

468.

DOCKETED
USNRC

June 84 1984 -5 P2:44

DISTRIBUTION:
SATreby
GSMizuno
RGBachmann
MKarman
ESChristenbury
JScinto
ELD FF (2)
SBurwell-316
WBrown, Reg.IV
DMB-PDR/LPDR

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Peter B. Bloch, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Kenneth A. McCollom
Administrative Judge
Dean, Division of Engineering,
Architecture and Technology
Oklahoma State University
Stillwater, OK 74078

Dr. Walter H. Jordan
Administrative Judge
881 W. Outer Drive
Oak Ridge, TN 34830

In the Matter of
Texas Utilities Generating Electric Company, et al.
(Comanche Peak Steam Electric Station, Units 1 and 2)
Docket Nos. 50-445 and 50-446 (2.206)

Dear Administrative Judges:

Enclosed for your information is a copy of correspondence between Harold R. Denton, Director, Office of Nuclear Reactor Regulation and Ms. Billie Pirner Garde, Citizens Clinic Director, Government Accountability Project dated May 24, 1984 to a Petition dated March 19, 1984 filed by the Government Accountability Project. This Petition is being treated under 10 C.F.R. § 2.206 of the Commission's regulations and a Federal Register notice to that effect is attached to Mr. Denton's letter. This letter has been provided to all parties.

Also enclosed is a copy of correspondence among Darrell G. Eisenhut, Director, Division of Licensing, L. L. Kammerzell, Vice President, CYGNA Energy Services and M. D. Spence, President, Texas Utilities Electric Company enclosing a new statement of protocol which addresses the variety of communications that occur during the course of an independent review. This correspondence has been provided to all parties.

Sincerely,

8406060140 840601
PDR ADOCK 05000445
G PDR

Geary S. Mizuno
Counsel for NRC Staff

Enclosures: As stated

cc w/o encls.: Service List

REGISTERED ORIGINAL

Certified By AS DS07

OFC :	OELD	:	:	:	:	:	:
NAME :	SATreby:as	:	:	:	:	:	:
DATE :	06/01/84	:	:	:	:	:	:



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

MAY 24 1984

Docket Nos.: 50-445
and 50-446

Ms. Billie Pirner Garde
Citizens Clinic Director
Government Accountability Project
Institute for Policy Studies
1901 Que Street, N. W.
Washington, D. C. 20009

Dear Ms. Garde:

This letter is sent to acknowledge receipt of a Petition dated March 19, 1984, filed by the Government Accountability Project on behalf of Citizens Association for Sound Energy and numerous nuclear workers. The Petition requested that the Nuclear Regulatory Commission (NRC) take certain actions with respect to alleged serious construction and documentation deficiencies at the Comanche Peak Steam Electric Station of the Texas Utilities Generating Company (TUGCO). Relief requested included immediate suspension of the construction permit for the Comanche Peak facility, a special NRC inspection at the facility, an independent design and construction verification program (IDVCP) to assess the integrity of the Comanche Peak Quality Assurance Program, and a comprehensive management audit of the TUGCO officials by an independent management auditing firm.

Your Petition has been forwarded to me for a response. It is being treated under 10 CFR 2.206 of the Commission's regulations and appropriate action will be taken on your Petition within a reasonable time.

I understand that the approach of submitting the affidavits directly to OI was taken out of a concern that the confidentiality sought by the affiants might be compromised by submitting the affidavits to some other organization within the NRC. I further understand that you are reluctant in the future to provide the NRC with the names of alleged and potential affiants unless the NRC commits to withholding those names from the NRC staff itself to preclude any breach of confidentiality.

The NRC recognizes the value of confidential sources and will take all reasonable steps to assure that confidentiality is maintained. Interviews of the individuals and their affidavits will be reviewed under the supervision of senior NRC staff. All technical issues contained in the documents from such interviews or contained in affidavits must be provided to appropriate NRC staff for prompt technical assessment. While we cannot commit to withhold the interviews and affidavits from any segment of the staff, all disclosures to staff members will be made on a strict "need to know" basis. The identity of the individuals will therefore be limited, adding assurance that the confidentiality of the source will be maintained. Future confidential sources will be treated in the same manner.

