UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

APPLICATION OF TEXAS UTILITIES GENERATING COMPANY, ET AL. FOR AN OPERATING LICENSE FOR COMANCHE PEAK STEAM ELECTRIC STATION UNITS #1 AND #2 (CPSES)

Docket Nos. 50-445
and 50-446

CASE'S RESPONSE TO
APPLICANTS' IDENTIFICATION OF ISSUES
AND PROPOSAL TO ESTABLISH HEARING SCHEDULE

In the November 16, 1983, telephone conference call with the Board and parties, Applicants indicated that they intended to file a motion in response to the Board's memorandum of 10/25 in which the Board set forth its procedure regarding the approach to resolving the remaining issues, and that such motion would set forth a proposed modification to the Board's (Tr. 9179).

On December 3, 1983, Applicants filed such motion. At the request of the NRC Staff, the Staff was granted an additional week in which to respond to Applicants' motion (from December 15 to December 22); CASE was also given an additional week in which to respond.*

CASE's response is based on our reading of the record following: the Board's 7/29/83 Proposed Initial Decision (Concerning aspects of construction quality control, emergency planning and Board questions), hereinafter referred to as 7/29/83 Proposed Decision; the Board's 9/23/83 Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues), hereinafter referred to as 9/23/83 Order; and the Board's 10/25/83 Memorandum and Order (Reconsideration of Order of September 23, 1983), hereinafter referred

* On 12/22/83, Chairman Bloch granted CASE an additional day to get this pleading into the mail because of unusually severe icy weather conditions experienced in Dallas. We have not received the Staff's response to Applicants' pleading and have not relied on it in our response.

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to as 10/25/83 Order, as well as other specifically-referenced pleadings.

CASE notes, first of all, that Applicants have again (as they have on numerous occasions in the past) attempted to pressure the Licensing Board with implied threats that the Board's consideration of legitimate issues in these proceedings could be the "cause of delay in licensing of Comanche Peak." According to newspaper reports 12/17/83, Applicants have just revised their cost estimate and completion estimates for Comanche Peak. They have stated publicly that they expect fuel loading for Unit 1 to begin in mid-1984 and for Unit 2 in the last half of 1986. A press release reportedly stated "(Michael D.) Spence (President of TUGCO) emphasized both the timetable and the cost estimate could change again in the future."

However, the NRC Caseload Forecast Group stated[1]:

> "The CFG projects the fuel loading date for Unit 1 will likely be during July through September 1984, assuming no unexpected delays occur during completion of the preoperational testing program. . .
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> "Based on its cursory look at Comanche Peak, the CFG is of the opinion that the Unit 2 fuel loading date will likely trail the Unit 1 fuel loading date by about 18 to 24 months." (Emphases added.)

As indicated in the Conclusions (page 11) of its report, the Caseload Forecast Group was not provided by Applicants with any meaningful schedule of turnovers of Unit 1 and common areas; there is no single list in existence that consolidates the known unresolved items, and the CFG believes it will be two to three more months before the situation stabilizes "to the point that any detailed schedules for completion of punchlist items will become meaningful,

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[1] NRC's 11/28/83 Summary of Caseload Forecast Meeting and Facility Tour at Comanche Peak, page 1.

and the Applicants have advised that a significant number of preoperational and acceptance tests must be redone (all or in part) and that others are still in progress. From the CFG's description of activities which are ongoing and still to be done, it is obvious that Applicants' projected fuel load dates are totally unrealistic and that the CFG's projected dates are probably overly optimistic. Further, it should be noted that historically CASE's estimates have been more accurate than either the Applicants' or the NRC Staff's. CASE does not believe that Applicants will be ready to load fuel for Unit 1 until well into 1985 (if then).

The true cause of delay for Comanche Peak's completion is Applicants themselves. Along the way, they have deliberately chosen certain paths which have now led inevitably to the very delays which they allegedly sought to avoid. (For example: waiting till the end of construction to check out things which should have been checked on a continuing basis during construction; fettering QC inspectors so that they were unable to do their jobs, to the point that now the quality of the work in place is indeterminate; condoning intimidation of craftspeople with the result that defective work was not properly corrected on an ongoing basis; etc.)

Neither the Licensing Board, nor CASE, nor the NRC investigators or most inspectors has ever done any of the work at Comanche Peak -- that work has been done by Applicants and their contractor (Brown & Root) and sub-contractors for whom Applicants are responsible. CASE's witnesses who worked at the plant have found it necessary to testify in these proceedings because they have been unable to have their legitimate concerns addressed and resolved in any

other forum. Had an attitude (from upper management on down) existed at Comanche Peak which encouraged and allowed QC inspectors, craftspeople, engineers, and other employees to come forward with concerns or deficiencies, if when those deficiencies were identified they were promptly and properly corrected, these hearings would very likely not have been necessary. The fact is that that is not the situation at Comanche Peak and it has not been for years. Instead, high-level QA/QC management has encouraged and apparently participated in intimidation, harassment, and even firing of QC inspectors for trying to do their jobs, and of other employees for objecting to what they believed to be substandard work, work done outside procedures, etc. Applicants' invariable response has been to deny the existence of such insidious practices rather than admitting them and attempting to correct them. It is of utmost concern to CASE that some of the very individuals who have been directly involved in such practices are the same individuals who have testified on vitally important matters in these proceedings, and on whose testimony the Licensing Board has relied in making many of its decisions.

With regard to Applicants' implied threat that the Board may cause delay of fuel load, any "delays" (even if they did exist, which we doubt) must be attributed to the attitude and management practices of Applicants -- no one else. Their own chickens are simply coming home to roost.

Applicants also argue that "the piecemeal hearings conducted in the past have been ineffectual in closing issues and concluding the proceeding" and that "the replacement of two Board members earlier this year has led,

in Applicants' view, to some confusion and misconceptions regarding evidence on issues addressed before the two new members were appointed." As is the implied threat of "delay," this too is merely an attempt by Applicants to place blame on the Board for the results of Applicants' own actions. The Licensing Board as it is now constituted has made a tremendous effort to review and properly evaluate the extensive record of these proceedings. The Board issued on 7/29/83 its Proposed Initial Decision, rather than a final decision, in recognition of the fact that two of the three members of the Board were added to it after the hearings on the matters addressed[2]. Applicants and other parties were given every opportunity to object to any aspect of that decision which they believed to be in error. CASE, the NRC Staff, and Applicants did so, and on 9/23/83, the Board issued its Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues) "to make interim factual findings that do not dispose of any contentions." In addition, the NRC Staff and Applicants filed motions for reconsideration of the Board's 9/23/83 Order; and on 10/25/83, the Board issued its Memorandum and Order (Reconsideration of Order of September 23, 1983).

