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February 20 1985  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )  
 )  
TEXAS UTILITIES ELECTRIC )  
COMPANY, et al. )  
 )  
(Comanche Peak Steam Electric )  
Station, Units 1 and 2) )

Docket Nos. 50-445  
50-446

*loc*

NRC STAFF REQUEST FOR EXTENSION OF TIME TO RESPOND TO  
CASE'S MOTION FOR ESTABLISHMENT OF EVIDENTIARY STANDARD  
AND REQUEST FOR BOARD DIRECTED INDEPENDENT INSPECTION

I. INTRODUCTION

On February 4, 1985, Intervenor Citizens Association for Sound Energy (CASE), filed a submission captioned "Motion for Establishment of an Evidentiary Standard and Request for Board Directed Independent Inspection" (CASE Motion). In its motion, CASE requests the Board to issue an order determining that the adequacy of Applicants' quality assurance program is "indeterminate." CASE Motion at 1. In addition, CASE requests the Board to order a complete and independent reinspection of CPSES pursuant to a plan approved by the Board. <sup>1/</sup> Id. Finally, CASE requests the Board to suspend the harassment portion of these proceedings pending completion of the reinspection effort. Id.

<sup>1/</sup> CASE has proposed specific criteria which it urges the Board to include in any reinspection plan which it may adopt. See CASE Motion, Appendix A.

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Under the Commission's procedural rules, the Staff would have been required to file its response to CASE's motion not later than February 19, 1985. See 10 C.F.R. §2.730(c). During a February 5, 1985 teleconference, however, this deadline was extended by the Board until February 25, 1985. See Tr. 24,061. The Board stated that this "response date is subject to further extension of time if the Staff needs it." Id. For the reasons explained more fully below and in the accompanying affidavit of Comanche Peak Project Director Vincent S. Noonan, the Staff requests the Board to extend the time for the Staff to respond to CASE'S motion until twenty days after the Staff's adoption of a Staff position on the quality assurance contention pending before the Board.

## II. DISCUSSION

The additional time requested by the Staff is necessary to prepare a meaningful response to CASE's motion. That motion, it should be noted, requests the Board to suspend the proceedings and declare that Applicants' quality assurance program has not been implemented in a manner sufficient to give the Board reasonable assurance that CPSES can be operated without endangering the health and safety of the public. In effect, CASE asks the Board to rule in its favor on the ultimate issue in this case prior to the completion of the Applicants' and Staff's evidentiary presentations. Aside from addressing the question whether the motion filed by CASE is appropriate at this stage of the proceeding, it is apparent that to provide the Board meaningful assistance in considering CASE'S motion the Staff must at minimum address CASE's assertion that the adequacy of Applicants' quality assurance program is "indeterminate." See CASE Motion at 1.

As explained below, the Staff is not now in a position to respond meaningfully to CASE's argument.

As the Board was advised during the February 5, 1985 teleconference, the Staff is currently in the process of completing its evaluation of the electrical/instrumentation, civil/structural, mechanical/piping, quality assurance/quality control, test programs, and coatings aspects Applicants' quality assurance program. See Tr. 24,037 (Mr. Treby). The results of the Staff's evaluations will be published in Supplemental Safety Evaluation Reports (SSER). SSERs addressing Applicants' electrical/instrumentation and test programs already have been published. See Supplemental Safety Evaluation Report No. 7; Noonan Affidavit, ¶ 3. Although the Staff has not yet completed its evaluation or issued SSERs relating to the other areas under review, it is hopeful (but not certain) that these SSERs will be issued before the end of March 1985. Noonan Affidavit, ¶ 3.

Also necessary to the adoption of a final Staff position is the input of two CPSES task forces. These panels were established by the Executive Director for Operations (EDO). See Noonan Affidavit, ¶ 4. These panels are comprised of senior Staff managers and are considering, respectively, matters related to harassment and intimidation and quality related items encompassed by Contention 5. Noonan Affidavit, ¶ 4. In addition, these panels are to assist the Comanche Peak Project Director in his formulation of the Staff's overall position on the above matters. Id.

Assuming arguendo that the Board were to agree with CASE that the adequacy of Applicants' quality assurance program is "indeterminate," it remains to be considered the proper remedy to be adopted. To this end, CASE has suggested that the Board require a complete and independent

reinspection of CPSES pursuant to a plan incorporating criteria proposed by CASE. See CASE Motion Appendix A. A cursory review of CASE's proposed plan reveals the magnitude of the suggested reinspection. See e.g. CASE Motion, Appendix A at 9-15. The plan put forward by CASE calls for the complete reinspection of virtually every aspect of Applicants construction activities at CPSES. The Staff has not yet reached a conclusion regarding the measures, if any, Applicants should undertake in addition to those already completed or currently underway to provide reasonable assurance that CPSES can be operated without endangering the public health and safety. The Board itself has recognized that it may be unnecessary even to consider CASE's proposal because the Staff may require or Applicants voluntarily may "adopt something that is quite acceptable . . . or identical to [CASE's] plan." Tr. 24,060. The Staff cannot now recommend that the Board take any of these actions until the evaluation of Applicants' quality assurance program is completed and a final Staff position regarding the adequacy of that program adopted. Noonan Affidavit, ¶ 6. Until these events take place, the Staff simply is unable to comment meaningfully on the need for, or scope of, any reinspection effort at CPSES. Id.

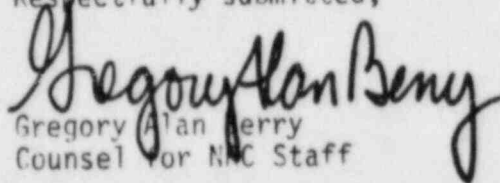
The Board has expressed the view that it will be better able to determine the need for an "independent construction review" if it has available to it the Staff's assessment. Tr. 24,060. The Staff proposes to provide its assessment to the Board within twenty days after it completes its evaluation of Applicants' quality assurance program and adopts a final position regarding its adequacy. Noonan Affidavit, ¶ 6. While the Staff cannot now say for certain when this will occur, the Staff is

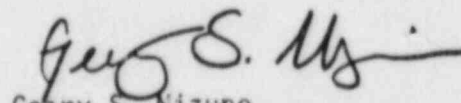
hopeful that it will be in a position to respond to CASE's motion before the end of March 1985. Id. The Staff, of course, will keep the Board apprised of its progress.

III. CONCLUSION

For the reasons stated above, the extension of time requested by the Staff should be granted.

Respectfully submitted,

  
Gregory Alan Berry  
Counsel for NRC Staff

  
Geary S. Mizuno  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 20th day of February, 1985