

September 22, 1983 SEP 23 A9:41

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket Nos. 50-445 and
TEXAS UTILITIES GENERATING)	50-446
COMPANY, <u>et al.</u>)	
)	(Application for
(Comanche Peak Steam Electric)	Operating Licenses)
Station, Units 1 and 2)	

APPLICANTS' MOTIONS (1) TO CANCEL EVIDENTIARY
HEARINGS AND (2) FOR EXPEDITED CONSIDERATION

On September 7, 1983, the Board notified the parties that it intended to hold hearings on NRC I&E Report 83-23 (July 27, 1983) concerning the NRC Staff inspection of the Fuel Building at Comanche Peak. Those hearings are scheduled for October 18-19, 1983. For the reasons set forth below, Applicants move the Board to cancel the scheduled hearings.

I. Applicants' Motion

A. Background

1. NRC Special Inspection

The NRC Staff conducted a special inspection of the Fuel Building at Comanche Peak during the period May 23 through June 10, 1983. The Fuel Building had previously undergone a room completion inspection by Applicants. The detailed NRC inspection involved a review of selected procedures and representative records, interviews with personnel and observations by inspectors

in 13 areas, including the turnover/access control process as it relates to conduits/cable trays and supports, piping and supports, electrical separations and cable routing, terminations and electrical equipment seismic mountings; maintenance of installed equipment; punchlist controls; and QA audits. Seven NPC inspectors participated in the inspection, spending 366 inspector-hours onsite for the inspection.

As a result of this major inspection effort, the Staff found no violations or deviations regarding maintenance of installed components, verification of electrical terminations, cable tray installation, cable and cable tray separation, seismic installation and documentation, and large bore piping configuration. In fact, within the thirteen areas inspected, only two minor violations were identified. Those violations involved a few aspects of Applicants' inspection and instruction processes. As discussed below, these were minor violations involving primarily instances of small dimensional discrepancies between drawings and as-built conditions.

After thorough engineering reviews, Applicants determined that these discrepancies would have presented no safety concern even had they not been detected. In addition, none of the findings indicated that any significant changes in Applicants' QA/QC program were warranted. In response to these findings, Applicants have made minor adjustments to inspection procedures and checklists to provide added detail to existing program requirements. By letters dated August 24 and August 31, 1983,

Applicants responded to the violations and described the corrective steps taken (if any were necessary). Copies of these letters are attached hereto.

2. Rationale for Hearings

Following the September 7, 1983, conference call involving Applicants' motion for in camera proceedings, the Board notified the parties of its intent to hold a hearing to consider the Staff's inspection. No discussion of I&E Report 83-23 had occurred during the conference call, nor had the parties (or at least Applicants) been aware the Board was contemplating a hearing on this subject. Applicants subsequently inquired as to the rationale for holding this hearing, and the Chairman indicated that the Board considered the issues raised in the I&E Report 83-23 to be relevant and significant to the issues in contention.

As will be shown below, the findings of this Inspection Report involve no matters which present a concern for the adequacy of the inspected items. Nor do the findings reflect any systemic deficiency in Applicants' QA/QC program. Thus, while portions of the Report may arguably be relevant to the broad QA/QC contention in this proceeding, they certainly raise no significant questions that warrant holding a hearing.

B. Need for Hearing

As will be demonstrated below, the findings in I&E Report 83-23 raise no significant questions regarding Applicants' QA/QC program. In fact, those findings are not significant from either a safety viewpoint or a programmatic viewpoint, and they present no information which warrants holding a hearing.

If new information becomes available on a matter on which the record has been closed,¹ the proceeding may be reopened to receive additional record evidence only if the information "casts sufficient doubt on the safety of [the plant] so that its inferences must be logically and reasonably addressed and resolved." Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), LBP-83-53, 17 NRC ____ (August 18, 1983), slip op. at 3. When no request for a hearing on this matter had been made by any party, the Board should be particularly cautious to assure that a serious safety matter is raised before calling for a hearing. In this posture, the Board's task is actually one of determining whether a serious safety concern is raised that warrants sua sponte examination pursuant to 10 C.F.R. §2.760a. Manifestly, none of the matters

¹ The record on Contention 5 (QA/QC) must be considered closed with the exception of a few outstanding matters awaiting completion of certain NRC investigations and open items from two previous inspections. Indeed, the Board is about to issue its Final Decision on the remainder of the issues considered under Contention 5, an indication of a more complete (and final) posture of the record than the record on pipe support design allegations, as to which the Board has considered the record to be closed. Memorandum and Order (Motions to Reopen the Record and to Strike) (September 1, 1983) slip op. at 1.

addressed in the I&E Report presents serious safety concerns which warrant holding a hearing, as demonstrated below.

