AUG 30 1979

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC COMPANY,	)	Docket No. 50-344
	)	(Control Building Proceeding)
et al.	)	
	)	
(Trojan Nuclear Plant)	)	

ARGUMENT AND DOCUMENTATION IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION OF COALITION FOR SAFE POWER'S CONTENTION NO. 3

I. The Contention

At the prehearing conference on March 29, 1979, Coalition for Safe Power's Contention No. 3 was admitted (Tr. 3019) to read as follows:

> Plant Staff review of proposed modifications is inadequate to assure no violations of Technical Specifications will occur.

II. Material Facts As To Which There Is No Genuine Issue To Be Heard

A. Specific construction tasks necessary to carry out the modification program will be performed in accordance with work plans, which are written instructions and procedures, to be prepared by Bechtel based on design drawings of the Plant, engineering drawings for the modification work and site visits.

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B. The work plans will provide detailed instructions and guidance for the performance of specific construction tasks, and can include design drawings and specifications, as well as supplier documents and applicable codes and standards or references thereto.

C. The work plans for the modification work will be prepared after completion of the design and licensing processes, taking into account any limitations imposed by those processes and the operating status of the Plant. Consequently the work plans cannot be finalized until shortly before the work is to be done.

D. After Bechtel prepares the work plans, they will be submitted to the Plant's Resident Engineer, whose approval is required before any work can be performed. Under PGE's administrative procedures, prior to any approval by the Resident Engineer he must first obtain the written concurrence of the Plant Quality Assurance Staff.

E. The Plant Quality Assurance Supervisor, and/or members of his staff, will review each work plan against the Technical Specifications and Plant administrative procedures, taking into account the operating status of the Plant. This review is not unique to the modification work; the Plant Quality Assurance Staff routinely conducts such a review for any work plan which governs quality related work activities onsite.

F. The reviewers on the Plant's Quality Assurance Staff have backgrounds in Plant operations and related disciplines. They will have ready access to other personnel within the Plant Staff and within PGE's engineering, design and construction staffs should a question arise in the course of their review. If the review does reveal an instance in which the planned work would conflict with a Technical Specification or Plant administrative procedure, the work plan will be changed to assure compliance.

III. Discussion

The material facts listed above, and the attached affidavits of Mr. Edwards and Mr. Withers, demonstrate that the Trojan Plant Quality Assurance Staff's review of Bechtel's work plans will assure that the planned work will not violate any Technical Specifications or Plant administrative procedures.

It is important to note at the outset the narrow scope of the issue raised by CFSP's Contention No. 3. When questioned by the Board at the prehearing conference as to the intent of the contention, Mr. Rosolie, CFSP's representative, read a single sentence from Section 4.3.3 of PGE-1020 which states "Bechtel construction work plans will be reviewed by the Plant Staff to ensure that modification work will not violate Trojan Technical Specifications . . . ." (Tr. 3015-16). Both the wording of the contention and its source make clear

that it is only the scope and adequacy of this particular review of the work plans by the Plant Staff which have been raised by CFSP, not any of the other many reviews of the modification program which are necessarily conducted by Bechtel and PGE.*/

When focus is placed upon the limited purpose of the specific Plant Staff review here in issue, it is obvious that the procedures which will be followed by Bechtel and PGE are fully ample to meet the necessary objectives. Mr. Edwards' affidavit (paragraphs 5-6) describes the limited purpose of the work plans which will be prepared for each task within the modification program and the details which they will contain. As he explains (paragraph 7), since the development of the work plans are not part of the design and licensing processes, but must take into account any limitations imposed by those processes and the operating status of the Plant, they cannot be finalized until shortly before the work is to be done.

Mr. Withers' affidavit (paragraph 6) points out that the Plant Staff's review of construction work plans,

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*/ As Mr. Withers' affidavit points out (paragraph 6), for example, the Plant Staff's review of work plans does not involve a review of the adequacy or effectiveness of the modification design, or a safety evaluation of the modification, or a review of compliance with quality assurance requirements. These additional, separate reviews are described in PGE-1020, Sections 4.3.1, 4.3.2 and 6, respectively.