Thus, Applicants have been afforded every opportunity to correct the record, and in many instances, where the Board believed Applicants' arguments to be in order, the Board has reconsidered previous positions. CASE has no doubt that, should any party (including Applicants) be able to convince the Board that it has erred, the Board would respond swiftly to correct such error.

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[2] Board's July 29, 1983, Proposed Initial Decision (Concerning aspects of construction quality control, emergency planning and Board questions), page 2.

The fact is that Comanche Peak has many problems -- problems which bear on whether or not Comanche Peak should be granted an operating license. These problems have been brought before the Licensing Board by CASE as promptly as possible (under very difficult circumstances at times). The Licensing Board, to fulfill its responsibilities, cannot simply look the other way when such problems are brought to its attention, just because Applicants allege that if the Board considers these legitimate problems fuel loading may be delayed. The Board has recognized its continuing responsibility to take whatever steps are necessary, before granting an operating license, to assure itself that Comanche Peak has been built in such a manner that the public health and safety will not be jeopardized. It is obvious that the Board does not yet have such assurance.

Based on their erroneous assumptions and parameters[3], Applicants state[4]:

> "In those circumstances, Applicants believe that a final round of hearings should be convened to address the matters discussed below. Following those hearings, the record should be closed and the Board should proceed to final decision. The hearings should be continuous over consecutive weeks, for five days each week, and the sessions on Monday through Thursday should run for ten hours (or perhaps longer, as the Board deems appropriate). We anticipate that three weeks of hearings may be necessary (and should be scheduled) to complete the record on these matters, assuming that our identification of the issues is adopted, and that four or five weeks may be necessary if our identification is not adopted.
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> "It is not uncommon for NRC Licensing Boards to conduct proceedings in this manner, as this Board well knows. Nor is it unreasonable to demand the participation of every party in such proceedings, regardless of inconvenience or expense."

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[3] Pleading at pages 1 and 2.

[4] Pleading at page 2.

By their own statements about what is "not uncommon" and what is "not unreasonable," and "regardless of inconvenience or expense," Applicants have clearly indicated that what they are proposing is, in fact, unreasonable, inconvenient and expensive -- and they know it. CASE has already indicated the tremendous and unnecessary burden this would place on us and our witnesses[5]. We will not repeat the details of our comments in this regard, but incorporate them herewith by reference. As we concluded in this regard, we request that hearings be scheduled so that there are no more than two weeks of hearings at a time, four days a week, and further that there be at least two weeks between hearings. As we stated, prejudice to CASE could result, but it need not with judicious handling by the Licensing Board, on which we believe we can rely and in which we are trusting.

In their pleading on page 2, Applicants discuss what the Board should now do "(i)n fairness to Applicants." CASE submits that it is time to consider what is fair to the former employees of Applicants who have suffered because of the intimidation, harassment, and firings at Comanche Peak who will be testifying as CASE witnesses in these proceedings, and to see that they do not have to suffer additionally because they testify in our hearings.

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[5] See CASE's 11/30/83 Response to Licensing Board re: Possible Prejudice to CASE (Delay of Hearings on Intimidation, etc.), especially pages 7-9.

I. IDENTIFICATION OF ISSUES

On page 3 of their pleading, Applicants list the issues as they perceive them. CASE will discuss the issues as we see them.

It is important, we believe, to identify what has and has not been covered by the Board's past Orders, specifically:

> The Board's 7/29/83 Proposed Initial Decision (Concerning aspects of construction quality control, emergency planning and Board questions), hereinafter referred to as 7/29/83 Proposed Decision;
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> The Board's 9/23/83 Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues), hereinafter referred to as 9/23/83 Order;
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> The Board's 10/25/83 Memorandum and Order (Reconsideration of Order of September 23, 1983), hereinafter referred to as 10/25/83 Order;
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> The Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance), hereinafter referred to as 10/25/83 Memorandum; and
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> Board's 10/6/83 Partial Initial Decision (Change in Material Properties for A500 Steel), hereinafter referred to as 10/6/83 Decision.

The Board's 7/29/83 Proposed Initial Decision (Concerning aspects of construction quality control, emergency planning and Board questions) states, in part:

Contention 5 "is a broad contention calling into question the applicant's entire quality assurance program . . .

"A quality assurance program is required to ensure that the safety functions will be properly performed . . .

"The chief concern of the quality assurance program is to identify and correct problems that arise during plant construction or operation. Indeed, a quality assurance program that failed to find problems would undoubtedly be ineffective. . . . if we were to find that substantial numbers of deficiencies have been overlooked, that may raise questions about the adequacy of the quality assurance program." (Emphasis added.)

"At this stage, we are not evaluating the overall efficacy of the quality assurance program, but, rather, whether any of the alleged deficiencies are sufficiently serious and uncorrectable that the plant, due to those deficiencies, cannot operate with the requisite degree of safety.

"In other words, we have considered each allegation independently, without regard to whether it may represent a pattern related to the adequacy of the quality assurance program. In addition, there are particular allegations which have been or will be the subject of hearings held after September 17, 1982. These questions are not resolved by this decision." (Emphases added.)

-- Proposed Decision, pages 4 and 5

A. Rock Overbreak

"The possible implications of management's failure to implement quality assurance procedures for the excavation activities is not being considered in this decision."

-- Proposed Decision, page 10

C. Other Specific Allegations Raised in the Context of Contention 5

"Some of the allegations could relate to the question of the extent of management's commitment to quality control. That issue, of course, we have specifically left open in this decision. In addition, matters which relate to allegations made by CASE witnesses Mark Walsh and Jack Doyle or to issues raised by the staff's Construction Appraisal Team report also remain open."