Applicants have already expressed their views on this Board's application of its sua sponte authority and the need for the Board to exercise judicial restraint. We will not repeat here the discussion of the standards and limitations governing that authority. Rather, we invite the Board's attention to Applicants' Objections to Proposed Initial Decision (August 27, 1983), at pp. 5-15. The discussion therein is equally applicable here, where the Board on its own motion would reopen the record to have the parties litigate the results of an NRC Staff inspection that found no items of safety significance. The Board's action is particularly perplexing because the Staff drew no final conclusions from its inspection, and expressly found where it reached a conclusion regarding the safety implications of a finding that the identified discrepancies are not of major safety significance (I&E Report 83-23, Appendix B at 7).²

² We trust that the Board is not purporting to try this case for and instead of the parties. In this regard we note the intervenor did not move to have this information addressed in a hearing, and there is no basis for doing so. The Board denied CASE's motion that the Inspection Report be admitted into the record in connection with its proposed findings on pipe support allegations (Memorandum and Order (Motions to Reopen the Record and to Strike) (September 1, 1983)), yet the Board now would go beyond the relief CASE sought regarding this Report by directing that a hearing be held. Such a role for a Licensing Board directly conflicts with the Board's responsibilities established by the Rules of Practice (e.g. 10 C.F.R. §2.760a), with which the Board is bound to comply (Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2), ALAB-696, 16 NRC 1245, 1263 (1982)), and reemphasized by the Commission (see Statement of Policy Regarding Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452 (1981)).

Rather than order evidentiary hearings on the Inspection Report, the Board should take confidence that the regulatory process established by the Commission is working satisfactorily. That process contemplates that the Board will adjudicate matters placed in controversy by the parties on matters of serious safety significance (10 C.F.R. §2.760a), and that the Staff will fulfill all other NRC regulatory functions, including the inspection and regulation of Applicants' activities. The instant inspection by the Staff is but one of hundreds it has conducted at Comanche Peak. Absent some compelling safety issue raised in the Inspection Report, the Board should exercise judicial restraint by cancelling the hearings and allowing the Staff to proceed with the duties assigned to it by the Commission. Those duties include a review of Applicants' responses to the Inspection Report and such other follow-up as the Staff may deem appropriate.

Applicants submit that another compelling reason exists for not conducting unnecessary hearings on this matter. The public perception created when the Board conducts hearings for Comanche Peak is that if the Board deems hearings to be necessary, there must be a serious problem. This phenomenon has been experienced for any number of issues in this case (e.g., rock overbreak, concrete shrinkage cracks). The positive information on Comanche Peak is never disseminated, while any negative information (regardless of how insignificant) is always highlighted. Neither the NRC, the Applicants nor the public benefit from the

litigation of insignificant issues in terms of resources expended, time consumed and incorrect perceptions conveyed. The lesson to be learned from these experiences is that the public interest is not served and public confidence in the regulation of nuclear power is not furthered by litigation of insignificant issues.

Nevertheless, regardless of the posture in which the Board considers this issue to rest, Applicants submit that the Board can satisfy itself and assure a complete record in this instance without holding a hearing. Applicants address below each of the findings which were the subject of notice of violation, and include appropriate supporting affidavits. These discussions and accompanying affidavits demonstrate that no serious safety question is raised by the Staff Inspection. Because the Board is curious regarding the Staff's inspection methodology and the relationship of this inspection to the Independent Assessment Program being performed by Applicants, the Staff should satisfy that curiosity in its response to this motion. Accordingly, Applicants move the Board to cancel the scheduled evidentiary hearing regarding I&E Report 83-23.

II. Safety Significance and Programmatic Implications of Items Identified in I&E Report

As demonstrated below, none of the items identified as violations in I&E Report 83-23 poses any serious safety question which warrant the holding of an evidentiary hearing. In addition, Applicants' evaluation of those items demonstrated that no significant programmatic deficiencies were identified which

warranted changes in Applicants' QA/QC Program. In support of these determinations we have attached the affidavits of Messrs. Tolson (for non-ASME activities) and Purdy (for ASME activities). Those affidavits address each of the findings in I&E Report 83-23 cited in the notice of violation.

The violations in I&E Report 83-23 are divided into two categories. These categories concern (1) the inspection program at Comanche Peak (10 C.F.R. Part 50, Appendix B, Criterion X) and (2) the use of instructions (10 C.F.R. Part 50, Appendix B, Criterion V). With respect to the inspection program, the Staff maintained that four areas contained items not satisfying applicable inspection requirements. Regarding the use of instructions, the Staff maintained that one area of instruction inadequately addressed a particular procedure. We discuss each of these areas below.

