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UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO:

INVESTIGATIVE INTERVIEW
OF
BRUCE W. ALATARY

LOCATION: PARSIPPANY NEW JERSEY

PAGES: 1 - 15

DATE: THURSDAY, MAY 2, 1985

FOIA-87-696

B/37

ACE-FEDERAL REPORTERS, INC.

Official Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700

8801210142 880106
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EXH 17

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 OFFICE OF INVESTIGATION
4

5 GPUN Headquarters
6 100 Interpace Parkway
7 Parsippany, New Jersey

8 Thursday, May 2, 1985

9 The Investigative Interview convened at 1:28 p.m.,
10 Richard A. Matakas, presiding.

11 PRESENT:

12 BRUCE W. ALATARY, Interviewee

13 RICHARD A. MATAKAS, Investigator
14 Region I
Nuclear Regulatory Commission
King of Prussia, Pennsylvania

15 ROBERT G. LA GRANGE
16 Section Leader
EQ Branch
17 Office of Nuclear Reactor Regulation

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P R O C E E D I N G S

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2 MR. MATAKAS: The date is May 2, 1985. The time
3 is 13:28. Present for this interview are myself, Richard
4 A. Matakas, U.S. NRC; Bob LaGrange, section leader, EQ
5 branch NRR; and Mr. Bruce Alatary, QA engineering manager,
6 GPUN. The purpose of the interview is to discuss facts
7 and circumstances leading to GPUN's submittals to the NRC
8 involving the qualification of electrical equipment at
9 TMI-1.

10 Mr. Alatary, do you have any objection to providing
11 this information under oath?

12 THE WITNESS: No.

13 Whereupon,

14 BRUCE W. ALATARY

15 was called as a witness and, having been first duly sworn,
16 was examined and testified as follows:

17 EXAMINATION

18 BY MR. MATAKAS:

19 Q Mr. Alatary, would you give us your business
20 address and telephone number, please?

21 A GPU Nuclear, 100 Interpace Parkway, Parsippany,
22 New Jersey. I'm at area code 201-299-2720.

23 Q When did you start with GPUN?

24 A I have been with GPUN since its inception in
25 1981, I believe. I was with Jersey Central Power & Light

1 previous to that point in time.

2 Q During 1981, what was your position?

3 A I was Oyster Creek project engineer, working the
4 Oyster Creek project.

5 Q And what was your next assignment after that
6 within the organization?

7 A I transferred over to the QA division, QA
8 department, in 1983. It was a promotion to supervisor,
9 which is the position that I'm in today.

10 Q Are you familiar with the GPUN internal audit
11 81-02?

12 A Very slightly.

13 Q How about any of the responses, either from Tech
14 Functions or back to --

15 A No. Auditing is a separate function from QA
16 engineering. It's under another management chain.

17 Q What would your responsibilities be in your
18 current position as opposed to the actual auditing side?

19 A Okay. Generally at the corporate location, QA
20 engineering is reviewing modification packages composed of
21 design criteria documents, various specifications,
22 procurement documents for compliance to the program.

23 Q What interface do you have with the
24 environmental qualification program?

25 A At what point in time?

1 Q At any point in time. Well, let's say from 1981
2 on, when Mr. Maus was the manager of EQ?

3 A I personally didn't have any involvement -- any
4 reason to discuss things with those individuals.

5 Q Do you recall a meeting that took place early
6 1981, where Mr. Chisholm brought up the subject of
7 contracting for help in the area of environmental
8 qualification?

9 A His contracting or me contracting?

10 Q Brought up the subject of contracting?

11 A I don't believe so.

12 Q Did you bring up the subject?

13 A I don't believe I was at the meeting.

14 Q This would have been a meeting that you would
15 have taken notes from.

16 A And that's -- I don't believe I was at that
17 meeting.

18 Q Do you recall the subject of contracting out for
19 help in the area of EQ ever being brought up by anyone?
20 Brought to your attention?