-- Proposed Decision, page 14

CASE believes that it is important to note that the possibility exists that it may be necessary to have further hearings at some point in time to consider aspects of the overall QA/QC program (although it appears at this time that this could be addressed in findings).

POLAR CRANE -- "Fingers" cut off of several shims to make them fit in their designated places. Applicants stated that all the shims in the polar crane

girder support bracket assemblies will be removed and inspected; shims which have clipped "fingers" will be evaluated by an engineer to determine whether they are acceptable. (7/29/83 Proposed Decision, page 19.)

In its 9/23/83 Order (page 42), the Board stated:

> "We note, however, that CASE requests information concerning applicant's reevaluation of all shims with clipped fingers. Since this was a matter that was specifically litigated and that could be important to having a complete record, CASE's request should be honored. In this way, CASE may assist the Board in its effort to compile a complete record."

Applicants acknowledge (page 6 of pleading) that the Board ordered them to supply CASE with the requested information. However, we have not yet received anything from the Applicants in this regard. Applicants now state that they propose to satisfy this request through affidavits.

Since CASE has not yet received this material (since Applicants have delayed three months after the Board's order), we have no way of knowing at this time what it contains and whether or not there may be need for further hearings regarding it, the need for cross-examination questions to clarify essential portions of it, etc.

PROTECTIVE COATINGS -- Documentation deficiencies which had been presumed by the Board to be either corrected or having no safety significance and to have been addressed (as indicated in 7/29/83 Proposed Decision, pages 20-21) in actuality were not corrected.

Intimidation, harassment, and threatening of quality control inspectors was left open (and relates to the issue of management's commitment to the quality control program) (7/29/83 Proposed Decision, page 22; and 10/25/83

Order, pages 3-4. This is the subject of an ongoing NRC investigation by the Office of Investigations and the report regarding it is due out any day now.**

Procedures criticized by Mr. Hamilton (left open in Board's 7/29/83 Proposed Decision, page 23):

Near White Blast -- left open in Board's 9/23/83 Order (pages 20-21) and 10/25/83 Order (page 8).

Maximum Roughness -- left open in 9/23/83 Order (page 21).

Adhesion Testing -- should be included in upcoming hearings on protective coatings (although closed in Board's 9/23/83 Order, page 21). See Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance), page 2.

Westinghouse Coatings -- left open in Board's 9/23/83 Order (pages 22-23) and 10/25/83 Order, pages 8-9 and especially page 13, which states: "Applicant shall: (1) conduct an inspection of a sample of Westinghouse coatings and report the result of the inspection to the Board. . ." Should be included in upcoming hearings.

Firing of Robert Hamilton -- Applicants agree that hearings should be held regarding this (pleading at page 4). (See intimidation, harassment, and threatening of quality control inspectors herein.) It should be noted that Applicants have already had an opportunity to address this issue in rebuttal to Mr. Hamilton's previous testimony; CASE objects to any redundant testimony and urges that the Board allow only pertinent and material testimony which is not already in the record in this regard.

** See page 11a following.

** After most of this pleading was already prepared, CASE received word from reporters that the NRC has today (12/22/83) issued a Level 3 notice of violation and proposed a $40,000 fine against Applicants because they found following an investigation from January through August, 1983, that a "quality control supervisor threatened the quality control personnel with withdrawal of quality control certifications if they continued to write nitpicking' nonconformance reports."

As of this writing, CASE does not have a copy of the report itself or the notice of violation. However, this obviously supports the statements made by CASE's potential witness, Bill Dunham, and confirms the earlier finding in this regard by the Department of Labor investigator in his preliminary findings on Mr. Dunham's firing.

CASE is gratified that the NRC has taken this action and hopes that this may help put a stop to this insidious practice.

We presume that the Board will be receiving a copy of the report and/or notice of violation shortly and that it will speak for itself.

In its 9/23/83 Order, the Board indicates that its Order is "an interlocutory order that does not conclude the evidentiary record on any contention." In that Order, the Board stated (page 15):

> ". . . we accept applicant's unrebutted but incomplete evidence that it is conducting a through (sic) reinspection program whose preliminary findings, as of February 25, 1983, were favorable. However, almost half a year has passed and more than preliminary findings should be available. If written evidence concerning these more complete results, of both the applicant's reinspection program and the staff's 'verification' of changes in applicant's program, confirm the preliminary findings, we will conclude the the 'nit-picking' incident had no serious impact on inspector effectiveness."

It is obvious from the affidavit of Bill Dunham and the internal memorandum of J. J. Lipinsky[6] that the situation regarding protective coatings was not and is not as was represented by Applicants in their 2/25/83 Proposed Findings. We urge that the Board require Applicants to provide, as part of their testimony in the upcoming hearings on protective coatings, any documentation that preliminary findings of the protective coatings reinspection program were favorable. Further, we ask that the Board order Applicants to provide this information at once to the Board and parties to allow CASE's witnesses time to assess it prior to hearings. (This is especially important if several weeks of hearings are scheduled, to avoid prejudicing CASE's rights and making it impossible for us to handle large volumes of materials just prior to the hearings.) If such documentation exists (and if it does, we would like to cross-examine whoever prepared it), it should be readily available since presumably it would have already been in existence as of 2/25/83.

Inadequate disposition of NCR's -- left open in 7/29/83 Proposed Decision, page 24.

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[6] Both attached to CASE's 11/9/83 (1) Partial Answer to Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance); (2) Motion for Additional Hearings; and (3) Motion for Protective Orders).

Undocumented Removal of cable trays for which quality assurance documentation had been completed -- To be considered at time CAT findings are addressed (7/29/83 Proposed Decision, pages 25-26).

These issues should all be considered in the upcoming hearings, either in connection with the protective coatings reinspection or the issue of intimidation, etc.

Termination of Henry Stiner for reporting gouge in pipe to QC inspector. Related to question of management's commitment to quality control and to be considered in a later decision. (7/29/83 Proposed Decision, page 28.)

CASE was not allowed to subpoena any witnesses other than Darlene Stiner to testify in these prceedings. To CASE's knowledge, this has never been investigated by the Department of Labor or the NRC Office of Investigations.

