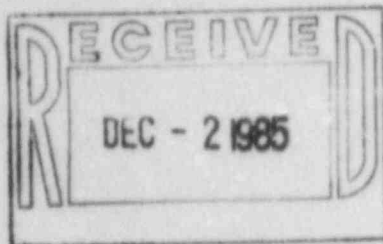


# The Light company

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November 26, 1985  
ST-HL-AE-1539  
File No.: G4.2, G25

Mr. Robert D. Martin  
Regional Administrator, Region IV  
U. S. Nuclear Regulatory Commission  
611 Ryan Plaza Drive, Suite 100J  
Arlington, Texas 76011

South Texas Project  
Units 1 & 2  
Docket Nos. STN 50-498, STN 50-499  
Response to NRC Comments on  
The HL&P B&R Litigation Record Review

Dear Mr. Martin:

This will confirm the discussions of November 12-15, 1985, with Messers Constable and Breslau of your staff, concerning NRC's comments on our program document describing HL&P's review of the litigation record in the lawsuit by the owners of the South Texas Project against Brown & Root, Inc. (B&R) and its parent company, Halliburton, Inc.

## Comment 1.

Comment (1) discusses expansion of the litigation review program to include all documents produced to HL&P during the STF litigation. This comment is based on a sentence in the "Brief History of the Case" section of the August 30, 1985, program document. 1/ Our rationale for not reviewing these documents is not that they are unavailable; rather, as explained in our program document, HL&P is not reviewing these documents because their review would be unlikely to reveal new information. Specifically:

- (1) The documents produced to HL&P were not created for the litigation; they contain no new insights, information or allegations arising as a result of the litigation.

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1/ This sentence stated that the lifting of the gag order in the HL&P v. B&R case did not render all documents produced "generally available."

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- (2) They are documents that either are already a part of project records or are of a type not normally examined by the NRC for licensing purposes.
- (3) In any case, to the extent these documents related to plant engineering or construction, they were generated by individuals who were obliged to report any safety deficiencies under NRC regulations and project procedures. There is no ground for doubt that these regulations and procedures were followed.
- (4) These documents have already been "screened" in a sense. During the litigation, documents reflecting problems in engineering or construction were a prime source of information in preparing for depositions, generating interrogatory answers and preparing expert reports. Information in these documents which is relevant to any important safety matter is thus likely to appear in the depositions, interrogatory answers, and expert reports that are being reviewed.

An expansion in scope that would include documents having a low probability of containing significant information cannot be justified, particularly in light of the exhaustive reviews to which STP design and construction have already been subjected, as discussed in pp. 4-15 of our program document.

Comments 2, 7, 8.

Comment (2) suggests that the review program should utilize definitions based on 10CFR50.55(e) in the criteria for identifying assertions. HL&P has considered this comment carefully; we believe that our current definitions are actually broader and leave less room for error than definitions based on 10CFR50.55(e). Application of 10CFR50.55(e) requires sophisticated engineering judgment to determine whether "each deficiency, ...were it to have remained uncorrected, could have adversely affected the safety of operations ...." The level of technical judgment required to apply this sophisticated concept opens up the possibility of error upon the part of engineers reviewing the record for assertions of deficiency; that is, they must make a complex judgment as to the effect of the deficiency. The criteria are drafted precisely to avoid subjective judgments of any kind. These criteria require reviewers to record every assertion of deficiency (that a system, structure or component (SSC) may not perform its intended function) regardless of its effect on the safety of operations. Our current program thus leaves less room for judgmental error and sweeps in a broader range of "deficiencies" than a definition tied to 50.55(e). Ultimately, our program requires a determination as to whether an assertion meets the 50.55(e) reportability criteria; but our first cut includes more: any impairment of an SSC's ability to meet its intended function. We are concerned that use of a more subjective criteria may be non-conservative and impair our mutual interest in having an objective and auditable record for review.

Comments (7) and (8) refer to the criteria for determinations on whether the substance of an assertion is safety-related or may be safety-related as a result of systems interaction effects. With respect to Comment (7), our reference to 3.2 of the FSAR is not intended to be limiting in any way. It is just one of several source listings identifying safety-related SSCs. If, in any of these listings an SSC is classified as safety-related, any assertion related to that SSC must likewise be considered safety-related. The current criteria allow almost no subjective judgement and this results in an easily auditable record of safety determinations. Our criteria identify 3.2 of the FSAR (in addition to the other documents) only because it provides a list of safety-related SSCs. Plant performance criteria and other materials in the FSAR which might in a particular case be relevant to determining, for example, whether a deficiency will impair the ability of a safety-related SSC to perform its intended function will be considered in the review.

Comment (8) suggests that the 10CFR 50.55(e) definition be incorporated into the Attachment 9 criteria for determination of whether assertions identifying deficiencies with interaction effects are safety-related. The purpose of Attachment 9 is to provide a "double-check" by an engineer with multidisciplinary experience to determine whether the assertion impacts a safety-related SSC. Again, our program provides a simpler, broader, and more objective definition of what is safety-related than is found in 50.55(e): any assertion affecting a safety-related SSC is considered safety related, regardless of its potential for adverse effects on the safety of operations. Again, we would be concerned that use of 50.55(e) definitional language could be nonconservative and impair the objectivity and auditability of the review process.

#### Comment 3.

Comment (3) suggests that "substantive deficiencies in the qualification of personnel conducting safety-related work is germane to the issue and should be addressed." The purpose of the litigation record review is to ascertain whether it discloses any previously unidentified deficiency in safety-related SSCs or their associated design or quality documents. We are looking at deficiencies in engineering or construction products. Certainly, in any instance where there is an assertion that B&R's functions were performed by personnel lacking applicable qualifications which resulted in a potential deficiency in construction or design, including related documentation, that particular indication (i.e., the assertions of a deficiency in the SSC) will be reviewed in our program.

#### Comment 4.

Comment (4) seeks amplification of the basis for excluding from review answers to interrogatories seeking only information about B&R's and Halliburton's affiliation with NUS, or other Halliburton subsidiaries. The interrogatories excluded on this basis were directed toward whether Halliburton, as a corporate entity, could be held liable for B&R's breaches of contract at STP. These interrogatories dealt with the corporate structure and financial and contractual relationships between Halliburton and its

subsidiaries. The crux of this issue was whether B&R and Halliburton acted as a single entity rather than as independent corporations. None of the interrogatories excluded on this basis requested technical information about STP design or construction.

Comment 5.

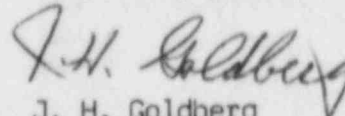
We are complying with Comment (5). Mr. Oprea's deposition testimony is being reviewed in its entirety.

Comment 6.

Finally, with regard to Comment (6), the list of criteria for what constitutes an "assertion" is co-extensive with the categories of documents subject to review as outlined on page 3 of our cover letter of August 30, 1985, and the program document (pp. 28-29). Every substantive assertion of deficiency by a witness, expert, or party reflected in the material subject to the program will be reviewed.

We welcome your advice, and trust this letter is responsive to your comments. We are making good progress in our review. The process of compiling assertions from depositions, interrogatory responses, and expert reports is nearly completed. We are presently on schedule and will keep Region IV advised of our progress.

Very truly yours,



J. H. Goldberg  
Group Vice President, Nuclear

MRW/yd



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Revised 11/20/85

# Controlled

Date: 12/3/85  
(7/85)

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