


United States Nuclear Regulatory Commission Official Hearing Exhibit	
In the Matter of:	Charlissa C. Smith (Denial of Senior Reactor Operator License)
	ASLBP #: 13-925-01-SP-BD01
	Docket #: 05523694
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May 31, 2013

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
CHARLISSA C. SMITH) Docket No. 55-23694-SP
)
(Denial of Senior Reactor)
Operator License Application))
)

NRC STAFF TESTIMONY OF EDWIN LEA, JR. CONCERNING THE CLAIM
BY CHARLISSA C. SMITH THAT THE NRC IMPROPERLY DENIED HER
SENIOR REACTOR OPERATOR LICENSE APPLICATION

Introduction

Q.1. Please state your name, occupation, and by whom you are employed.
A.1. My name is Edwin Lea, Jr. I started working for the NRC in June 1987 as a reactor inspector. I qualified as an operator licensing examiner in 1990. I am currently a Senior Operations Engineer.

Background

Q.2. Please explain what your overall duties have been in connection with the denial of the Senior Reactor Operator (SRO) license application of Charlissa C. Smith (Ms. Smith).
A.2. I had no duties in connection with the denial. I am an examiner in Region II and I was neither an examiner nor reviewer in connection with Ms. Smith's application.
Q.3. Please explain your involvement in Ms. Smith's application.
A. 3. On December 11, 2012, I sent an email to Mr. Michael Johnson identifying concerns I had with operation licensing activities in Region II. I sent the email because it was my belief that an SRO applicant, at the Vogtle Nuclear Power Plant, was wrongly denied a

license. My belief that the applicant was denied a license was based on my understanding of the guidance identified in NUREG 1021, Operator Licensing Examination Standards for Power Reactors, Revision 9, Supplement 1, and on comments/actions I believed were made/taken by individuals within the operator licensing branch who were involved in the applicant's waiver request denial and subsequently the denial of a license.

Q.4. Explain what first-hand knowledge you had of the denial.

A.4 I have no first-hand knowledge. I heard conversations between several operator licensing examiners concerning the failure a SRO applicant discussing how to write up the failure of the operating test such that the decision would not be overturned by Headquarters during the appeal process. I also heard that the applicant previously passed the operating test. Although I had no knowledge of her test scores or how well she did on the exam, I became curious as to why a waiver was not given based on the applicant having previously passed the operating test. Based on that concern, I asked the administrative assistant referred to as an operator licensing assistance (OLA) if she knew what applicant they were referring to. The OLA provided me with the name of the applicant and documentation from the first exam the applicant was given.

Q.5 Explain which individuals you spoke with directly who either administered the test or performed the review.

A.5 I did not speak with anyone; I looked up what information I could access without being a reviewer. In reviewing the documentation, I noted that the individual passed the operating exam. It is my belief that typically an individual is granted a waiver of the section of the exam which was successfully completed. After reviewing the comments by the examiners pertaining to Ms. Smith performance on the operating test it was my belief or my conclusion that the individual should not have been required to retake the operating portion of the exam. While I have no first-hand knowledge of Ms. Smith's case, I was not assigned to examine Ms. Smith,

and I was not assigned to review Ms. Smith's waiver request or denial, it is my belief that the decision to deny the applicant a waiver was not warranted.

Q.6 What other documentation did you see?

A.6. While reviewing other documentation associated with the exam I noticed that there were other applicants who requested a waiver. All applicants' waiver requests were granted. Ms. Smith, a female, was the only individual not granted a waiver.

Q. 7. Was there a request for the waiver request box checked on the NRC form 398?

A. 7. I don't recall.

Q. 8. Describe any other comments you have.

A.8. It is my understanding that Frank Ehrhardt, a former examiner and current branch chief, was selected to perform a fairness review of the denial. While I did not talk to him directly, and I did not verify the information, I am speculating that he was not in initial agreement with the denial issued by the OL branch as it was my understanding that individuals who participated in the exam, after learning of the direction he was leaning in, pointed out to him why he should agree with issuing a denial. I never verified this information as I received this information second-hand after conversations with the Region II OLA.

Q. 9. Explain your basis for your claim and concerns.

A.9. Although I never spoke directly to any of the individuals regarding involvement in the denial process, my personal review of the documents and my interpretation of the conversations associated with the failure of the applicant, led me to believe that after individuals in Headquarters were ready to suggest issuing a license to the applicant, individuals from RII involved in the denial of the applicant's license went back and came up with additional comments in its effort to bolster and support the failure. I believe that the actions taken by RII show how determined they were to make sure that the Region's proposed denial was upheld.

Q. 10. Please describe the nature of your concern regarding a comment at a monthly Branch meeting concerning this applicant.

A. 10. Malcolm Widmann, Branch Chief OLB 1, stated, "We did ourselves proud." These words were spoken by him in a monthly branch meeting in November or December in reference to the Vogtle denial. However, I did not discuss with him what he meant by that statement. Furthermore, during the December current events meeting, several individuals involved in the licensing decision for the applicant were given an award.

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APPLICATION

I, Edwin Lea, Jr. do hereby declare under penalty of perjury that my statements in the foregoing testimony and my statement of professional qualifications are true and correct to the best of my knowledge and belief.

Executed in Accordance with 10 C.F.R. § 2.304(d)

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Executed in Atlanta, Georgia
this 31st day of May, 2013