21 A No.

22 Q Did you ever bring it up to anyone?

23 A Yes. When I was turned on by my management to
24 start reviewing EQ packages, I discussed with my
25 management the concept of bringing in contractor support.

1 Q Who requested you to review these packages?

2 A My management, Nick Kazanas.

3 Q And what time period are we talking about?

4 A Mid-May, I believe.

5 Q Of?

6 A 1984.

7 Q What did you find when you started auditing
8 these EQ packages? And when you talk about EQ package,
9 are you talking about files for the individual
10 qualification of compone. ??

11 A When we started looking at the individual files
12 we found that engineering's perception of what was an
13 auditable piece of documentation and our idea of an
14 auditable piece of documentation were very much separate.

15 Q And when you say "engineering," are you talking
16 about specifically the environmental qualification section,
17 which was headed by Mr. Maus?

18 A The people that had the responsibility for that
19 function; yes.

20 Q Do you feel the program could have been handled
21 with the amount of resources that was given to the program
22 from 1981 to the time you started looking at the packages?

23 A I can't say. I don't -- I don't know anything
24 about the resources that they really had available.

25 Q I would like to show you a couple of documents.

1 They are letters, GPUN letters, one signed by Mr. Toole
2 for Mr. Hukill. The second is signed by Mr. Hukill -- it
3 is dated May 20, 1983. The GPU letter number is S211-85-157,
4 and it is to NRR. The second letter is also to NRR, dated
5 February 10, 1984, letter number S211-84-2038.

6 I would like to show you these and ask you if you have
7 ever seen them before?

8 A Okay. I know I have never seen this one from
9 the date.

10 Q The May 20?

11 A Yes. 1983.

12 The format -- I have seen this format before, but as
13 far as content I can't say I have ever seen this
14 particular letter.

15 Q The subject, and what we are looking into, is
16 basically the May 20th letter states that the conclusion
17 that the components are in accordance with DOR guidelines
18 dated November 1979, and those components are the ones
19 listed on the SCEW sheets for environmental qualification
20 and they were attached to this August 28, 1981 letter.
21 That's in the May 20th document.

22 The February 10th document states that it is GPUN's
23 position that TMI-1 is currently in compliance with the
24 environmental qualification rule 10 CFR 50.49 as
25 applicable to TMI-1.

1 Are you familiar with DOR guidelines?

2 A Yes.

3 Q Are you familiar with 50.49?

4 A Yes.

5 Q In effect, both documents state that they must
6 be -- there must be auditable files and documentation must
7 exist to show qualification of the individual components.
8 Is that correct?

9 A Yes. It doesn't define, necessarily,
10 auditability, what that entails, but it does allude to
11 that.

12 Q It does list the areas that must be -- a
13 component must be qualified for?

14 A Yes.

15 Q Humidity -- whatever?

16 A Yes.

17 Q Based on your knowledge of the files, when you
18 started looking into this matter in, I believe it was May
19 1984, were these statements true statements? Would you
20 have made these statements?

21 A Please give me, again, what the statements are.

22 Q "The additional information we submit in our
23 letters dated May 3, 1983 and May 16, 1983, support our
24 conclusions that the components listed are qualified in
25 accordance with DOR guidelines dated November 1979."

1 That's the May 28 statement.

2 The February 18 statement states: "It is GPUN's
3 position that TMI-1 is currently in compliance with the
4 environmental qualification rule 18 CFR 58.49, as
5 applicable to TMI-1."

6 A In my opinion, those are not false statements.

7 Q How so? Why do you say they are not false
8 statements?

9 A Because I haven't seen any real whole scale
10 (sic) changeouts of the equipment because it is
11 unqualified today.

12 Q I'm talking about in the area of documentation.
13 Not that the components were not qualified, but the fact
14 that in order to be qualified you must have documentation
15 and auditable files. I'm talking about specifically in
16 that area.