(which is the responsibility of the Plant Quality Assurance Supervisor and his staff) is a routine duty, not unique to the modification work. He explains (paragraph 8) how the reviewers are particularly suited, by virtue of their qualifications and other responsibilities, to perform that review in a satisfactory fashion. Moreover, should the need arise during their review, they can call on others within PGE for assistance (Id.). If the review discovers any conflicts with the Technical Specifications or the Plant's administrative procedures, Bechtel's work plans will be changed to assure there are no violations. (Edwards' affidavit, paragraph 6; Withers' affidavit, paragraph 9).

It is apparent that CFSP's concerns are totally unsupported. At most, as CFSP stated in its response to Staff Interrogatory C3-3, it has a groundless concern that PGE's review could not possibly be sufficient under any circumstances.*/ Such vague premonitions do not constitute a factual basis for a contention.

In its responses to PGE's interrogatories, CFSP has raised a number of other unsupported or irrelevant

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*/ CFSP's precise response to the NRC Staff's question concerning the basis for its concern was: "We do not believe that a mere review of the modifications is enough to insure that no Technical Specifications are violated. We believe the only way to insure that such an event does no occur is to have the plant in cold shutdown."

matters. For example, it asserts that the "Plant Staff will not be able to determine whether or not a Technical Specification will be violated" (Supplemental Response to Licensee's Interrogatory 1(a) and that the Plant Staff "is unable to avoid or foresee problems arising at the Trojan Plant" (Response to Licensee Interrogatory 13(c)(iii)). As basis for these assertions, CFSP lists seventy Licensee Event Reports (LER's) issued over the last three years, certain testimony and an exhibit from the interim operations hearings, and a memorandum concerning alleged behavior of Plant operators on duty. CFSP's mindless citation of 70 LER's (without any indication of any relationship to the modification work to be performed, the Plant Staff review or the Technical Specifications*/ involved) either is irrelevant or undercuts, rather than supports, its assertions. In order for an LER to be filed there must be detailed knowledge and understanding by the Plant Staff of the Plant's Technical Specifications and operating limitations, and how various events or activities occurring at the Plant affect those Technical Specifications and limitations. The fact that LER's are filed by PGE is demonstrable evidence of the fact that the Plant Staff is fully

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*/ CFSP has yet to identify any Technical Specifications which it believes might be violated by the modification work despite its assertion on April 13, 1979, that it was conducting a review of the Plant's Technical Specifications for that purpose. (CFSP's Supplemental Response to Licensee's Interrogatory 1(b)).

aware of limitations imposed by Technical Specifications, and is capable of initiating required corrective actions or measures.

CFSP's citation to testimony from the interim operations proceeding is also irrelevant to the instant contention since it does not pertain to review of work plans by the Plant's Quality Assurance Staff.*/ Similarly, the exhibit and memorandum cited by CFSP are irrelevant since they do not deal with the Plant's Quality Assurance Staff, the review of work plans or Technical Specifications.

CFSP has admitted that it does not believe that there are any particular circumstances relating to the modification program which will make it difficult to determine whether a Technical Specification might be violated. (Response to Licensee's Interrogatory 13(d)) It has failed to show any reason to question whether the Plant Staff will properly review Bechtel's construction work plans. For the reasons discussed above, such review, of course, cannot take place until the work is about to be performed.

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*/ Moreover, it should be noted that the design deficiency discussed in Mr. Broehl's testimony was immediately reported to the NRC. That there might have been differing views as to how the Technical Specifications applied to the unique circumstances there involved, had no bearing on the actions taken by PGE and the NRC and has no bearing on the Plant Staff's ability to review construction work to be performed.

As the Board specifically warned when admitting CFSP's Contention No. 3, it expected CFSP to answer interrogatories much more specifically than it has in the past and "if a motion for summary disposition is appropriate, we'll consider it at that time prior to hearing." (Tr. 3019)

Since no factual issues have been raised by CFSP which contradict the facts recited in the affidavits of Mr. Edwards and Mr. Withers, the motion for summary disposition of CFSP's Contention No. 3 should be granted as a matter of law.