

112
August 2, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)

COMMONWEALTH EDISON COMPANY)

(Braidwood Nuclear Power)
Station, Units 1 and 2))

Docket Nos. 50-45604

50-45785 AUG -6 AIO:07

DOCKETED
USNRC

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

INTERVENORS' MOTION FOR CONFIDENTIAL TREATMENT
OF ELEVEN (11) OF THE SIXTEEN (16)
COMSTOCK QUALITY CONTROL (QC) INSPECTORS' NAMES

Intervenors Bridget Little Rorem, et al., by their under-
signed counsel, move for an order providing for the confidential
treatment of the names of eleven (11) of the sixteen (16)
Comstock Quality Control (QC) inspectors, at their request, iden-
tified in the original version of an April 5, 1985, NRC Staff
Memorandum, attached to Intervenors' July 15, 1985, Supplement to
July 12, 1985, Motion Regarding Harassment and Intimidation of
Comstock Quality Control (QC) Inspectors.

That April 5, 1985, Memorandum was served upon the parties
in an expurgated version which deleted the names of sixteen (16)
QC inspectors who presented information or harassment complaints
to the NRC Staff. An unexpurgated version with names disclosed
was served only upon the Licensing Board. Intervenors took such
actions in the belief that confidentiality might be desired and
warranted for some or all of these individuals notwithstanding
the indication in the April 5 memo, at page 2, that confiden-
tiality had been offered by the NRC and declined.

As directed by the Board at the July 23, 1985, Prehearing Conference, Tr. 259-262, counsel for Intervenors communicated with each of the sixteen (16) QC inspectors identified in the April 5 memorandum. Counsel for Intervenors provided each inspector an explanation of the nature of these proceedings, the circumstances under which their names became known to Intervenors, the Board's decision on Applicant's request for disclosure of the unexpurgated memo (Tr. 259), the availability and significance of various measures to limit the disclosure of their identities under a protective order which Intervenors could seek. We also discussed with them the likely extent of disclosure already occurring and the protections flowing to them from public identification as participants in this NRC proceeding. Confidential treatment of their names was expressly requested by nine (9) individuals personally on their own behalf; by the wife of one inspector on her absent husband's behalf and at his direction, after he had received a communication from Intervenors' counsel; and by one inspector on behalf of one other and at his direction, after he, too, had received a communication from Intervenors' counsel. Thus, eleven (11) of the sixteen (16) individuals seek confidential treatment of their names.

Five (5) of the inspectors have consented to the disclosure of their names, including disclosure to Commonwealth Edison and Comstock management. Such consent was given by Tim Stewart, Richard Snyder, R.D. Hunter, Herschel Stout and Dan Holley. (Of these, Stewart and Stout are no longer employed at Braidwood.) A partially unexpurgated version of the memo, which discloses the

names of these five (5) consenting individuals only, is attached hereto. These names, together with the corresponding references in the April 5 memo, were read to counsel for the Applicant and NRC Staff this day, August 2, 1985.

Each of the eleven individuals who sought confidentiality expressed fear of discrimination or reprisal by Edison, Comstock, */ other site employees, or some prospective future employer should they be identified through the April 5, 1985 Memorandum as having complained to the NRC. The feared discrimination ranged from termination of employment and blacklisting from future employment, to unfavorable work assignments and harassment. Several of the inspectors stated that they had understood from the March 29, 1985 NRC meeting that their specific identities and specific complaints would be disclosed only within the NRC and would not be disclosed either publicly or to Edison and Comstock management. Several stated that if they knew that their names would be disclosed to Edison and Comstock they would not have gone to the NRC. On the other hand, at least one acknowledged that he had not requested confidentiality on March 29, 1985, but had since reconsidered and, upon reflection, desired now to request confidentiality. All understood that absolute confidentiality could not be secured; each nonetheless requested as much restriction on disclosure of his name as could be provided.

*/ The individuals advised us that as of on or about July 23, 1985, QC inspectors of electrical work at Braidwood no longer receive their paychecks from Comstock, but are now "employed" by a separate company called BESTCO. However, they also state that actual direction and control of their work continues to be performed by Comstock supervisors, not BESTCO. Intervenors intend to explore this subject through discovery.