A. Inspection Program

1. Cable Tray Supports

The Staff made two findings regarding materials used in individual members of two cable tray supports. These findings were (1) the actual size of an installed steel angle wall connection (L5"x5"x3/4") on one support was specified on the design drawing as L6"x6"x3/4", although the connection size actually employed was permitted by procedure, and (2) the horizontal support member on one support utilized a six inch channel and channel stiffener rather than the four inch without stiffener on the design drawing (I&E Report 83-23 at 11-12.).

As noted in the affidavit of Mr. Tolson, the original design of the hanger utilizing the steel angle wall connection permitted either the 5x5 or the 6x6 connection. The drawing to which the support was inspected by the Staff incorrectly referenced a 6x6 connection as having been installed. A revision to the drawing has been issued to reflect the 5x5 connection actually installed. (Tolson Affidavit at 2.)

With respect to the horizontal support member mentioned above, as discussed in Mr. Tolson's affidavit, the specification for this support member calls for a "Detail L" support, "similar to an SP-7 w/ brace." The basic difference between a Detail L and an SP-7 is material (channel) size. An SP-7 utilizes a 6 inch channel (as used here) and a Detail L employs a 4 inch channel. In response to this finding the support drawing was revised to reflect the existing condition. (Tolson Affidavit at 2).

As also noted in Mr. Tolson's affidavit, each of these supports was evaluated by Project Engineering and found to present no concern for the adequacy of the installed components. In addition, Applicants determined that no programmatic change was necessary as a result of these findings. (Tolson Affidavit at 3.)

2. Installation of Hilti Bolts

One instance of Hilti bolt installation not in accordance with procedural requirements was identified by the Staff. This instance involved the installation of a 1/2" bolt less than one

inch from a cut-off embedded anchor bolt. The procedure required a minimum spacing of one inch between bolts. The Staff considers this item to be an isolated case because it was the only Hilti bolt installation deficiency noted in the inspection of 111 supports (I&E Report 83-23, Appendix B at 12), and Applicants agree (Tolson Affidavit at 3-4).

As described in the affidavit of Mr. Tolson, subsequent examination of this spacing determined there is approximately a 7/8" space between the installed bolt and the cut-off embedded bolt. This condition was identified on an unsatisfactory Inspection Report and evaluated by Project Engineering. That evaluation determined that no safety function of the support was impaired by this spacing. Mr. Tolson noted that the particular bolt in question was partially obscured by components and thus difficult to inspect. (Tolson Affidavit at 3.)

3. Large Bore ASME Pipe Supports

The Staff identified six supports (out of fifty inspected) which appeared to have discrepancies. In addition, five supports were found to have loose jam nuts, a condition related to inspection instructions. Of the six supports with noted discrepancies, Applicants have evaluated each, found no concern relating to the safety of the support, and determined no programmatic deficiencies were indicated. Each finding is discussed below.

a. Undersized weld

One fillet weld on one support was found to be undersized by less than 1/16" from the 1/2" weld indicated on the support drawing. As discussed in Mr. Purdy's affidavit, the undersized condition was evaluated and found not to be significant for that support. The support drawing was revised to reflect the existing weld. (Purdy Affidavit at 2.)

b. Dimensions not per Drawings

The NRC identified two supports as containing items not in full accordance with the dimensions identified on the design drawings (I&E Report 83-23, Appendix B at 5). As discussed in Mr. Purdy's affidavit, both these supports have been reinspected, and evaluated by Engineering as necessary. The first support (with a design dimension of 2' 3" from one member to the centerline of the pipe) was found to have an actual dimension of 2' 4-9/16" from the centerline. This measurement is within specified pipe location tolerances ($\pm 2"$) and thus did not require additional evaluation. The other support, which the Staff found to have a dimension between wall plates of 3' 2-1/2" (rather than the 2' 4-3/8" on the drawing) was found to have an actual dimension of 3' 0-3/4". This support was reevaluated and determined to be acceptable in the as-built condition, as it was more conservative than the original design. The drawing was revised to reflect the as-built condition. These are considered isolated instances not warranting further action. (Purdy Affidavit at 3.)

c. Materials not per Drawings

Two supports were identified as containing an item which did not comply with material specifications. The first support utilized a tube steel member of 1/4" (rather than the specified 1/2") thickness. The NRC Inspector also identified what was believed to be insufficient thread engagement on a 9" threaded rod. (I&E Report 83-23, Appendix B at 5.)