Ms. Billie Pirner Garde

-2-

While this process will be the normal one followed when dealing with confidential sources, to the extent that public health and safety requires that the source be identified to other NRC staff, such disclosure will be authorized.

With respect to the request in the Petition that construction at Comanche Peak be suspended immediately, the NRC staff has conducted a preliminary review of the three affidavits submitted in support of the Petition. The review revealed that the affidavits address alleged technical and wrong-doing issues regarding the Comanche Peak facility, including deficiencies in the document control process, a breakdown in the document control system, quality assurance documentation problems and bypassing of quality assurance requirements. These affidavits identify specific alleged incidents that have been occurring over a period of time in areas that are currently under NRC staff review. None of the allegations in the affidavits raises a public health and safety issue requiring the immediate suspension of construction activities. To the extent that the final NRC staff review of these matters identifies construction deficiencies, these matters will be corrected prior to operation of the facility.

The NRC staff has, and is, conducting an extensive review of the Comanche Peak facility with respect to the TUGCO application for an operating license. The NRC staff has also recently conducted an extensive Team Review of the facility. None of these efforts has indicated a basis for an immediate halt in construction.

The NRC staff will continue to review the Petition with regard to the relief requested in other areas. The NRC staff will consider all relevant information including additional information you may submit to further support your Petition. I will then issue a formal decision with regard to your Petition. A copy of the notice which is being filed for publication in the Office of the Federal Register is enclosed for your information.

Sincerely,



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure:
Federal Register Notice

cc: See next page

COMANCHE PEAK

Mr. M. D. Spence
President
Texas Utilities Generating Company
400 N. Olive St., L.B. 81
Dallas, Texas 75201

cc: Nicholas S. Reynolds, Esq.
Bishop, Liberman, Cook,
Purcell & Reynolds
1200 Seventeenth Street, N. W.
Washington, D. C. 20036

Robert A. Wooldridge, Esq.
Worsham, Forsythe, Sampels &
Wooldridge
2001 Bryan Tower, Suite 2500
Dallas, Texas 75201

Mr. Homer C. Schmidt
Manager - Nuclear Services
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

Mr. H. R. Rock
Gibbs and Hill, Inc.
393 Seventh Avenue
New York, New York 10001

Mr. A. T. Parker
Westinghouse Electric Corporation
P. O. Box 355
Pittsburgh, Pennsylvania 15230

David J. Preister
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711

Mrs. Juanita Ellis, President
Citizens Association for Sound
Energy
1426 South Polk
Dallas, Texas 75224

Mr. James E. Cummins
Resident Inspector/Comanche Peak
Nuclear Power Station
c/o U. S. Nuclear Regulatory
Commission
P. O. Box 38
Glen Rose, Texas 76043

Mr. John T. Collins
U. S. NRC, Region IV
611 Ryan Plaza Drive
Suite 1000
Arlington, Texas 76011

Mr. Lanny Alan Sinkin
114 W. 7th, Suite 220
Austin, Texas 78701

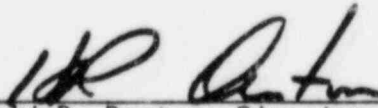
B. R. Clements
Vice President Nuclear
Texas Utilities Generating Company
Skyway Tower
400 North Olive Street
L. B. 81
Dallas, Texas 75201

William Burchette, Esq.
Law Office of Northcutt Ely
Watergate 600 Building
Washington, D. C. 20037

NUCLEAR REGULATORY COMMISSION
DOCKET NOS. 50-445 AND 50-446
TEXAS UTILITIES GENERATING COMPANY
COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2

Notice is hereby given that, by Petition dated March 19, 1984, the Government Accountability Project, on behalf of the Citizens Association for Sound Energy and numerous nuclear workers, sought immediate suspension of the construction permits for the Comanche Peak Facility. The basis for the Petition were alleged serious construction and documentation difficulties at the Comanche Peak Facility including destruction, manipulation, and alleged falsification of documents. The Petition also sought a special NRC inspection, an independent design and construction verification program to assess the integrity of the Comanche Peak Quality Assurance Program and a comprehensive independent management audit of the Texas Utilities Generating Company officials. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on this request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. 20555 and at the local public document room for the Comanche Peak facility at the Somervell County Public Library on The Square, P. O. Box 1417, Glen Rose, Texas 76043.