17 A And, it would be difficult for me to assess that.
18 I'd have to go back and look at it.

19 I will say that I think it's fairly nebulous what
20 constitutes auditable documentation. We have had a lot of
21 discussions in house, what constitutes auditable
22 documentation, and one can go to one end of the spectrum
23 and come up with one idea and go to the other end and come
24 up with reams and reams and reams of paper requirements.

25 Q You mentioned earlier that there seemed to be a

1 wide variance in your idea of what constituted
2 documentation and what existed at the time, when you
3 looked into the files in May 1984.

4 A Right. But I can't say that I was necessarily
5 right, either. We had very high level management
6 discussions about what adequate paper was, and QA
7 engineering couldn't always defend some of the points
8 raised.

9 Some points were weaker than others and we felt we
10 could give those weak ones up.

11 So there isn't black and white. There's this big gray
12 area in the center and where do you finally end up in that
13 gray area is very much debatable.

14 Q You mentioned you had high level discussions
15 about this? High level management discussions?

16 A Yes.

17 Q When were these discussions held and during what
18 time?

19 A They were generally through June, July, and
20 August of 1983.

21 Q 1983?

22 A I'm sorry -- 1984. 1984. We started on the
23 review effort June 4, 1984. That's really when I became
24 involved.

25 MR. MATAKAS: Bob, do you have any questions?

1 MR. LA GRANGE: Yes.

2 BY MR. LA GRANGE:

3 Q Bruce, the documentation that's in the files now,
4 would you say the files are substantially different than
5 they were at the time those letters were written?

6 A Yes.

7 Q Do you feel that the documentation that's in
8 those files now is -- what do you feel about the
9 documentation that's in there now, with regard to its
10 necessity to be there to demonstrate the equipment was
11 qualified?

12 A I believe that it's necessary to have that
13 detail.

14 Q Was that detail in those files at the time those
15 letters were written?

16 A No, those types of details weren't there.

17 Q What would support those statements on those two
18 letters?

19 A The responsible people's accountability that
20 they have reviewed certain test reports, have done
21 analysis -- maybe not formal analysis. That's about as
22 far as you can go, because there wasn't necessarily the
23 completeness of documentation that we have today.

24 Q Do those statements mean to you that -- as I
25 understand it to be, what you are saying, that because

1 there was not wholesale replacement or modification of
2 equipment, that the equipment was shown eventually to be
3 qualified; however, it took a considerable amount more
4 documentation to show that equipment was qualified? Is
5 that what you are saying?

6 A Yes.

7 Q So, when those statements were made, you would
8 agree that all the documentation necessary to support
9 those statements was not in the files at that time?

10 A It didn't appear to be. It didn't appear to be.

11 Q When you talked, earlier, about consultants, you
12 hired any consultant?

13 A I hired two individuals to provide manpower to
14 review the 50 or so files for TMI.

15 Q Did they ever give you a written report on their
16 findings?

17 A No. They weren't hired to do an assessment or
18 provide a written report. They were hired to provide an
19 in-line review function. And generally their comments are
20 documented and closed out.

21 Q And verbal feedback from them, what did they
22 indicate to you were the results of their findings?

23 A That there were some spots in the files that
24 needed further refining; a little more depth of thought
25 process.

1 Q When did they start looking at the files?

2 A June 4.

3 Q June 4th?

4 A 1984.

5 Q How were the results of their review documented?

6 A We have an in-house review comment process, and
7 we use review comment sheets; and it's documented on those
8 sheets as a formal yet informal method of reviewing,
9 providing written backup and close-out of comments.

10 Q You did not have anybody prior to June assisting
11 you in any kind of review of documentation?

12 A We didn't look at the files prior to June.

13 Q So basically you would characterize their
14 findings as there's maybe a few pieces of documentation
15 that were lacking in the files? Would you characterize it,
16 their finding, as no big deal, things were in pretty good
17 shape basically?

