identification and summary of testimony in response to Interrogatories 1-16, and state the substance of the testimony of such witnesses.

Answer 17: CCANP does not have the resources to provide experts.

18. Identify each person not identified in response to the Interrogatories 1-17 whom CCANP intends to call as a witness at the Phase II hearing and state the substance of the testimony of such witness.

Answer 18: CCANP is providing a listing of witnesses CCANP expects to testify. Some of these witnesses may well be called by another party to the proceeding. Some of the witnesses are identified generically since their names are not yet known.

Don Jordan - to testify concerning his role in the monitoring of Brown and Root's design and engineering process at STNP, his perceptions of that process in the 1977 to 1981 period, any actions he took regarding that process (e.g. to reform or terminate it), his role in the commissioning of, the conduct of, the handling of, and the response to the Quadrex Report, his role in the ultimate decision to terminate Brown and Root as architect-engineer.

George Oprea - same as Don Jordan except for the time period

Dr. J. R. Sumpter - same as Don Jordan except for the time period

Cloin Robertson - same as Don Jordan except for the time period

Jack R. Newman - to explain his role in the decision not to deliver the Quadrex Report to the NRC Staff and ASLB prior to September 1981, his role in the ultimate release of the Quadrex Report, and his representations to the Board and parties regarding the Quadrex Report.

Bechtel personnel - to testify concerning the Task Force Study and EN-619.

Quadrex personnel - to testify concerning the Quadrex Report.

Richard Herr and Shannon Phillips - to testify concerning the investigation in which the Quadrex Report was finally read by NRC personnel.

William J. Dircks - to testify regarding the NRC inquiry into the handling of the Quadrex Report conducted by Washington, D.C. NRC and regarding his evaluation of the Quadrex Report.

Mr. DeYoung - To testify regarding his role in the NRC headquarters inquiry into the handling of the Quadrex Report and his findings.

Mr. James Lieberman - to testify regarding the NRC enforcement policies as they apply to the facts of the Quadrex handling.

Don Sells - to testify regarding his interactions with HL&P regarding the Quadrex study and report.

Mr. Hale (NRC Region IV) - to testify regarding his knowledge of the Quadrex Report findings and other problems in the STNP design

and engineering process, his interactions with HL&P regarding the Quadrex Report, and his representations to the Region IV office of the NRC concerning the Quadrex Report.

19. Identify and produce each document upon which CCANP relies as support for its contentions or positions as stated in its response to this sixth set of interrogatories.

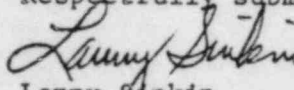
Answer 19: CCANP has nothing to add to its original answer.

20. For each interrogatory herein, identify each person who participated in the preparation of CCANP's response.

Answer 20: Lanny Alan Sinkin

Dated: September 7, 1983

Respectfully submitted,

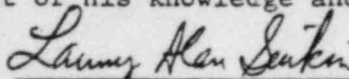


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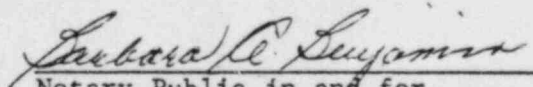
STATE OF TEXAS #

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

SUBSCRIBED AND SWORN TO BEFORE ME by the said LANNY ALAN SINKIN on this 7th day of September 1983.


Notary Public in and for
Travis County, Texas

My Commission expires:

10-29-86

BARBARA A. BENJAMIN
MY COMMISSION EXPIRES 10-29-86

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

CERTIFICATE OF SERVICE

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'83 SEP 12 A11:14

I hereby certify that copies of CCANP SUPPLEMENTAL ANSWERS 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 to the following individuals and entities on the 7th day of September 1983.

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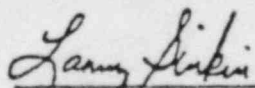
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