Weave beading (in excess of teh 4-core wire diameter which Applicants have stated is acceptable at Comanche Peak) and improper repair of same. Left as open item (7/29/83 Proposed Decision, page 32). Closed in 9/23/83 Order; the Board stated (page 24):

> It (Applicant) reviewed each of the areas in which weave-welding was alleged to have occurred and it determined that there was no safety prohibition in these areas against weave welding, which is prohibited only for material that requires Charpy impact testing."

However, the Board's 9/23/83 Order did not rely on Applicants' 7/15/83 Summary of the Record Regarding Weave and Downhill Welding or CASE's 7/28/83 response to it when the Board made its 9/23/83 Order; nor did they consider

the affidavit of Henry and Darlene Stiner which was attached to CASE's 7/28/83 response. We ask that Mr. and Mrs. Stiner affidavit be considered. CASE is not certain of the status of the record (whether the affidavits are in evidence, for example) regarding this matter and ask for clarification from the Board. If the Board has further questions regarding this matter, it should be the subject of hearings.

Improper use and repair of "plug welds" -- Left as open item (7/29/83 Proposed Deicision, page 33; and 9/23/83 Order, pages 24-26); narrowed to whether plug welds are properly inspected before they are closed in 9/23/83 Order. Discussed in more detail on page 10 of 10/25/83 Order, and on page 13 ordered:

> 'Applicant shall: . . . (2) submit further evidence concerning plug welds or shall propose an appropriate response to the Board's concerns . . . "

CASE and Applicants agree that this matter should be addressed in the forthcoming hearings (Applicants' pleading at page 4).

Improper downhill welding -- Left as open item (7/29/83 Proposed Decision, page 34; 9/23/83 Order, pages 26-28; and 10/25/83 Order, pages 10-11).

Applicants propose to file affidavits before forthcoming hearings, and if the Board has additional questions after receiving affidavits, it may advise Applicants and the matter can be addressed at the forthcoming hearings.

CASE is generally opposed to testimony by affidavit, since it affords no opportunity for cross-examination. We are especially opposed to testimony by affidavit immediately prior to hearings, since CASE's witnesses would not have sufficient time to both prepare for the hearings and answer Applicants'

affidavits with their own affidavits, if appropriate.

CASE believes this should be addressed in hearings; if Applicants want to speed up the process, they could still prefile affidavits.

Problems with control of welding rods -- Left as open item; Board stated "There appears to be no way to clarify the scope of this problem without a field investigation." (7/29/83 Proposed Decision, page 35.) Left as reworded open item in 9/23/83 Order (pages 29-30); and in 10/25/83 Order (page 11).

CASE agrees with Applicants (page 4 of Applicants' pleading) that this should be addressed in forthcoming hearings.

Board stated "There needs to be further evidence, based on field investigation, concerning whether quality control inspectors considered the presence of Torque Seal to be so definitive that they did not check quality assurance records further." Left as open item (7/29/83 Proposed Decision, page 39). Closed in 9/23/83 Order, page 30, based on Affidavit by Ronald G. Tolson. (See CASE's comments, middle of page 4 of this pleading.)

Hanger SW-1-102-106-Y33K is in a safety-related area and is severely mismatched. Left as open item (7/29/83 Proposed Decision, page 39). Closed in 9/23/83 Order, page 31, based at least in part on Affidavit by C. T. Brandt. (See CASE's comments, middle of page 4 of this pleading.)

Craft person was involved in performing quality assurance liquid penetrant inspections on the fuel pool liner; 7/29/83 Proposed Decision left as open item (page 39); closed in 9/23/83 Order (page 31), based on Affidavit of Ronald G. Tolson. See CASE's comments, middle of page 4 of this pleading. In addition, Mrs. Stiner still does not agree with the Board's assessment or Applicants' statements.

Ineffective action was taken when Mrs. Stiner identified numerous problems on a hanger previously approved by quality assurance. Left as open item (7/29/83 Proposed Decision, page 40). Closed in 9/23/83 Order (pages 31-32), "(s)ince Mrs. Stiner has no engineering expertise and since the clearance was not nonconforming."

No traceability of materials until quality assurance becomes involved. The Board stated (7/29/83 Proposed Decision, page 40):

> ". . . it is possible that items that had not previously been traced could be added to the quality assurance system, where they would then become traceable. However, we exclude this inference because testimony that items in the program are traceable means that their entire pedigree must be known. Those items could not previously have been untraceable. On this basis, we accept applicant's explanation. /170/
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> "/170/ A party with information that our resolution of this issue is factually in error would have an obligation to correct the record, even if our finding were favorable to its interests."

The affidavit of Stan Miles[7] states (page 2):

> "I know one popular trend at Comanche Peak was to reclassify safety-related structures to non-safety related structures. The purpose of this was to expedite and increase production. Then, at a later date, they would again reverse the classification, thus circumventing inspection of such structures. This practice tends to dictate at least that no rework was

[7] Attached to CASE's 11/28/83 Answer to Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance).

ever done and no inspection was ever done. This is a common practice, it's not just one instance, it's plant-wide."

Mr. Miles then discusses (page 3 of affidavit) the derating of the polar crane from 425 tons to 175 tons. Mr. Miles and CASE do not have all the details regarding this, and as far as we are aware, it has never been addressed by the NRC. However, it appears to relate to this issue, as well as possibly to the issues regarding the polar crane (see discussion at pages 9 and 10 of this pleading).

CASE believes that, at a minimum, the Board should require Applicants to supply information regarding the reasons (including documentation) for the derating of the polar crane.

Heat input not controlled properly during welding. Each weld where heat input was not controlled is questionable in regard to its strength. See details in CASE's 7/28/83 Answer to Applicants' 7/15/83 Summary of the Record Regarding Weave and Downhill Welding, especially discussion at pages 38-41 and attached affidavit of Henry and Darlene Stiner.

See discussion of state of the record, on pages 13-14, this pleading, under Weave beading.

CASE believes that this should be addressed in the hearings.

Qualifications of supervisory and other personnel -- Many of CASE's witnesses have expressed concern about use of unqualified supervisory and other personnel at Comanche Peak (see, for example, 7/29/83 Proposed Decision, pages 22-23 and 41; and affidavits attached to CASE's 11/28/83 Answer to Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance). This was also an issue

which was raised in the CAT report. CASE believes it should be addressed in hearings.