FOR THE NUCLEAR REGULATORY COMMISSION



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 24th day of May 1984.



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

MAY 31 1984

Docket No.: 50-445

Mr. L. L. Kammerzell
Vice President
CYGNA Energy Services
Suite 1000
San Francisco, CA 94111

Mr. M. D. Spence, President
Texas Utilities Electric Company
400 N. Olive St., L.B. 81
Dallas, TX 75201

Dear Messrs. Kammerzell and Spence:

Subject: INDEPENDENT ASSESSMENT PROGRAM (IAP) PERFORMED BY CYGNA

By my letter to you dated March 22, 1984, I requested CYGNA's and Texas Utilities' comments on and assessments of two questions concerning the adequacy of the independence maintained by CYGNA during its review conducted for the Independent Assessment Program on Comanche Peak. CYGNA responded by a letter signed by Mr. M. N. Shulman, Manager, Western Region, dated April 10, 1984. Texas Utilities responded by a letter signed by Mr. H. C. Schmidt dated April 18, 1984. Both of these letters urged that the "Protocol Governing Communications between TUGCO and CYGNA," an enclosure to my letter dated September 23, 1983, be clarified to address more clearly the procedures for communications between CYGNA and TUGCO. This matter was also discussed with CYGNA at its meeting with the staff on April 17, 1984.

After reviewing the above letters and discussions, we have prepared a new statement of protocol which more completely addresses the variety of communications that occur during the course of an independent review. See Enclosure.

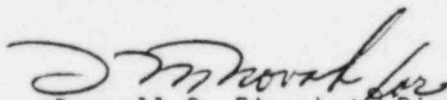
With respect to the independent assessment work carried out in response to the request of the NRC Staff, we believe that the remaining effort is in the "Discussion of Evaluation, Observations, and Findings" stage, rather than the "Information Gathering" stage. Accordingly, the portion of the protocol relating to discussion of evaluation, observations or findings should be followed, including the notes relating to contested cases.

Should the NRC Staff choose to require additional independent review work, it would require that the full protocol be followed including the notes for contested cases in which expedited effort is necessary, unless other provisions are required by the Atomic Safety and Licensing Board.

MAY 31 1984

With respect to work that CYGNA may do in connection with the Applicant's Plan to Response to Memorandum and Order (Quality Assurance for Design), as supplemented, CYGNA should follow such protocol as may be established by the Atomic Safety and Licensing Board. The Licensing Board has commented on the protocols to be followed in this connection. (Tr. 13117-13123.)

Sincerely,



Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc: See next page

Contact: B. J. Youngblood
492-7040

COMANCHE PEAK

Mr. M. D. Spence
President
Texas Utilities Generating Company
400 N. Olive St., L.B. 81
Dallas, Texas -75201

cc: Nicholas S. Reynolds, Esq.
Bishop, Liberman, Cook,
Purcell & Reynolds
1200 Seventeenth Street, N. W.
Washington, D. C. 20036

Robert A. Wooldridge, Esq.
Worsham, Forsythe, Sampels &
Wooldridge
2001 Bryan Tower, Suite 2500
Dallas, Texas 75201

Mr. Homer C. Schmidt
Manager - Nuclear Services
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

Mr. H. R. Rock
Gibbs and Hill, Inc.
393 Seventh Avenue
New York, New York 10001

Mr. A. T. Parker
Westinghouse Electric Corporation
P. O. Box 355
Pittsburgh, Pennsylvania 15230

