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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Appeal Board

'83 DEC 12 A11:47

In the Matter of)

CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, et. al.)

(Perry Nuclear Power Plant, Units)
1 and 2))

)

Docket Nos. 50-440 (CLEV))
50-441 (CLEV)

SUNFLOWER'S EXCEPTIONS TO 'PARTIAL INITIAL
DECISION' AND PRELIMINARY RULINGS
OF LICENSING BOARD

Now comes intervenor Sunflower Alliance, Inc., ("Sunflower"), by and through counsel, and pursuant to 10 CFR §2.762, takes exception to the December 2, 1983 "Partial Initial Decision Quality Assurance Contention" of the Atomic Safety and Licensing Board in this proceeding, and to certain preliminary readings of said Board. Said exceptions follow:

1. Sunflower excepts to the finding of the majority of the Board did not overzealously and prejudicially conduct and intervene in the adjudication of the quality assurance contention (Issue No. 3) in this matter, all to the procedural and substantive detriment of Sunflower as an intervenor. Said determination appears in the Board's August 30, 1983 "Memorandum and Order (Procedural Objections and Staff Witness Question [sic])."
2. Sunflower excepts to the determination of the Board that Sunflower was not deprived of a fair hearing by the withdrawal of its lead counsel on the eve of the hearing, thereby foreclosing a reopening of the hearing record. This ruling was embodied in the Board's August 30, 1983 "Memorandum and Order" cited hereinbefore.
3. Sunflower excepts to the determination of the Board that Sunflower was not prejudicially and improperly deprived of

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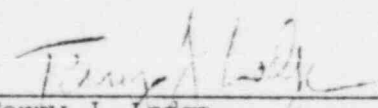
the opportunity to cross-examine a Staff inspector. The inspector, whose identity was never disclosed by other Staff witnesses, apparently had registered strong dissenting views concerning the adequacy of quality assurance quality controls efforts of the Applicant. Although the phantom inspector was repeatedly referred to in testimony, and his views and internal ameliorative steps of Staff were presented as substantive evidence, the Board rejected hearsay contentions and requests that the individual be personally produced for cross-examination.

4. Sunflower excepts to the rulings of the Board in LBP-83-74 (November 10, 1983) and LBP 83-52 (1983), in that the Board should have reopened the record for readjudication in the manner requested by intervenor OCRE and by Sunflower. Further, the Board should not have closed the quality assurance record by said rulings, as such decision controvenes the weight of the evidence, and the underlying burdens upon Applicant.
5. Sunflower excepts to the Board's decision that Applicant met the standards of 10 CFR Part 50, Appendix B, Criterion II, and Criterion XVI and to the Board's adoption of a "reasonableness" standard in interpreting the term "promptly" in Criterion XVI.
6. Sunflower excepts to the Board's findings that Applicant and/or Comstock timely took corrective actions concerning ARs and CARs.
7. Sunflower excepts to the Board's finding that Applicant adequately provided oversight of Comstock.
8. Sunflower excepts to the Board's limitation of adjudicatory testimony to Comstock, and to quality assurance in the electrical area only.
9. Sunflower excepts to the Board's finding that Applicant's NR system has achieved timely identification and correction of nonconforming conditions in the electrical area.
10. Sunflower excepts to the Board's finding that the noncompliances in the Notice of Violation and noted further in Report

No. 81-19 did not raise serious safety problems.

11. Sunflower excepts to the "Partial Initial Decision" as being against the manifest weight of the evidence, arbitrary, and contrary to law.
12. Sunflower excepts to the failure of the Board to adopt Sunflower's proposed findings in all other respects not specified hereinbefore.

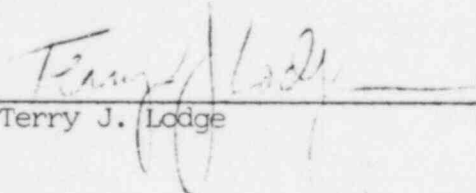
WHEREFORE, Sunflower prays the Atomic Safety and Licensing Appeal Board to hear these exceptions on their merit briefs, and upon such deliberations, to reverse the Atomic Safety and Licensing Board's determinations in all respects.



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CERTIFICATION

I hereby certify that a copy of the foregoing "Exceptions to 'Partial Initial Decision' and Preliminary Rulings of Licensing Board" was sent by me via regular U.S. Mail, postage prepaid, this 8th day of December, 1983, to all parties on the accompanying "Service List".



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