Problems with welding on Chicago Bridge and Iron pipe whip restraints and moment restraints. Left as open issue (7/29/83 Proposed Decision, page 42). Closed in 9/23/83 Order (page 32), CASE believes erroneously.

Although this involves allegations made by CASE witness Charles Atchison and is includes in an area regarding which CASE is technically in default, the Board has recognized that it has a continuing obligation to compile a complete record regardings CASE's QA/QC Contention 5 and has stated that it "will accept any assistance that may be helpful." (9/23/83 Order, page 11.)

The Board stated (9/23/83 Order, page 32):

> "Our review of applicant's objections on this issue persuades us that they have adequately dealt with the welding problems that once existed with these restraints. The restraints were subject to a complete reinspection on site and the identified indications were found to be insignificant from a structural standpoint. Furthermore, an NRC follow-up investigation found only Level V violations, considered by the staff to be 'of minor safety or environmental concern.' /81/
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> "/81/ . . . There does not yet appear in our record an answer to Mr. Atchison's testimony about 'word of mouth' that the backfit program was not taken seriously. CASE Exhibit 656 at 7."

Although the specific problems identified by Mr. Atchison may have been taken care of, the Board should be aware of the contents of Inspection Report 50-445/82-25, 50-446/82-13 (CASE Exhibit 849, attached to CASE's 7/28/83 Answer to Applicants' 7/15/83 Summary of the Record Regarding Weave and Downhill Welding, which the Board has stated they did not consider in their 9/23/83

Order; see discussion on page 15 of that pleading). CASE does not believe it can be considered "minor" when the NRC makes statements such as the following (which are taken from the 2/28/83 cover letter to the inspection report and discussed further in the body of the report):

> "The discoveries at the Comanche Peak facility of weld defects in components which had been previously inspected and accepted at the vendor facilities by Texas Utilities Generating Company (TUGCO) personnel raise concerns in regard to compliance of TUGCO source surveillance activities with the requirements of Criterion VII of Appendix B to 10 CFR Part 50." It is stated that the utility has retained "for training purposes ... a consulting firm with specific expertise in the field of ASME and AWS welding requirements. This action does not in itself, however, fully resolve present NRC concerns in regard to the scope and overall effectivity of the TUGCO source surveillance program.
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> ". . . our review of TUGCO vendor QA records for this manufacturer (CB&I) showed that approximately 90 percent indicated unacceptable vendor inspection performance for the time period of 1980 through 1982. This vendor had, however, been denoted by your rating system as having an acceptable performance for 1980 and 1981.
>
> "The results . . . bring into question whether current surveillance practices sufficiently address vendor inprocess activities, and whether the TUGCO vendor performance measurement system gives a sufficient weighting to significant identified product deficiencies and deficiencies of a recurring nature. . ."
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> (-- Emphases added.)

The strong wording of this inspection report does not correspond to the "minor" categorization given it. A reading of the report confirms Mr. Atchison's concerns and clearly indicates that the specific problems which he identified are only one example of a continuing, pervasive problem at Comanche Peak.

CASE urges that the Board, at a minimum, admit Inspection Report 82-25/82-13 into evidence in these proceedings and that the Board consider it when it makes its determinations regarding Contention 5.

Problems with welding on NPSI pipe whip restraints. This was also left as an open issue (7/29/83 Proposed Decision, page 42), then closed in 9/23/83 Order (pages 32-33), CASE believes erroneously.

Although Applicants may have "refuted the only specific concern expressed by Mr. Atchison," as stated by the Board, the full extent of problems with NPSI pipe whip restraints has not been addressed by Applicants. See discussion at pages 16-17 of CASE's 7/28/83 Answer to Applicants' 7/15/83 Summary of the Record Regarding Weave and Downhill Welding, and Inspection Report 82-14 (CASE Exhibits 735, 736, and 739, attached to CASE's 7/28/83 pleading) and Inspection Report 82-22 (CASE Exhibit 737, also attached to our 7/28/83 pleading).

Inspection Report 82-14 states "Region IV does plan to perform additional inspections of vendor shop performed welding and this issue remains open."

As discussed in our 7/28/83 pleading, it is not clear from the NRC's wording in Inspection Report 82-25/82-13 whether or not the NRC intends that TUGCO review other vendor surveillance practices to ascertain whether there may be similar problems with other vendors (besides CB&I). However, there are other indications of the NRC's intentions:

> "Anything that was purchased with weldment which was bought by source inspection originally with no subsequent onsite inspection will now receive an onsite inspection . . . it has brought up an area that we feel now the licensee needs to fully respond to and look at again and that is vendor welding -- vendor-supplied weld components."
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> (See CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982, filed with the Atomic Safety and Licensing Appeal Board, especially page 16 and Attachment 7, page 3.)

Because of the NRC's wording, CASE believes it is necessary to have hearings regarding this matter. At a minimum, CASE urges that the Board admit Inspection Report 82-14 (CASE Exhibits 735, 736, and 739) and Inspection Report 82-22 (CASE Exhibit 737) into evidence in these proceedings and that the Board consider them when it makes its determinations regarding Contention 5.

Uncertified employees performed liquid penetrant testing. Left as an open issue (7/29/83 Proposed Decision, page 42), then closed by 9/23/83 Order, based on the testimony of Applicants' witness Thomas Brandt. See CASE's comments, middle of page 4 of this pleading. See also page 16, top of page, this pleading, under Craft person was involved in performing quality assurance liquid penetrant inspections on the fuel pool liner. In addition, Mr. Atchison does not agree with the Board's assessment or Applicants' statements.

Intimidation, harassment, and threatening of quality control inspectors (which relates to the issue of management's commitment to the quality control program) was left open (7/29/83 Proposed Decision: page 22; page 41).

This is the subject of an ongoing NRC Office of Investigation (OI) investigation. It is CASE's understanding that the report on the allegations made by Bill Dunham is due out any day now, and we assume that it will contain the OI's findings regarding this issue insofar as it pertains to protective coatings QC inspectors. We are not certain when OI's report will be out regarding other than Protective Coatings Inspectors. However, it is our understanding that the Board is interested not just as it relates to Protective

Coatings Inspectors, but regarding the possible existence of a practice of discouraging the report of non-conforming conditions or deficiencies at Comanche Peak, in other disciplines as well (see Board's 7/6/83 Memorandum (Response to Commission Order of June 30, 1983), especially page 4). Also see fuller discussion on pages 1-7 of CASE's 11/30/83 Response to Licensing Board Re: Possible Prejudice to CASE (Delay of Hearings on Intimidation, etc.), which we will not repeat here but incorporate herewith by reference.