Intervenors were served today with Applicant Commonwealth Edison Company's First Set of Quality Assurance Interrogatories and Requests To Produce Documents Directed to Intervenors Bridget Little Rorem, Et Al. These interrogatories (e.g., Interrogatory 9) seek inter alia the identities of QC inspectors and the instances of harassment by Comstock management known to Intervenors. Intervenors believe that this question would call for the disclosure of information which, in the view of the eleven QC inspectors, would likely expose them to the feared discrimination and reprisal. As Intervenors have today informed counsel for Applicant, we therefore intend to seek a protective order from the Board with respect to interrogatories requesting such identifying information. We believe that the decision on such a request for protective order should establish the necessary and appropriate mechanisms for litigating these sensitive and important harassment and intimidation claims. Pending filing and resolution of such motion, however, it is sufficient that the Board simply provide for the continued confidential treatment of the names of those eleven (11) individuals named in the April 5, 1985, Memorandum who seek such protection.

DATED: August 2, 1985

Respectfully submitted,

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
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APR 5 1985

MEMORANDUM FOR: Charles E. Norelius, Director, Division of Reactor Projects
FROM: Charles H. Weil, Investigation and Compliance Specialist
SUBJECT: ALLEGATIONS RE: L. K. COMSTOCK QUALITY ASSURANCE PROGRAM AT
BRAIDWOOD (50-456; 50-457) (ATS NO: RIII-85-A0072)

On March 29, 1985, at approximately 10:00 a.m. the Braidwood Resident Inspectors (L. G. McGregor, R. D. Schulz, and W. J. Kropp) telephoned the Region III Office and advised that six L. K. Comstock quality control inspectors had visited the residents' office that morning. The Comstock inspectors provided several allegations which are summarized as:

1. Comstock is asserting the quantity of inspections rather than the inspection quality. Therefore, the quality of the L. K. Comstock inspections is suffering.
2. Rick Saklak, Comstock QC Supervisor, was not qualified for his position, as he was not certified in all of the inspection areas which he supervised.
3. Saklak was constantly intimidating/harassing the Comstock inspectors.
4. Ninety three hanger inspections, containing 1100-1200 welds, were signed off in one day by an unidentified inspector. The allegers considered this to be too many inspections for a single inspector to make in one day without the quality of the inspections suffering.
5. Sam Russman (phonetic spelling), a Comstock QA inspector, is assigned to the records vault for the sole purpose of closing nonconformance reports. Russman never goes to the field to verify the condition before closing the nonconformance reports.
6. All of the allegers claimed to have spoken to the Braidwood Quality First Team without gaining any satisfactory response to their concerns.

The allegers indicated that they represented 50-70 Comstock quality control inspectors and there would be a job action on Monday (April 1, 1985) if something was not done about their concerns.

The allegeders were [REDACTED], [REDACTED], Tim Stewart, [REDACTED], [REDACTED] and Richard Snider (all phonetic spellings). None of the allegeders requested confidentiality and each agreed his identity could be used if necessary.

(NOTE: A series of allegations involving L. K. Comstock at Braidwood were received by Region III beginning March 9, 1985. These allegations (RIII-85-A-0058; RIII-85-A-0062; RIII-85-A-0067; and RIII-85-A-0068) generally encompassed those identified above. Further, [REDACTED] was the source of allegation RIII-85-A-0068 which concerns the push of production quantity over inspection quality.

On March 29, 1985, the allegations were discussed among the Region III Staff (C. H. Weil, W. L. Forney, and C. C. Williams). The Regional Administrator, Deputy Regional Administrator and the Director of the Division of Reactor Projects were also informed of the allegations. It was decided that the allegations should be forwarded to Commonwealth Edison Company for resolution. However, the allegeders should be contacted before providing the information to Commonwealth Edison and informed of the proposed course of action.

