

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'98 SEP 28 P1:49

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Richard F. Cole
Dr. Charles N. Kelber

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

In the Matter of

Conam Inspection, Inc.
Itasca, Illinois
(License No. 12-16559-01)

Order Imposing Civil Monetary
Penalty

Docket No. 30-31373-CivP

ASLBP No. 98-735-01-CivP

EA 97-207

September 28, 1998

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MEMORANDUM AND ORDER
(Proposed Findings of Fact/Conclusions of Law)

At the conclusion of the evidentiary hearing on Friday, September 18, 1998, the Atomic Safety and Licensing Board, following consultation with both parties, approved the following schedules for the parties to file proposed findings of fact and conclusions of law (Tr. 1227-28):

NRC Staff	November 6, 1998
Licensee	December 7, 1998
Reply of NRC Staff	December 18, 1998

It is noted that, prior to approving the foregoing schedule, which includes sequential filings (as contemplated by the current Rules of Practice, 10 C.F.R. §§ 2.754(a), 2.711), the Board advised the parties of the Commission's recent Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC __ (July 28, 1998), which

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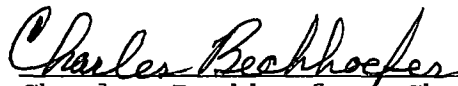
recommends simultaneous filings.¹

Both parties pointed out that simultaneous filings in this case would necessitate, for equity reasons, that responses of each party to the other party's filing should also be permitted. That would result in the filing of four rather than three documents, as provided in the Rules. More importantly, in the context of this enforcement matter, it also would likely result in the Licensee filing mostly formalistic findings as it awaits a chance to respond to the submission of the Staff as the party with the burden of proving the alleged wrongdoing.

The parties accordingly agreed to sequential filings of proposed findings (Tr. 1226). In the belief that sequential filings would reduce the overall burden on the parties, as well as assist the Licensing Board in reaching its decision as expeditiously as possible, the Board approved the above-listed filing schedule.

IT IS SO ORDERED.

For the Atomic Safety and
Licensing Board


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 28, 1998

¹The Statement provides that, where the Rules of Practice provide for "sequential (rather than simultaneous) filings," the Boards should explore with the parties "all reasonable approaches to . . . provide for simultaneous filing of documents." Policy Statement, at 4 (slip op.), 48 NRC at ____.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (PROPOSED FINDINGS...) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Dated at Rockville, Md. this
28 day of September 1998

Adria T. Byrdson
Office of the Secretary of the Commission