This issue also relates to a matter considered in the CAT report and reflects on management's commitment to its quality assurance program; it will be evaluated in a subsequent decision. (7/29/83 Proposed Decision, page 41.)

See also the following items:

4) Unstated management direction to overlook problems, and

5) pressure to approve an audit of Tennessee Wall, Tube and Metal

-- 7/29/83 Proposed Decision, page 42; and Board's 7/6/83 Memorandum and Order (Collateral Estoppel; Atchison Case).

Items 4) and 5) were left open. Item 4) was retained as an open issue in the 9/23/83 Order (pages 34-35), as was item 5) (page 35), in regard to Mr. Atchison's statement that he was pressured into approving the audit against his own best judgement.

As discussed in CASE's 8/3/83 pleading under subject of Record Regarding Discouragement from Reporting Nonconforming Conditions at Comanche Peak Nuclear Plant, CASE believes that the issue of intimidation, harassment, and threatening of QC Inspectors and craftspeople should include discouragement

from doing the job right to begin with. In our 11/9/83 pleading, we asked that it be included in the hearings.

Concerns raised by CASE witnesses testifying regarding intimidation, harassment, and threatening of QC Inspectors and craftspeople, and discouragement from doing the job right to begin with and the effect on the quality of work and the safety of the Comanche Peak plant. In our 11/9/83 pleading and our 11/30/83 pleading, we requested that these issues be included in hearings, including hearings on Inspection Report 50-445/83-27 regarding the NRC investigation and inspection of concerns brought forward by Robert L. Messerly. Our reasons have already been set forth, and we will not repeat them here, but incorporate those pleadings by reference.

Problems with getting component modification cards to the document control center and incorporating them into appropriate document revisions. This is related to matters discussed in the CAT report and are to be discussed later in that context. (7/29/83 Proposed Decision, page 43.)

A490 bolts were broken and after tests were run to establish torque values for the bolts, the new torque values were not incorporated into site procedures. Left as an open item in Board's 7/29/83 Proposed Decision (page 44), then closed by 9/23/83 Order, based on affidavit by Applicants' witness Brandt. See CASE's comments, middle of page 4 of this pleading.

Welder "quenched" a weld directly, in violation of site procedures. Board did not understand this issue. (7/29/83 Proposed Decision, page 44.) Closed by 9/23/83 Order, based on affidavit of Applicants' witness Brandt.

See CASE's comments, middle of page 4 of this pleading.

Too few quality control inspectors to perform the quality assurance work at Comanche Peak. The Board stated "Accepting the applicant's testimony that the inspections will be performed regardless of the number of inspectors, Mr. Atchison's allegation does not by itself raise an important issue about the number of inspectors. We do not decide whether the parallel issue raised by the CAT inspectors is meritorious." (7/29/83 Proposed Decision, page 45.) See CASE's comments, middle of page 4 of this pleading.

"Cold springing" of two lines from reactor coolant pump compartment number three. The Board stated: ". . . there is an important gap in our record that needs to be filled." (7/29/83 Proposed Decision, page 46.) Closed by 9/23/83 Order, apparently based on the fact that CASE did not argue that documents introduced by Applicants were irrelevant or non-responsive. See CASE's comments, middle of page 4 of this pleading.

Operating quality assurance program for CPSES (Board Question 2). The Board stated:

> "The Board is convinced that if the operational quality control program is instituted as described, it will function adequately . . . the Board is satisfied at this time that the Board need not pursue this matter further by raising it as a separate, sua sponte issue."
>
> (7/29/83 Proposed Decision, pages 54 and 55.)

Depending upon the results of the ongoing OI investigations into intimidation, harassment, threats and discouragement, it may be appropriate for

the Board to reopen testimony regarding this Board Question, since many of the same individuals who are currently involved in Applicants' construction QA/QC program are the same individuals who will be putting Applicants' operating QA/QC program into effect. Should the Board find adversely regarding Applicants' commitment to its construction QA/QC program, there is no reason to believe that its commitment to its operating QA/QC program would be any better. We will address this issue further if and when the need arises, but we wanted to make the Board aware that this was a potential issue for future hearings.

Separate hearings for Unit 2 licensing. Because of the problems discussed by CASE's witnesses (including Messrs. Walsh and Doyle), and what CASE believes to be the final outcome of OI's ongoing investigations into intimidation, etc., CASE believes that the possibility exists that separate hearings may be necessary for the licensing of Unit 2. We will address this in more detail at the appropriate time, but we wanted to include it here as a possible subject of future hearings.

Reactor vessel mirror shield touching the shield wall during hot functional testing (HFT). On 9/30/83, Judge Bloch informed CASE that the Board had asked for more information from the NRC Staff, on 9/26/83, regarding item 4 on pages 4 and 5 of Inspection Report 50-445/83-34 and 50-446/83-18. As far as CASE is aware, this is still an open item.

Computerization of Non-Conformances. On 9/20/83, the Board issued its Memorandum (Board Questions on Computerization of Non-Conformances), which Applicants

were to respond to. It is not clear to CASE whether the Board was satisfied by the answers it received and it was our understanding that the Board had envisioned including this matter in hearings. It appears to CASE that the answers received were not fully responsive to the questions; further, it appears from statements made by the Caseload Forecast Group (in its 11/28/83 report, especially page 11, item a.) that the computerization of nonconformances and/or unresolved items insofar as they relate to preoperational and other tests is not presently in place. CASE believes this is an issue which should be included in hearings.

Other problems identified by CASE witnesses which were not specific enough to be a concern to the Board. There were several issues identified by CASE's witnesses which the Board found not to be a problem, at least insofar as what was in the record at that time. For example:

Low worker morale. John Gates: Work was done and, due to design changes, had to be ripped out and redone; related to increased cost and low worker morale. The Board stated (7/29/83 Proposed Decision, page 14):

> ". . . rework and low worker morale does not affect the quality of the plant if ultimately the work will only be approved when it is done correctly. . . The fact that rework was required . . . suggests that approval was not forthcoming unless the work met the specifications. The Board finds that this allegation does not by itself raise a serious health or safety issue."