Accordingly, at 12:00 p.m., March 29, 1985, the Region III Investigation and Compliance Specialist spoke by telephone with the allegeders assembled in the Resident Inspectors' Office. They were informed of the plan to bring Commonwealth Edison into the allegation resolution process and none of the allegeders expressed any dissatisfaction with the concept. Further, they restated that they did not desire to remain confidential. Other Comstock inspectors accompanied the original six allegeders to the Resident Inspectors Office. The total number of Comstock inspectors eventually numbered 24. In the one half hour period of the telephone call (the call taking place between 12 and 12:30 p.m. during the inspectors lunch period) thirteen inspectors were briefly interviewed. None of the additional inspectors requested confidentiality. The Resident Inspectors were requested to obtain the Comstock inspectors' address and telephone numbers for follow-up by the NRC (e.g. furnishing the inspectors with copies of this memo and subsequent reports).

INSPECTORCOMMENT

Rich Snyder

Rich Saklak continually violates procedures during inspector certifications.

Saklak threatened Snyder for not closing an inspection report which still had an open engineering change notice. Snyder refused and Saklak stated, "if beating was legal you would be dead." Snyder later checked with QA and found that his position on the issue was proper.

[REDACTED] John Walters ([REDACTED] lead) and Ken Worthington ([REDACTED] supervisor) told [REDACTED] that he would lose his job if he did not hurry up and produce more inspections.

Saklak threatened an inspector (unidentified) for not closing an inspection report even though the engineering change notice had not been issued for it.

"Comstock wants us to work with blinders on."

R. D. Hunter

"More than a little bit of intimidation by more than one supervisor."

[REDACTED] On November 5, 1984, Saklak told him to finish an inspection even though drafting errors were noted. [REDACTED] complained to Comstock management about this issue, but did not receive any satisfaction.

[REDACTED] observed a base metal reduction problem in a structural weld. [REDACTED] told his lead, John Walters, and Walters told [REDACTED] to stay within the scope of his job and not worry about base metal reduction. [REDACTED] also told Daryl Landers. Landers informed [REDACTED] to keep up his production or he would lose his overtime. (See allegation RIII-85-A-0068)

Hershel Stout

Inspector productivity overrides the quality of the inspection. (At that point a show of hands was done. The Resident Inspectors indicated that the Comstock inspectors agreed 100% with that statement). (NOTE: Stout provided information under allegation RIII-85-A-0067)

[REDACTED] Comstock emphasized inspection quantity first, not inspection quality.

[REDACTED] Saklak berates inspectors. Many inspectors have been discriminated against at one time or another by Irv DeWald, Comstock QA Manager. DeWald's attitude is "how can I hang you, not how can I help you."

[REDACTED] Constantly intimidated by Saklak. Saklak lied to get [REDACTED] fired. [REDACTED] stated that he has written statements from several witnesses to back-up his statement.

Saklak uses forms contrary to procedures.

For several months [REDACTED] was the only welding inspector, and everything was done on a hurry-up basis. Comstock has consistently been undermanned and has one crisis after another.

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[REDACTED] is constantly being watched by his supervision. As an example, he recently visited the NRC office. The following day he was transferred without reason from field inspections to a job in the records vault. (NOTE: the Investigation and Compliance Specialist provided the Resident Inspectors with the address and telephone number for the Department of Labor, Wage and Hour Division, and requested that it be given to [REDACTED] should he desire to further this complaint).

(On April 1, 1985, Daniel P. New, Area Director, U. S. Department of Labor, Wage and Hour Division, was contacted and informed of [REDACTED] information pertaining to alleged employment discrimination. New advised that the Wage and Hour Division would await the filing of the written complaint required by 29 CFR 24.3 before initiating an investigation into the matter.)

[REDACTED] Hangers aren't even being inspected, just as-built. No inspection reports or nonconformance reports are written. Walkdowns are being done and drawings made to show as-built configuration.

[REDACTED] Comstock management promises more money to inspectors who are certified in multiple areas. Although it's nice to get more money, an inspector cannot remain proficient in all of the certified areas; therefore, the quality of inspections goes down.

Dan Holley

Stan Rithman (phonetic spelling) is both an inspector and auditor. Rithman will inspect something then do the QA overview audit. Holley believes this to be a conflict of interest.

At approximately 12:45 p.m., March 29, 1985, Eugene T. Pawlik, Director Office of Investigations Region III Field Office, was informed of the allegations and concluded that an investigation by OI:RIII was not warranted at this time.

