

ORDER ACTION

Licensee: Union Electric Company
P. O. Box 149
St. Louis, Missouri 63166

Facility: Callaway Plant, Units 1 and 2

Docket No. 50-483; 50-486 **License No.** CPPR-139 & 140

<u>CATEGORY</u>	
Reactor (construction)	<input checked="" type="checkbox"/>
Reactor (operational)	<input type="checkbox"/>
Fuel	<input type="checkbox"/>
Facility	<input type="checkbox"/>
Materials	<input type="checkbox"/>
Type:	<input type="text"/>

ORDER TO SHOW CAUSE WHY CONSTRUCTION PERMITS
Type of Order: SHOULD NOT BE SUSPENDED

Issue Date: April 3, 1978

Reason for Order: On 3/30/78 investigators of NRC, acting under the authority of sections 161(c) and 161(o) of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.70 of the Commission's regulations initiated an investigation to determine (1) whether a construction worker engaged in activities under the license was discharged because the worker made allegations to NRC concerning alleged construction problems, which, if uncorrected, could lead to unsafe conditions at the facility, (2) whether the NRC regulations should be amended to provide expressly that all workers involved in licensed activities under a construction permit are encouraged to communicate with the NRC concerning matters which jeopardize the public health and safety, (3) whether there may now exist unsafe conditions at the facility. On 3/30/78 the investigators sought to examine various records and personnel of Daniel Construction Co. and were denied access to the records.

Summary:

The licensee was ordered to show cause why the license should not be suspended until such time as the licensee, including its employees, agents and contractors engaged in activities under the license, submits to the investigation and all other authorized investigations and inspections.

Further Action:

The licensee requested a hearing in the matter. The prehearing was on 6/16/78 in HQ. Counsel for the parties concluded that no evidentiary hearing was necessary and that the Board could dispose of the matters on briefs, supplemented by oral argument. The presiding ASLB issued a decision on 9/29/78, authorizing the IE Director to suspend the construction permits until the licensee submits to any inspections deemed necessary by NRC, the decision being effective in 30 days. Both the intervenor and the licensee appealed the decision.

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On 2/23/79, the Appeal Board affirmed the Licensing Board's decision that the Commission may suspend a construction permit until the Licensee's contractor permits an investigation into the circumstances surrounding the dismissal of a worker who had reported alleged unsafe construction practices to NRC inspectors. In light of the Commission's broad investigatory authority under the AE Act, the Appeal Board held that the investigation into the dismissal was appropriate in furtherance of the Commission's paramount responsibility to protect public health and safety. The Appeal Board also held that a warrant was not required to permit the investigation, that the Commission need not defer its investigation pending outcome of the grievance proceeding between the worker and the contractor, and that suspension pending submission to the investigation was an appropriate sanction. Because the worker had been reinstated, the Appeal Board dismissed as moot the issue raised by the Intervenor concerning the Commission's authority to provide the employee a remedy for retaliatory firing.