18 A Oh, we never said things were in pretty good
19 shape. We collectively felt there was a significant
20 amount of effort that had to go into bringing the files up
21 to speed. And I worked against the regulations, they
22 worked against their outside experience, and comparison to
23 other plants.

24 Q Did they at any time tell you or imply that in
25 their opinion what was there would not have supported a

1 statement such that the equipment has been shown to be
2 qualified in accordance with 50-49 or the DOR guidelines?

3 A Repeat the question?

4 Q Did they ever indicate to you, either verbally,
5 directly, or imply to you, that the documentation they
6 found in those files, in June, could not have supported a
7 statement that the equipment was qualified? Any equipment?

8 A Generally, yes. Generally that is correct.

9 Q Your direct involvement in EQ really didn't
10 start until June, did it?

11 A That's correct.

12 MR. LA GRANGE: Let's go off the record for a
13 minute. I'm done.

14 (Discussion off the record.)

15 BY MR. MATAKAS:

16 Q Mr. Alatary, are there any comments that you
17 would like to make or anything that you would like to say
18 before we close the record?

19 A Generally, I would like to say that I think that
20 there was a large disparity in-house between engineering
21 and QA engineering, the depth of evidence required in the
22 files. We have spoken to our friends from the Staff, the
23 EQ people, and they feel that there is clear -- clear
24 direction was required.

25 I still continue to think that much of what -- the depth

1 of what is required, the definition, is judgmental.

2 If we had come this path again, we would have run into
3 the same problems, because we didn't have clarity in what
4 exactly is required in the files to show qualification.

5 Q How is it that when you stepped in in June 1982,
6 that, you know, you immediately saw things that had a big
7 disparity between what you felt was needed for
8 qualification and what, obviously, Tech Functions did not
9 feel, who had been working on this for three years?

10 A Two individuals who had seen a lot of other
11 files and saw what other people were doing and were using
12 that as an example.

13 Q You were seeing other --

14 A No, the two individuals that were assisting me,
15 the two contractors.

16 Q Basically was your understanding -- your
17 understanding was from what they were telling you and not
18 what you were observing?

19 A Yes. They were my experts.

20 Q Okay. Have you appeared here voluntarily here
21 today?

22 A Yes.

23 Q Have any promises been made?

24 A No.

25 Q Have any threats been made to you?

1 A No.

2 Q Is there anything else you'd like to say?

3 A No.

4 MR. MATAKAS: Okay. Time is 13:50. This will
5 conclude the interview.

6 (Whereupon, at 1:50 p.m., the interview was
7 concluded.)

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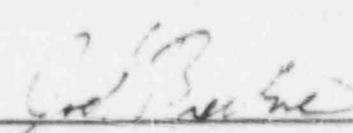
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DATE: THURSDAY, MAY 2, 1985

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Joel Breitner
Official Reporter

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53

5 TMI equipment audits noted

GPU 'difficult,' agency told

By MICK ROOD

Washington Bureau

WASHINGTON — There is "no question" GPU Nuclear Corp. has proved to be "the most difficult" utility to work with in some cases, federal regulators said yesterday.

The point in question involves whether the firm can verify that equipment at Three Mile Island, in Londonderry Twp. near Middletown, Pa., can withstand accidents.

The utility has improved its ability to verify equipment quality at TMI Unit 1 and that equipment related to the plant's emergency feedwater system is "environmentally qualified" enough to allow restart, the U.S. Nuclear Regulatory Commission staff has concluded.

But Vincent S. Noonan, chief of the NRC equipment qualifications branch, told the commissioners at a meeting yesterday that it took five staff audits since March to reach that conclusion.

He said files to demonstrate Unit 1's emergency feedwater system equipment was sound simply "weren't there." Until late spring, Noonan said, the GPU Nuclear equipment qualification staff "didn't really know what they were doing."

He was responding to questions from Commissioner James Asselstine, who was shaking his head in obvious displeasure.

Noonan did say after the meeting that many utilities have problems with equipment compliance, an area in which the agency has yet to establish explicit guidelines.