Renea Hicks, Esq.
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711

Mrs. Juanita Ellis, President
Citizens Association for Sound
Energy
1426 South Polk
Dallas, Texas 75224

Ms. Nancy H. Williams
CYGNA
101 California Street
San Francisco, California 94111

Mr. James E. Cummins
Resident Inspector/Comanche Peak
Nuclear Power Station
c/o U. S. Nuclear Regulatory
Commission
P. O. Box 38
Glen Rose, Texas 76043

Mr. John T. Collins
U. S. NRC, Region IV
611 Ryan Plaza Drive
Suite 1000
Arlington, Texas 76011

Mr. Lanny Alan Sinkin
114 W. 7th, Suite 220
Austin, Texas 78701

B. R. Clements
Vice President Nuclear
Texas Utilities Generating Company
Skyway Tower
400 North Olive Street
L. B. 81
Dallas, Texas 75201

William A. Burchette, Esq.
1200 New Hampshire Avenue, N. W.
Suite 420
Washington, D. C. 20036

Ms. Billie Pirner Garde
Citizens Clinic Director
Government Accountability Project
1901 Que Street, N. W.
Washington, D. C. 20009

David R. Pigott, Esq.
Orrick, Herrington & Sutcliffe
600 Montgomery Street
San Francisco, California 94111

PROTOCOL GOVERNING COMMUNICATIONS
FOR INDEPENDENT REVIEW PROGRAMS

PURPOSE

The purpose of an independent review is to obtain the independent technical assessment of the independent reviewer with respect to the subjects covered by the independent review program. In this connection every reasonable effort should be directed toward assuring that the observations and conclusions of the independent reviewer are the result of its own independent technical assessment and not influenced or biased by representations of other parties such as the applicant, its employees or contractors, NRC staff members, or other persons associated with ongoing licensing proceedings. Thus, any factual information obtained from others not independently verified by the independent reviewer should be carefully documented and specifically identified as such. In addition, to the extent that the independent reviewer is attempting to ascertain actual design or construction practices, such as control, distribution and use of documentation, the independent reviewer should be careful not to affect these practices by pre-notification or otherwise.

The following guidelines are intended to accommodate the need to assure independence of the independent reviewer on the one hand, and, on the other hand, the legitimate need to assure an adequate efficient method for the independent reviewer to obtain information and for communication between the independent reviewer and the applicant and other parties. However, it is the responsibility of the independent reviewer to assure that these guidelines are implemented in a manner which assures an adequate independent review.

INFORMATION GATHERING

In obtaining initial information necessary to commence its review or carry out a specific review task, the independent reviewer has a clear need for prompt access to any data required to fulfill its independent review function. Although such communication should ordinarily be by written requests and written responses, this may be not be efficient in all instances and the independent reviewer may initiate such communications with the applicant (or its contractors) as it deems necessary to facilitate the collection or clarification of information. Hand written requests for documents, telephone conversations, face-to-face discussions, and meetings and visits to the site and offices of the applicant (and its contractors) may be utilized by the independent reviewer to obtain necessary information. All such requests for information and responses thereto shall be documented, but documentation may follow a request or exchange of information otherwise made, provided it is done promptly. If the applicant seeks to obtain simple clarification (e.g., clarification of

illegible documents or typographical, clerical or similar questions) of information requested by the independent reviewer to provide the independent reviewer simple clarification or simple correction of information previously provided, such communication may be informal. However, such communication should be promptly documented thereafter.

