

7-29-78 Reg. Files



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
THE TOLEDO EDISON COMPANY AND)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)
(Davis-Besse Nuclear Power)
Station, Unit No. 1))
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY, ET AL.)
(Perry Nuclear Power Plant,)
Unit Nos. 1 and 2))

Docket No. 50-346A

Docket Nos. 50-440A
50-441A

REPORT OF SPECIAL MASTER

The documents listed below (except for number 57) are those that I have reported on a previous occasion were not in my possession.

Work-product privilege is sustained as to documents 13 and 20 which are communications from CEI attorneys to other CEI attorneys containing legal analyses.

Attorney-client privilege is sustained as to document 164 which is a memorandum from a CEI attorney to company officers recommending against certain legal activities in a particular case.

Attorney-client privilege is denied as to document 565. The document is a letter by an attorney for Toledo

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Edison Company to an officer thereof containing a list of legal problems having to do with the prospective operation of Nuclear Mutual Ltd. This document came from CEI files. There is no showing that CEI has any interest in Nuclear Mutual Ltd. or that it has in his instance a right to claim privilege on behalf of Toledo Edison.

Attorney-client privilege is sustained as to document 586. This is a letter which transmitted memoranda from a CEI attorney to an attorney representing CAPCO. The letter contains references and suggestions with regard to the memoranda.

Attorney-client privilege is sustained with regard to document 785. This is a draft of a proposed letter to a firm of accountants regarding CEI litigation which was circulated internally among CEI "control group" members.

Both attorney-client and work-product privileges are claimed and sustained for document 833. The document concerns the possibility of trading mineral rights in certain property owned by CEI for mineral rights in other property. It was distributed in the CEI "control group" and contains plans regarding the possible trade.

The attorney-client privilege is sustained with regard to 2026, 2034, 2069 and 2074. These are legal opinions and analyses by CEI attorneys provided to other CEI attorneys and to others within the CEI "control group."

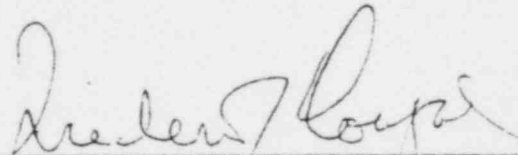
The work-product privilege is sustained as to document 2158. This is an outline of testimony proposed to be given at a hearing.

The attorney-client privilege is claimed for document 3069. Most of this document is a report by a CEI attorney of what occurred at a prehearing conference. For the most part, it purports to be a straight forward account of what did occur and intent is not apparent that what is said was meant to be confidential. However, the document contains three parts which are impressions of the attorney and these are privileged. The privileged sections are the first two sentences of the fourth paragraph on page 1, the last sentence of the first paragraph of page 2, and all of the final paragraph on page 2. The document shall be released after deletion of those sections.

Document 57 is a letter of transmittal of a draft document. The letter was written by counsel for CAPCO to lawyers representing members of the CAPCO group. It is

privileged as an attorney-client communication because in addition to being a letter of transmittal it indicates a statement of an intent of the writer to do certain things on behalf of CAPCO. It is noted that the privilege claimed was work-product.

IT IS SO ORDERED.



Frederic J. Coufal, Special Master

Dated at Bethesda, Maryland,
this 29th day of July, 1975.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
THE TOLEDO EDISON COMPANY, ET AL.) Docket No. (s) 50-346A
CLEVELAND ELECTRIC ILLUMINATING) 50-440A
COMPANY) 50-441A
)
(Davis-Besse Nuclear Power)
Station, Unit No. 1; Perry)
Nuclear Power Plant, Units 1&2)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list hereto, by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this

_____ day of _____ 197__

Office of the Secretary of the Commission