But he confirmed his view, backed by other NRC technical staff members at the meeting, that GPU Nuclear had been the farthest behind in compliance.

Edson G. Case, deputy director of the NRC Nuclear Reactor Regulation Office, said reports that GPU officials misrepresented the quality of equipment at TMI Unit 1 had been referred to the Office of Investigations.

NRC Chairman Nunzio Palladino said the commission soon must decide whether to let

the staff proceed on the Unit 1 emergency feedwater equipment stand or review the recommendation itself.

Further, an NRC request in May that the utility certify components in the remainder of the plant has gone unanswered, leaving the larger judgment "an open question," Noonan said.

An example of environmental qualification of equipment, according to Robert Pollard of the Union of Concerned Scientists, a group that originally challenged GPU Nuclear about equipment, would be: If the Unit 1 main steam line were to rupture, would nearby electrical equipment driving the emergency feedwater system withstand the steamy environment?

There are dozens of other possibilities in a nuclear plant where the failure of a piece of equipment could prevent a safety system from functioning.

A GPU spokeswoman noted after the meeting that the NRC had not found any unqualified equipment. She also called attention to the NRC staff observation that improvements had been made.

During the meeting, other reactor regulation officials said GPU Nuclear chose, in the case of four components challenged by the NRC staff, to replace equipment rather than subject it to scrutiny.

"Why in the world would we at TMI, of all places, have to have UCS [Union of Concerned Scientists] assist us?" Commissioner Frederick Bernthal asked.

Answering for the staff, reactor regulation deputy director Case said begrudgingly, "I don't know that we needed their help. . . . We may have appreciated their help."

The NRC staff began discussions with GPU Nuclear about equipment qualification in October 1983. UCS filed its complaint in January 1984.

UCS wants the commission to suspend GPU Nuclear's license until equipment questions are answered.

release



UNITED STATES NUCLEAR REGULATORY COMMISSION

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No. I-84-127
Contact: Karl Abraham
Brian Norris

November 19, 1984

NRC REVISES RULES ON ELECTRICAL EQUIPMENT FOR NUCLEAR POWER PLANTS

~~The Nuclear Regulatory Commission is amending its regulations to delete a requirement in licenses for nuclear power plants that safety-related electrical equipment installed in the plants must be environmentally qualified by June 30, 1982.~~

The term "environmentally qualified" refers to the capability of electrical equipment to perform its safety-related functions in an environment which might exist following a serious accident in a nuclear power plant--steam, heat and radiation for example.

After the Commission incorporated the 1982 deadline into individual licenses for operating nuclear plants, ~~submittals by licensees showed that the NRC had underestimated the extent of the effort necessary to either establish the environmental qualification of the equipment or replace unqualified equipment.~~ The Commission subsequently determined--based on the staff's evaluation of each operating plant licensee's justification for continued operation pending completion of the equipment qualification program--that continued operation of the plants under these conditions would not present undue risk to the public health and safety.

In reviewing each licensee's justification for continued operation, the NRC staff looked at whether (1) redundant equipment is available to substitute for the unqualified equipment, (2) another system is capable of providing the required function of the system with unqualified equipment, (3) the unqualified equipment will have performed its safety function prior to failure or (4) the plant can be safely shut down in the absence of the unqualified equipment.

The amendment to Part 50 of the Commission's regulations deleting the 1982 date from licenses will become ~~effective on November 10, 1984.~~ As a result, most utilities licensed to operate nuclear power plants now will have to comply with the environmental qualifications requirements by the end of ~~March 1985.~~

FOIA-87-696

B/47

EXH 30

Release

Inside N.R.C.