At approximately 1:15 p.m., March 29, 1985, Tom Maiman, Commonwealth Edison Vice President and other Commonwealth Edison officials were telephoned at the Braidwood Facility by Messrs. W. L. Forney, C. C. Williams and C. H. Weil. Commonwealth Edison was told that the NRC had received general allegations from twenty-four Comstock inspectors and in general terms the allegations concerned Comstock's push for inspection quantity not quality, Saklak's perceived performance and the inspectors perception of the performance of TAC Quality First Program. Maiman stated that Commonwealth Edison would begin to look into the matters that afternoon and would recontact Region III with an action plan by the close of business on March 29, 1985.

At approximately 4:30 p.m., March 29, 1985, Commonwealth Edison officials telephoned Region III. Commonwealth Edison had decided to act upon the issues with both short range and long range action plans. The long range plan was not developed, but Commonwealth Edison would be in contact with Region III during the week of April 1, 1985, to discuss the long range plan. The short range plan identified below would be accomplished by the close of business on March 29, 1985.

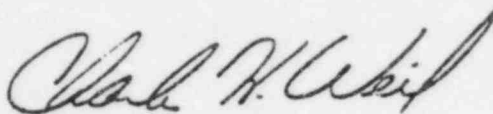
1. Commonwealth Edison Management at Braidwood met with onsite Comstock management officials in production, quality control and quality assurance. Commonwealth Edison discussed areas identified by the Braidwood Quality First Program and the above identified allegations. The Comstock officials indicated they were generally aware of the concerns with Saklak's performance. Commonwealth Edison emphasized the need for L. K. Comstock Company to perform within the Commonwealth Edison and Comstock quality assurance programs. Commonwealth Edison officials were not certain if L. K. Comstock site officials had informed Comstock corporate of the problems.
2. Saklak was administratively removed from his supervisory position until the allegations are resolved.
3. Commonwealth Edison issued a memorandum to all L. K. Comstock QC/QA personnel in which Commonwealth Edison announced a meeting for 8:00 a.m., Monday, April 1, 1985. At that time Commonwealth Edison plans to reemphasize its quality assurance policies, as well as allow the Comstock inspectors to air their grievances. Commonwealth Edison will also announce a method for a private airing of grievances should that be desired by an individual Comstock inspector.
4. A Commonwealth Edison Quality Assurance Project Letter was also issued to reemphasize the Commonwealth Edison Project Quality Assurance Policies.

Charles E. Norelius

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At approximately 5:00 p.m., the Regional Administrator, Deputy Regional Administrator and the Director, Enforcement and Investigation Coordination Staff were informed of the Commonwealth Edison plans described above.



Charles H. Weil
Investigation and
Compliance Specialist

Enclosures:

1. AMS Form
2. March 29, 1985 memo, McGregor,
and Schulz to Warnick and Weil

cc w/enclosures:

RIII:RAO
RIII:DRS
OI:RIII
E. G. Greenman
J. F. Streeter
SRI-Braidwood

8/2/85

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY)
(Braidwood Nuclear Power)
Station, Units 1 and 2)

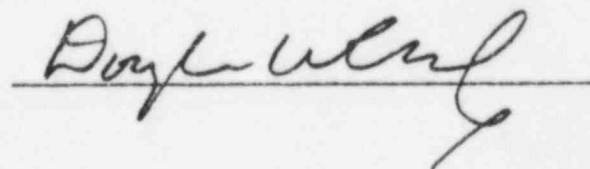
Docket No. 50-456 '85 AUG -6 A10:07
50-457

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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of Intervenor's Motion For Confidential Treatment of Eleven QC Inspector Names on all parties to this proceeding listed on the attached Service List, by having said copies placed in envelopes, properly addressed and postaged (first class), and deposited in the U.S. mail after close of business on this 2nd day of August, 1985; except that Administrative Judge Lawrence Brenner and NRC Staff Counsel Elaine Chan were served via Federal Express and Edison counsel Michael Miller was served personally, also on August 2, 1985.



BRAIDWOOD SERVICE LIST

50-456/50-457 OL

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