Correspondence and other documentation of information exchanged between the independent reviewer and the applicant during the information gathering stage, will be kept on file until issuance of the full power license and completion of all proceeding relating to the issuance of the full power license, and this file shall be accessible to the NRC.*

DISCUSSION OF EVALUATION, OBSERVATIONS OR FINDINGS

At Request of Independent Reviewer

When the independent reviewer determines that it is necessary or desirable to have a substantive communication with the applicant (or its contractors) regarding its evaluation of information, observations or findings of its review, such communication should ordinarily be by letter or by meeting but it may also be accomplished by telephone. If by telephone, a representative of the Division of Licensing shall be notified, in advance if practicable, and have the option of being included as a third party.** In addition, a brief written summary should be prepared by the independent reviewer and sent to the Director, NRC Division of Licensing,*** describing in sufficiently comprehensive form, the nature and content of the communication. If by letter, the Director of Licensing,*** should be provided a copy. Any exchange of drafts of letters or documents shall be treated in the same manner.

*/ In contested cases (in which the independent review may be relevant to matters in issue) the presiding Atomic Safety and Licensing Board may require exchange of such information with other parties or access to such information to other parties. In addition in some cases, including contested cases, where it is important to expedite NRC staff review, and any potential litigation involving the independent review program, arrangements should be provided to expedite access to such documentation to NRC and other parties and to provide for communication by meeting with all parties present or telephone conference with the opportunity for all parties to be joined.

**/ In contested cases the independent reviewer shall also offer the opportunity to participate to all parties to the proceeding, with notice in advance if practicable.

***/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

If such communication is by meeting,* all parties should be provided the opportunity to participate. The independent reviewer should provide as much advance notice to the Division of Licensing** as can be given consistent with its need to perform the review in a timely fashion; no express amount of advance notice is required and the inability of any other participant to attend such meeting is not a basis for delay. Nonetheless, a good faith effort should be made to provide notice and accommodate all participants. If the independent reviewer is unable to provide five days advance notice by mail, it will notify the Division of Licensing and the representatives of other parties, by phone. The Division of Licensing may request that the meeting be transcribed. Unless transcribed, the information obtained at meetings should be documented.

At Request of Applicant

The applicant has a significant need for timely access to the results of the program. To the extent the applicant desires communications with the independent reviewer beyond that described above and beyond simple clarification of information provided by the independent reviewer, the applicant should accomplish such communication either in writing or by arranging a meeting with the independent reviewer.** The independent reviewers' response to a written request for information should be in writing.*** If a meeting is requested by the applicant, the independent reviewer should, if it determines such meeting to be warranted, follow the arrangements discussed above. If the applicant seeks simple clarification of information provided by the independent reviewer (e.g., clarification of illegible materials or typographical, or similar clerical questions), such communication may be informal. However, such communication should be documented promptly thereafter.**

At Request of Other Parties

To the extent that any other party to the licensing proceeding may desire to have communications with the independent reviewer for the purpose of obtaining clarification of the independent reviewer's findings or observations or the basis therefor, the same procedure described above with respect to the applicant will be followed. In any event, the determination as to whether to hold a meeting with either the applicant or the intervenors will be within the independent reviewers sole discretion. To facilitate resolution of requests for clarification, the independent reviewer should identify a single point of contact (with a backup) with whom all participants can communicate either by phone or in writing.

*/ For meetings held during site visits, opportunity to participate in the site visit should be provided. Separate notice and opportunity to participate should be provided for meetings occurring during the site visit involving discussions of CYGNA findings or observations.

**/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

NRC STAFF COMMUNICATIONS WITH INDEPENDENT REVIEWER

The NRC Staff may require direct access to the independent reviewer. Ordinarily such staff communications with the independent reviewer will be by meeting with notice to all parties, by letter with copies to all parties or by telephone conference call with opportunity for all parties to be joined. In any instance of telephone call to the independent reviewer or meeting with the independent reviewer to discuss the independent review for which the staff does not give prior notice to the parties, the staff will prepare a brief written summary describing the nature and content of the communication. A copy of such summary will be provided to all parties.

Meetings between the staff and the independent reviewer regarding substantive findings will follow the staff's general meeting policy with as much advance notice as can be provided consistent with the staff's need to conduct its review on a timely basis.

FINANCIAL OR ADMINISTRATIVE MATTERS

Communications between the applicant and the independent reviewer solely with respect to the financial and administrative aspects of the independent reviewer contract are outside the scope of this protocol.