An exclusive report on the U.S. Nuclear Regulatory Commission

Vol. 6, No. 25 - December 10, 1984

VERMONT YANKEE ALLOWED TO SUB ACTUAL EVENT FOR EMERGENCY EXERCISE

NRC has allowed the Vermont Yankee Nuclear Power Corp.'s Yankee plant to substitute a June 15, 1984 event that reached the alert level for its annual emergency exercise. "This event adequately substitutes for the planned on-site exercise," the NRC staff concluded in responding to the utility's request for an exemption from the exercise.

"During the event, the plant's traversing incore probe (tip), a neutron flux monitor, moved beyond its shielded position and got stuck outside the reactor core, becoming an exposed radiation source in the unit's secondary containment. This resulted in local high radiation readings substantially above background.

The staff said the event adequately substituted for the planned November on-site exercise because the utility identified the nature and cause of the high radiation condition and took immediate action to protect personnel, correctly classified the emergency action level, activated and staffed all emergency facilities to the alert level, used the emergency response centers and resources to evaluate the problem, determined the best course of action, and notified NRC and all three emergency planning zone states. New Hampshire and Massachusetts sent representatives to the emergency operations facility, and the NRC resident inspector observed activity in the emergency facilities.

The alert level is the second of four progressively more serious emergency classifications. The utility "acted in a manner which adequately provided protective measures for the health and safety of the public in that it was determined that there were no releases of radioactive material off site," NRC stated in its decision.

A utility spokeswoman said that "there's no way to calculate" how much money the company saved by substituting the actual event for the emergency exercise. The Federal Emergency Management Agency (FEMA) did not evaluate the event, but it would not have evaluated the exercise either because a new FEMA regulation allows states full participation in exercises every two years, and this would have been an off year, she said — *Dinah Wisenberg, Washington*

LATEST TESTS DO NOT CHANGE NRC STAFF VIEW ON HYDROGEN CONTROL RULE

The NRC commission is expected shortly to adopt its long-delayed hydrogen control rule following staff analysis of apparent cable degradation in test hydrogen burns. The tests were to reflect large dry containments, which are not covered by the rule. The commission has been waiting for a staff analysis of the NRC/Electrical Power Research Institute (EPRI)-conducted tests, but that has been completed, and the source predicted the rule would be adopted soon without change.

NRC staffers found that the tests did not warrant a change in the proposed rule, the source said, which applies only to Mark III BWRs and PWRs with ice condenser containments (INRC, 23 Jan., 5). Mark I and II plants are already required to have inert atmospheres, and PWRs with large dry containments are considered able to handle hydrogen burns. Under the proposal, utilities owning Mark IIIs and ice condensers must provide hydrogen control systems that can handle large amounts of hydrogen, demonstrate the survivability and qualification of containment and safety systems during and following a hydrogen burn, and perform and submit analyses concerning hydrogen control and qualification of containment and safety systems, according to the source. In stating its continued support of the rule as is, the staff suggested that a decision on large dry containment hydrogen control be deferred and based on other programs—including the proposed Severe Accident Policy Statement—currently

INSIDE THIS ISSUE . . .

NRC QA substitute pilot stalled by NRC	-p2	Unique shutdown plans could give Duke edge with NRC	-p7
Policy to leave severe accident decisions to future	-p3	Backfit rule requires 'overall' safety increase	-p5
Catawba, Shoreham, Waterford licenses progress	-p4,13	Federal grand jury probes D.C. Cook fire status	-p12
Human errors star in plant safety challenges	-p5	OIA finds Sandia 'pressure' claim valid	-p13
Capitol Hill staffers discuss splitting NRC	-p6	San Onofre restart backs utility-initiated upgrades	-p15

FOIA-87-696
B/48 EXH 31

appropriate." The NRC staff is currently considering "what, if any, further action should be taken" on that matter, a spokesman said.