Stan Miles: Was also concerned about low worker morale. The Board stated (7/29/83 Proposed Decision, page 17):

> "Low morale alone, assuming that it could be adequately defined and measured, does not raise health and safety concerns. Only if low morale causes defective work to be accepted as the final product would this cause us to question the safety of the plant. . ." (Emphasis added.)

In the 13 affidavits attached to CASE's 11/28/83 Answer to Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance), each individual addressed the matter of morale at Comanche Peak and its tie-in to the quality of the work. It is perhaps best summed up by the statement in the affidavit of Stan Miles (page 1):

> "I thought the world knew that poor attitudes generated by intimidation produces poor quality construction."

Other problems identified by CASE witnesses which were not specific enough to be a concern to the Board. (continued):

Other such problems are discussed by the Board in its 7/29/83 Proposed Decision at pages 26, 29, 35-36, 40-41, 42-43, 45-46, and 46-47.

Allegation by Mrs. Stiner of harassment for testifying in this proceeding. Applicants addressed this in their pleading at page 6-7. CASE calls the Board's attention to Mrs. Stiner's affidavit (attached to CASE's 11/28/83 Answer to Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance), where she states (page 2 of affidavit):

> ". . . there are specific instances of intimidation and harassment by management which I personally experienced after testifying in the operating license hearings. This intimidation and harassment finally led to my quitting work earlier than I had planned to or needed to to have my baby. I quit right before Christmas, even though I had wanted to stay until after Christmas so that we would have some extra money coming in. When I agreed to leave earlier than planned, I was literally in tears because of the continued pressure and harassment I'd been subjected to."

This continuing intimidation and harassment of which Mrs. Stiner speaks was after the matters discussed by Applicants, after Mrs. Stiner had testified in the September 1982 hearings. We ask that the Board also consider her affidavit and that it be included in hearings regarding intimidation, etc.

First two staff walkdowns of finished safety systems (in addition to the fuel building). The Board indicated in its 10/25/83 Memorandum that it plans to conduct hearings regarding these matters. Applicants argue that such hearings are unnecessary. In this instance, it appears that they want to have their

cake and eat it too. They argue on the one hand, for instance, that the Board must hurry the hearings along so that the Board will not be responsible for delaying fuel loading -- while on the other hand they argue that the Board shouldn't have hearings on the two Staff walkdowns because the Staff won't have time to complete the walkdowns and present its reports and other evidence in hearings in time to avoid delaying fuel loading. (Applicants' pleading at pages 1, 2, 12, 13, 15; and 8, 9, and 10; respectively.) The obvious fact is, of course, that construction of Comanche Peak is lagging behind more than Applicants want to admit, that it is their own fault that the Staff can't do their walkdowns because Applicants don't have the completed rooms ready for the Staff to inspect, and that Applicants are again blaming the Staff, the Board, CASE, and anyone else they can think of to divert attention from the inescapable and obvious fact that <u>if</u> there are delays experienced, they are caused by Applicants' own actions.

Applicants argue that hearings to address the matters raised in CASE's 11/9/83 Partial Answer and Motions are not warranted and that the procedures the Board has set up in its 10/25/83 Memorandum will provide CASE with "a full and fair opportunity to demonstrate that the deficiencies which it alleges in fact exist."[8] -- while at the same time arguing that vital portions of the Board's procedures should be deleted[9] (hearings on the two Staff walkdowns and the Cygna report).

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[8] Pages 3-6, etc., Applicants' 11/21/83 Answer to CASE's Response to Board Memorandum and CASE's Motion for Hearings.

[9] Pages 8-10, Applicants' 12/3/83 Identification of Issues and Proposal to Establish Hearing Schedule.

Cygna Report. Applicants argue that it is unnecessary to address the Cygna Report in hearings. However, the arguments submitted by Applicants do not hold up under scrutiny. At the outset, it should be noted that any time Applicants don't want the Board to look closely at anything, that in itself is good reason for CASE to look at it closer. Although we have not completed our review of the draft Cygna Report, which we received fairly recently, our cursory review of it indicates that there are several areas of interest. Some of these relate to Walsh/Doyle allegations, some to CAT report items, and others are rather interesting in and of themselves. Even without these tie-ins to previously litigated issues which are still open, however, the Cygna Report (as admitted by Applicants) provides an independent assessment of the adequacy of design. Further, testimony by some of the individuals who actually participated in the assessment will give the Board an opportunity to hear testimony of individuals who have less of a vested interest in the outcome of these proceedings than many of Applicants' other witnesses.

Although the Cygna assessment was done in somewhat of a vacuum, without knowing the full details of other issues which have been litigated in these proceedings, and although the report does have some built-in shortcomings, CASE believes that hearings regarding it would be helpful to the Board in making its decisions in these proceedings and that hearings should be held as the Board has already stated in its 10/25/83 Memorandum.

(Also see comments on page 28 preceding.)

Applicants' follow-up inspection of protective coatings. This is the only one of the three specific items which the Board stated it would have hearings

on (in its 10/25/83 Memorandum, page 2) which Applicants state they are ready to go to hearings on.

CASE agrees that hearings should be held on this. See also comments on pages 10-12, 21-23, and 27 preceding.

Applicants' commitment to QA/QC program. Applicants state that they have "implemented a comprehensive and aggressive program to reaffirm their total commitment to an effective, independent QA/QC program." (Applicants' 12/3/83 pleading at page 10.) They then go into detail about all the wonderful-sounding things they are doing in this regard. However, all of this is done against the backdrop of their continued denials that there was anything wrong with their commitment to an effective, independent QA/QC program to begin with -- and against the backdrop of intimidation, harassment, firings, and discouragement which is pervasive at Comanche Peak.

Applicants' assertions do not hold water. A review of the record of these proceedings shows that one of Applicants' standard responses to any problem which is identified is to change their procedures -- that presumably makes it all better. But in reality, nothing changes. All the changed procedures in the world won't make Comanche Peak a safe plant as long as QC inspectors are not allowed to inspect to NRC requirements, as long as craftspeople and engineers are intimidated, threatened with firings if they don't wear blinders and do what they're told whether it's right or wrong[10], as long as Applicants' upper management approves and condones such practices.