As addressed in Mr. Purdy's affidavit, subsequent inspection/evaluation of these items revealed no safety concerns regarding the adequacy of the supports. With respect to the tube steel thickness, this was determined to be an isolated drafting error. As for the threaded rod, it was determined that the rod in question was actually longer than required by the design drawing, thereby providing adequate thread engagement. Nonetheless, the rod was subsequently replaced with the length of rod specified on the drawing. In addition, to assure inspector attention to this type of condition, inspection checklists were revised to include a separate check-off on embedment of concrete expansion anchors/inserts such as threaded rods. (Purdy Affidavit at 3-4.)

d. Broken cotter pin

A single broken cotter pin was identified on one support, contrary to inspection procedures (I&E Report 83-23, Appendix B at 6). As described in Mr. Purdy's affidavit, the subject cotter pin was replaced and the procedure applicable to final inspections prior to ASME certification was expanded to include

documented verification of installed hardware, i.e., nuts, bolts, cotter pins, etc. Such attributes will continue to be inspected during in-process inspections. (Purdy Affidavit at 4.)

4. Small Bore ASME Pipe Supports

Of 35 small bore ASME pipe supports inspected, three were found by the NRC to contain discrepancies. As discussed below, none of these discrepancies was significant from a safety standpoint. Nor did any of these items indicate any significant deficiency in the QC inspection program. Each item was evaluated and appropriately dispositioned to assure greater attention to these details.

a. Dimensions not per drawing

One support was identified as having 1' 6" between 11/16" holes, rather than the 1' 6.5" indicated on the drawing (I&E Report 83-23, Appendix B at 6). As indicated in the attached affidavit of Mr. Purdy, this discrepancy was evaluated by engineering and found not to raise any safety concern. Accordingly, the drawing was revised to reflect the as-built condition. (Purdy Affidavit at 5.)

b. Shim not per drawing

The Staff identified one support on which shims were mis-oriented with respect to the drawing (I&E Report 83-23, Appendix B at 6). The actual location of shims is not part of the design criteria as it is specified by Engineering only by the annotation "field shim to suit." QC indicates actual shim location during walkdown inspection only as a means of verifying material

compatibility and weld acceptability. The shim location was corrected on the drawing by QC. No further action was necessary as it is not a design-significant characteristic. (Purdy Affidavit at 5.)

c. Materials not per drawing

A base plate on one support was found by the NRC to be 7/8" thickness, rather than the 1" specified thickness (I&E Report 83-23, Appendix B at 6). This variation was evaluated by Engineering and determined to be acceptable without modification. In addition, Applicants revised their inspection checklists to require expressly verification of baseplate dimensions. (Purdy Affidavit at 5.)

B. Instructions For Quality-Related Activities

The Staff identified one item considered to constitute a violation of 10 C.F.R. Part 50, Appendix B, Criterion V regarding use of appropriate instructions. Specifically, five supports were identified to have loose jam nuts, contrary to the provisions of applicable inspection procedures. (I&E Report 83-23, Appendix B at 6.) In response to this finding, Applicants tightened the identified nuts and revised the inspection checklists to add specific criteria for snug tight conditions in these nuts. These checklists are used in the final ASME certification inspection which had not been performed in the fuel building at the time of the NRC inspection. (Purdy Affidavit at 6.)

III. Conclusion

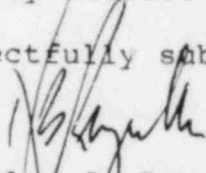
In conclusion, Applicants submit that the foregoing demonstrates clearly that there are no serious safety matters raised in I&E Report 83-23 that warrant yet another hearing in this case. In fact, Applicants consider overall that the results of the inspection reflect favorably on Applicants' QA/QC program. Two minor deficiencies were cited as violations (Severity Level IV), and Applicants have addressed them in responses to the Staff.

We recognize that the Board has an obligation to satisfy itself, through hearings or otherwise, that the record on admitted contentions is adequate. We believe that the Board can achieve that satisfaction by carefully reviewing the Inspection Report and Applicants' instant motion. In addition, to hold a hearing on the insignificant issues involved here would serve only to waste resources and undermine public confidence in the regulatory process and the safety of nuclear power. Accordingly, we urge the Board to cancel, as unnecessary, the hearings scheduled to commence on October 18, 1983.

Because time is short we move the Board to require expedited replies to this motion and to rule orally following receipt of those replies. Absent such expedited consideration, unnecessary time and effort would be expended by all parties in preparation for the hearing. Thus, good cause exists for expedited conside-

ration. Accordingly, we recommend that answers be received by the Board no later than September 28 (one week following receipt of this motion) and the Board rule by October 4, 1983.

Respectfully submitted,



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