

December 21, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

SECRETARY

In the Matter of)	
)	
TEXAS UTILITIES GENERATING)	
COMPANY, et al.)	Docket Nos. 50-445-2
)	and 50-446-2
(Comanche Peak Steam Electric)	
Station, Units 1 and 2))	

CASE'S OBJECTIONS AND RESPONSE TO INTERROGATORIES
AND REQUEST FOR DOCUMENTS REGARDING LINER PLATE

CASE received from the Applicant a discovery and document production request filed pursuant to 10 C.F.R. §2.740(b) and 2.741.

Answers 1-7

Questions 1 through 7 relate to a single phrase from CASE's November 15, 1984 filing (CASE's Further Evidence of a Quality Control Breakdown) regarding Intervenor's "independent investigation" of the liner plate. At the outset of this reply we object to these questions on the basis of attorney work product privilege. Any investigation done by Intervenor's was done either by or under the direct supervision of CASE's counsel, and Applicant is not entitled to such materials. However, without waiving that privilege we provide the following information to Questions 1 through 7:

Juanita Ellis had previously obtained from Mr. Avrill Dillingham's attorney a copy of the Brown and Root internal investigation into the complaints and termination of Mr. Dillingham. We understand that that investigation was obtained from Brown and Root in discovery connected with private litigation between Mr. Dillingham and Brown and Root.

CASE's use of the term "independent" in its November 15, 1984 filing denotes materials and information obtained outside of the discovery on these matters between TUGCO and CASE.

Answer 8

Intervenor no longer asserts that the correct welding procedure was for embed to plate welding was 88025.

Answers 9-17

With respect to the matter sought here Applicant in essence seeks from CASE further explication of the basis for its filings of September 27 and November 15, 1984. Both filings were made pursuant to Board orders which represented the Board's analysis of the extent to which further elaboration of CASE Contention 5 was required (September 27 filing) or permissible (November 15 filing). Neither in and of itself creates a right to discovery out of time any more than does Applicant's prefiled testimony, witness testimony or legal briefs. Thus, CASE opposes the requested discovery as untimely.

In addition, the filings themselves were made to provide the basis for CASE's position on the defects in liner plate documents. The Board has treated the September 27 filing as adequate since unless it were adequate the contingent obligation

of Applicant to file the Brandt testimony the following Monday would not have arisen. It was missing that filing deadline and several subsequent ones, which persuaded the Board to allow the November 15 supplement. These filings by CASE represent an unusual procedure in which CASE is required to disclose how it intends to use facts already in evidence. We believe we have already disclosed all the detail arguably required of us while noting that any such disclosure is unprecedented. We strongly oppose any further requirement to disclose how we intend to use facts in evidence in presenting our case for the following reasons:

The request is for CASE to prefile its final proposed findings and reveal in discovery the legal theories of its case as developed by its attorneys and those working for its attorneys and thus conflicts with the agreed schedule for findings and seeks impermissible attorney work product.

The request seeks from CASE a description of the relationship between Applicant's procedural requirements and Applicant's action. Applicant is at least as able as CASE to determine whether its conduct complies with its own procedures or not. It cannot ask CASE to audit its liner plate documents and then disclose that audit to Applicant. It is Applicant that should conduct a thorough audit of the liner plate documents and disclose to the Board and the parties the results of its audit.

The request apparently assumes that CASE has no evidence to support its position. As we have indicated clearly on several occasions, the evidence upon which we rely is (1) the liner plate

travellers, (2) the CPSES procedures for documenting work done on the liner plates, (3) miscellaneous plant documents such as the Cole discharge papers^{1/} and various NCRs, (4) admissions by Mr. Brandt of procedural violations and generally the Brandt testimony, and (5) whatever new evidence may emerge as the result of the Board's inquiries. Incredibly what Applicant now seeks is for us to tell them why we think that evidence proves they have improperly documented the liner plate work. If they cannot figure that out on their own, that is yet another indictment of their QA program -- i.e. Applicant is incapable of understanding how to apply its own procedures to inspection activities. This would certainly add substantial support to the aspect of CASE's Contention 5 which focusses on management attitude, competence and character. We will await Applicant's response to this filing to see if they are really conceding this point.

For these reasons, CASE objects to answering Questions 9-17. However, without waiving the objection CASE responds to Question 16(a) as follows:

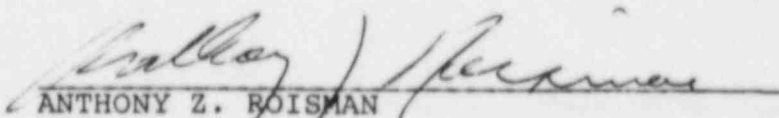
J. Duncan

^{1/} More data is still due from Applicant in response to the Board's request regarding the precise nature of the deficiencies in documentation which caused the Cole discharge, the reason why no deficiency paper was generated with respect to these deficiencies and the Applicant's standard for deciding where to order a reinspection of work performed by a discharged inspector. improperly documented the liner plate work.

Notwithstanding our belief that Applicant is not entitled to discover any of the answers to Questions 9-17 we have detailed below a list of CPSES procedures which we intend to rely on in our findings. We learned of the relevance of these procedures after November 15 when Applicant provided a copy of CP-QCP-2.11:

1. G&H Specifications 2323-SS-18 "Stainless Steel Liners"
2. B&R Construction Procedure CP-CPM 6.9 "General Piping Procedure"
3. WCP-5 "Control of Welding Material"
4. S-52-01-107A "Welding Specification for Shop/Field Erection Piping Systems and Components"
5. G&H Specifications 2323-SS-7 and Bostrom-Bergen Drawings 2401, Sheets 38, 39 and 40
6. CP-NDEP Manual
7. CP-QAP-10.1 "Field Inspection"
8. CP-QCP-2.11 "Inspection of S/S Pool Liner Systems"

Respectfully submitted,


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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of CASE's Objections and Response to Interrogatories and Request for Documents Regarding Liner Plate have been sent to the names listed below this 21st day of December, 1984, by: Express mail where indicated by *; Hand-delivery where indicated by **; and First Class Mail unless otherwise indicated.

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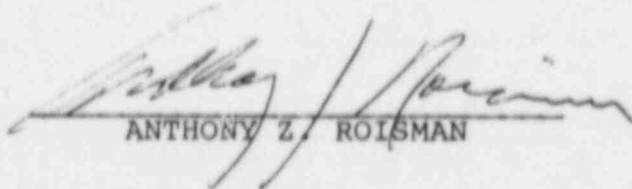
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