Responding on November 14 to the appeal board's request for opinions on Harstead's possible conflict, NRC staffers said "that even if one assumes that Mr. Harstead violated the technical legal standards governing conflicts of interest, any such conflict of interest is unlikely to have an effect upon the appeal board's deliberations in this proceeding and no further action by the appeal board in this regard is necessary." LP&L said "that Dr. Harstead was not in violation of the laws and that the factual situation should have no effect on matters before the appeal board in this proceeding." Intervenors Oystershell Alliance and Save Our Wetlands Inc., however, said, "It is clear that Gunnar Harstead...has a conflict of interest with respect to studies he conducted on the Waterford-3 basemat." The intervenors contend that "a truly independent study still must be performed on the basemat to assure it is structurally safe for the operation of the facility."

Wilson said the NRC staff does not anticipate any problems with the 23 responses. Waterford will probably be licensed for full-power operation two months after receiving its low-power license, Wilson said. Waterford is 100% complete and is ready for fuel load as soon as NRC issues an operating license for it, company spokesman Bill Tregre said. LP&L anticipates starting commercial operation of the plant during the second quarter of 1985, Tregre said.

UCS TAKES NRC BACK TO COURT OVER ENVIRONMENTAL QUALIFICATION DEADLINE

As expected, the NRC commissioners are back in court over deadlines for requiring that all nuclear plant equipment needed for safe shutdown be able to operate in the heat, steam, and radiation of an accident environment. The Union of Concerned Scientists (UCS), which first raised the issue in 1977 and won a previous court decision that the commission had illegally suspended a June 30, 1982 compliance deadline, is asking the U.S. Court of Appeals for the District of Columbia Circuit to void the commission's latest effort to suspend that deadline. This time, however, UCS has one commissioner agreeing that NRC has no basis for concluding operating plants present "no undue risk" by operating without qualified equipment.

The commission originally eliminated the June 30, 1982 deadline on June 24, 1982 after failing to agree on a final environmental qualification rule. The final rule, which superseded a 1980 regulation, was not passed until January 1983. UCS told the appeals court that the commission had not followed legal procedure to eliminate the deadline. The elimination was based on staff findings that all plants could keep operating safely though their equipment was not fully qualified, UCS said, and UCS maintained the public had to be given a chance to comment on those findings. In June 1983, the appeals court agreed, and in March 1984, the commission proposed eliminating the deadline again after a public comment period. In September, the commissioners voted 4-1, with Commissioner James Asselstine opposed, to drop the June 1982 deadline in favor of the March 1985 deadline that is in the January 1983 final rule (INRC, 17 Sept., 15). Exemptions to that deadline have already been granted, but the commissioners said they would have to okay any exemptions beyond November 1985.

In their formal decision published last month, the commission majority said comments on environmental qualification status at individual plants were being handled as enforcement requests. Lengthy comments were filed by UCS and two other commenters claiming deficiencies at six specific plants, but the majority said specific problems should not affect a generic deadline. The majority said the appeals court was wrong in finding the commissioner had "made a generic safety finding" in changing the compliance deadline. "Plant-specific safety findings are not required for these proposed license amendments because these amendments do not have the effect of authorizing any plant operation not previously authorized," the majority wrote. "The deadline was not set as a safety matter or as a cutoff date beyond which reactors could no longer operate if all of their equipment was not qualified. Rather, the purpose of the deadline was to urge licensee compliance."

Deadlines have been extended, the majority wrote, because qualification has proven "a much more difficult and extensive task than originally thought," with some efforts "at the edge of modern technology and material science." The majority said if qualification were as simple as UCS contended, "the commission and its licensees would not have been struggling for some five years to complete the program."

In his written dissent, Asselstine said the majority decision was based on three conclusions: that the purpose of the original deadline, "motivating licensees to pursue effective equipment qualification programs," has been achieved; that extended operation beyond the deadline poses "no undue risk," and that "there is no generic equipment qualification problem common to many plants." Wrote Asselstine, "More than two years after the expiration of the June 30, 1982 deadline, it appears that the commission does not have an adequate factual basis for any of these conclusions."

