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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
KENNETH G. PIERCE
(License No. OP-30277-02)
Docket No. 55-30662; IA-94-007; ASLBP No. 94-694-05-EA

Dear Administrative Judges:

By means of this letter I am forwarding to you and Mr. Pierce a list of the NRC Staff's proposed witnesses and documentary exhibits as set out below. The Staff may present these witnesses and documents at the hearing scheduled in this proceeding for November 29, 1994. In addition, as instructed by the Board, I am including the Staff's statement of factual issues to be adjudicated.

I. PROPOSED NRC STAFF EXHIBITS FOR HEARING

1. Telecopy transmittal from M.J. Wallace, Commonwealth Edison Co., Downers Grove, IL to Brent Clayton, NRC Region III, dated 11/25/92. (7 pages). [OI EX. 4]
2. NRC Operator License OP-30277-2 dated June 1, 1988 (1 Page).
3. Dresden operating procedure DOA-300-12, Revision 2, dated November 1991 (6 pages). [OI EX. 8]

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4. Handdrawn diagram of control rod movement and computer printout from Dresden, Unit 2 dated September 18, 1992 (10 pages). [OI EX. 30- pages 1-9, & OI EX. 37-page 1]
5. Dresden forms DAP 14-14 entitled "Special Instructions" dated September 18, 1992 (5 pages). [OI EX. 34]
6. Operator Log for Dresden Nuclear Station, Unit 2, dated September 18, 1992: 7:40 a.m.-1:45p.m. (1 page). [OI EX. 24]
7. Handwritten, signed statement of Sean Miller dated November 24, 1992 (2 pages). [OI EX. 17, pp.2-3]
8. Handwritten, signed statement of John P. Marotto dated November 25, 1992 (2 pages). [OI EX. 16, pp.3-4]
9. Handwritten, signed statement of Kenneth G. Pierce dated November 25, 1992 (2 pages). [OI EX. 19, pp.4-5]
10. Handwritten, signed statement of David Tang Wee dated November 24, 1992 (1 page). [OI EX. 20, p.2]
11. Handwritten, signed statement of David Tang Wee, undated (1 page). [OI EX. 20, p.4]
12. Transcribed interview of Kenneth G. Pierce dated 11-17-93 held at NRC Region III, Glen Ellyn, Illinois (82 pages plus attachment).
13. Transcribed interview of Kenneth G. Pierce dated 12/30/92 (91 pages). [OI EX. 41]
14. Eight Dresden Nuclear Station deviation reports concerning mispositioned control rods reported by operators during 1990-1992 (eight pages).

II. NRC STAFF PROPOSED WITNESSES

1. Hironori Peterson, NRC Senior Resident Inspector, Byron Nuclear Power Plant, Byron, IL
2. Richard T. Anderson, Office of Investigations, NRC Region III, Lisle, IL
3. Richard P. Rosano, NRC Office of Enforcement, Rockville, MD
4. Michael J. Jordan, Operator Licensing Branch, NRC Region III, Lisle, IL
5. Sean Miller, Coal City, IL
6. George J. Piccard, Bolingbrook, IL

III. NRC STAFF STATEMENT OF THE ISSUES

In order to simplify the proceeding and to clarify the specific issues to be decided by the Atomic Safety and Licensing Board (Board), the NRC Staff has developed a statement of issues to be litigated, as set out below. Although no agreement was reached between the parties as to a joint stipulation of facts and statement of issues, the several discussions held between the parties indicated there should be no disagreement as to the issues to be decided by the Board.

The Staff believes that the following issues are to be decided by the Board, after presentation of evidence by the parties.

1. Whether, on September 18, 1992, during the day shift in the control room of the Dresden Nuclear Station, Unit 2, Mr. Pierce agreed with Messrs. Sean Miller, David Tang Wee, John Marotto and George Piccard, not to report the mispositioning of rod H-1 to senior management at the Dresden plant, in violation of 10 C.F.R. § 50.5?
2. Whether, during a transcribed interview by the NRC Office of Investigations on November 30, 1992, Mr. Pierce failed to provide complete and accurate information in all material respects, in violation of 10 C.F.R. § 55.9, when he stated he did not remember a conversation with Messrs. Miller, Marotto, Piccard, and Tang Wee in the Dresden Unit 2 control room on September 18, 1992, in which Mr. Tang Wee instructed them that information concerning the mispositioned rod would not leave the control room?¹

¹The Office of Enforcement has informed Staff Counsel that the statement concerning the falsification of Dresden Form 14-14c, in the April 21, 1994 Order issued to Mr. Pierce, in Part II, ¶ 2, is not, and was not intended to be, an allegation against Mr. Pierce. The statement was included only as another event which occurred, which is not an element of the action taken against Mr. Pierce.

3. If the Board finds in the affirmative on issues one and two, the Board must then decide whether the Order should be sustained, as set forth in Part V, ¶ 2 of the "Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)" issued to Mr. Pierce on April 21, 1994.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colleen P. Woodhead".

Colleen P. Woodhead
Counsel for NRC Staff

cc: Service List
To Mr. Pierce: Express Mail