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[10] See affidavits attached to CASE's 11/28/83 Answer to Board's 10/25/33 Memorandum (Procedure Concerning Quality Assurance).

CASE opposes the introduction of the testimony which Applicants apparently want to introduce into the record unchallenged by the testimony of CASE's witnesses or other evidence. However, we believe that such testimony would be in order in conjunction with testimony of CASE's witnesses as discussed previously and testimony of NRC witnesses regarding the investigations which are currently ongoing but hopefully will be at least partially complete by the time for hearings.

Investigations by Office of Investigations (OI). CASE believes now that it is vitally important for the Board to await testimony and reports by the Office of Investigations regarding their ongoing investigations regarding intimidation, etc. Because of the pervasiveness of intimidation at Comanche Peak (which extends even when individuals go to other jobs in the nuclear industry), CASE is convinced that such reports and testimony are necessary for the Board to have a complete picture of what is actually taking place. Although CASE can bring forward some brave souls who have, by the very fact that they are willing to testify before the Licensing Board in these proceedings, jeopardized their future livelihoods and changed their lives forever, these relatively few individuals cannot possibly convey to the Board the true extent of intimidation at Comanche Peak.

We urge that the Board include the OI's ongoing investigations in their schedule of hearings.

Site tour to identify specific problems. In its 10/25/83 Memorandum, the Board discussed the possibility of a site tour to allow CASE's witnesses to show the Board specific problems which currently exist at Comanche Peak.

This should be included as part of the Board's scheduling for hearings.

Change in Material Properties for A500 Steel. In its 10/6/83 Partial Initial Decision (Change in Material Properties for A500 Steel), the Board ordered TUGCO to file analyses demonstrating that pipe supports manufactured with A500 steel for Comanche Peak have adequate safety margins. CASE anticipates that hearings regarding the Applicants' response to the Board's directive (whenever that may be) may well require additional hearings. Applicants' prompt response would help avoid delay in their fuel load date which might be brought about by this.

Walsh/Doyle Allegations. As the Board is aware, CASE has requested hearings regarding some open items on the Walsh/Doyle allegations. The Board has indicated that they will deal with these issues when they file their findings on the Walsh/Doyle allegations. CASE will not pursue this at this time, but we did want to include it in our list of potential hearings.

Credibility and/or competence of Applicants' and/or NRC Staff witnesses. As we have previously indicated, CASE believes that this is a vitally important issue which the Board will have to deal with prior to making its decision on whether or not to grant an operating license to Comanche Peak. It is not clear at this time whether additional hearings will be necessary in order for the Board to resolve this issue; however, we wanted to include it as a potential issue for hearings.

PROPOSED FINDINGS ON CAT REPORT

Applicants argue that the Board should schedule the filing of proposed findings by all parties on the CAT Report on December 22, 1983. CASE opposes Applicants proposal, for the following reasons.

The CAT Report findings, in and of themselves, are not very instructive in CASE's opinion. This is true because of the fact that the CAT team, when the Applicants promised them the moon, had no choice other than to say they would accept it. The CAT findings are, however, a very important aspect of these proceedings when combined with other aspects of the proceedings. In such combinations, they help to establish certain clear patterns and trends which the CAT team itself was unaware of and with which it did not concern itself. (This is similar to the situation with the Cygna Report.) The importance of the CAT findings will be when they are presented as part of the total picture regarding Applicants' QA/QC program[11].

Were the Board to require findings on the CAT report at this time, it would rob CASE of valuable and necessary time needed to properly prepare for upcoming hearings (which by Applicants' own optimistic estimates could last three to five weeks). Further, it would unduly and unnecessarily burden the record with details which, unless combined with other aspects, would be of little assistance to the Board in arriving at its decision.

For these reasons, CASE urges that the Board require findings on the CAT report in conjunction with findings on the other issues soon to be litigated.

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[11] It is interesting to note that Applicants argue at page 12 of their pleading against "piecemeal litigation" -- while at the same time they argue (pages 14-15) in favor of piecemeal findings.

PROPOSED SCHEDULE FOR COMPLETION OF HEARINGS

CASE has not yet completed specific details of a proposed schedule for hearings. However, as discussed previously (see pages 6 and 7 preceding, and CASE's 11/30/83 Response to Licensing Board re: Possible Prejudice to CASE (Delay of Hearings on Intimidation, etc.), which we incorporate herewith by reference), we request that hearings be scheduled so that there are no more than two weeks of hearings at a time, four days a week, and further that there be at least two weeks between hearings.

Further, the Department of Labor hearings before an Administrative Law Judge have been rescheduled to the week of February 13. We ask that the Board not schedule hearings for that week, so that CASE can attend those hearings if possible, and because the presence of Mr. Dunham and some of Applicants' witnesses will be required that those proceedings. We also ask that hearings regarding protective coatings and intimidation of QC inspectors be held after the DOL hearings. We further request that Mr Dunham be given two weeks between the time of the DOL hearings and the beginning of hearings regarding the operating license in which he will participate. This would allow OI to perhaps complete its other ongoing investigation before hearings, and give Mr. Dunham time to prepare for the DOL hearings without trying to juggle the operating license hearings at the same time, as well as affording him time to catch up on his work between hearings (thereby interferring as little as possible with his new job and thus decreasing any problems because of his testifying). This would place the time of proposed hearings on protective coatings and intimidation, etc. around the first of March. With

the number of possible issues yet to be litigated, this should pose no problem for anyone involved.

CASE will be discussing with our witnesses any preferences they may have regarding scheduling, as well as which specific issues they believe must be handled in hearings. We will try to be prepared to discuss this in more detail by the time the Board is ready to have a conference call to discuss scheduling.

Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

APPLICATION OF TEXAS UTILITIES GENERATING COMPANY, ET AL. FOR AN OPERATING LICENSE FOR COMANCHE PEAK STEAM ELECTRIC STATION UNITS #1 AND #2 (CPSES)

Docket Nos. 50-445 and 50-446

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of CASE's Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule

have been sent to the names listed below this 23rd day of December, 1983, by: Express Mail where indicated by * and First Class Mail elsewhere.

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