The evidence instead shows "continuing instances of licensee recalcitrance and...hurried and su-

perforial (staff) reviews of plant-specific deficiencies" identified by UCS and others. Asselstine said "The staff's inquiry has largely accepted the assertions made by" utilities without detailed examinations, he said, even though "in the very few cases where staff has begun such in-depth reviews, the evidence indicates that licensee efforts have been inadequate."

Asselstine also takes issue with the commission majority's decision that supporting documentation, submitted by utilities to the Franklin Research Center (FRC), should not be made public. FRC, an NRC contractor, provided reports that were the basis of NRC staff reports that plants could continue to operate safely without full environmental qualification. The majority said it relied on the FRC and staff reports, not the supporting documentation, in deciding that utilities were diligently pursuing qualification and that there were no generic problems. As a result, the majority said, the underlying documentation does not have to be public. Asselstine said the situation arose only because NRC used a contractor, and denying the public "an opportunity to inspect that information and challenge the bases for FRC's and the staff's conclusions hardly amounts to a fair opportunity to comment."

Asselstine said he would have retained the 1982 deadline as an enforcement tool, and said the commission "ought to be more diligent in conducting in-depth reviews of licensee documentation so that plants do not continue to operate for extended periods of time with the state of their equipment basically indeterminate."

The other four commissioners wrote that Asselstine's views are not so far off theirs. Asselstine wants to retain the deadline as an enforcement tool, they said. They believe there is some doubt enforcement action using that deadline could succeed after two years, they indicated, but they also want to ensure utility "diligence" in complying with the qualification rule. They said they differ with Asselstine over whether one instance in which a utility "required additional prodding" undercuts the generic finding that most utilities are complying.

UCS is petitioning the appeals court to review the latest decision, claiming it once again is procedurally defective. Elyn Weiss, UCS general counsel, said UCS is maintaining that justification for continued operation of every plant beyond the 1982 deadline is needed since the deadline was part of all plant operating licenses. The latest deadline rule shows, she said, that the commission "will go to any lengths not to have to make those safety findings."—Margaret L. Ryan, Washington

SAN ONOFRE-1 RESTARTS AFTER CAUTIOUS LEGAL AND STAFF RECOMMENDATION

After two years and \$150-million in seismic upgrades, Southern California Edison's (SCE) San Onofre-1 went back on line November 28. The restart—which promises to save the utility millions by allowing it to meet a California Public Utilities Commission (PUC) deadline for operation of the plant (INRC, 26 Nov., 4)—is a victory for those who feared NRC might lock itself into a position that would discourage voluntary upgrades by treating such agreements as licensing amendments.

In a partial cleanup of the legally messy issue of whether a 1982 confirmatory order shutting down San Onofre-1 should be treated as a licensing amendment or an enforcement order, the commission opted, 4-1, on November 21 for the "enforcement flexibility" that orders permit—especially because the delays for public hearings that can accompany amendments "will discourage the practice of making licensee commitments legally binding." The commission also gave special emphasis in its decision-making to the fact that SCE had volunteered to meet a 0.67 ground acceleration (g) modified Housner Spectra Safe Shutdown Earthquake standard, instead of merely offering proof it met its 0.5g design basis. That 1982 utility offer followed NRC questions about whether the plant met its design basis.

While many NRC sources say they believe it is unlikely that NRC's action will be challenged in court, Nuclear Information & Resource Service's Nina Bell says "they would have to be crazy" to believe that. She said she fully expects a lawsuit to be brought, although the timing for such action is still unclear. A coalition now reviewing the case includes the Orange County branch of the League for Survival, the Sierra Club Legal Defense Fund, and several individuals. "Money is being raised at this very moment," she said, adding that a major issue in the case is the commission consideration of financial issues affecting the plant.

Similar concerns were expressed by Commissioner James Asselstine in a memo following the decision. In that memo he said he was "troubled" by commission reliance on the PUC agreement as a basis for relaxing safety requirements. He also said he agreed with a November 5 memo of the commission's legal office—specifically that "changes to the operation and design of the plant...were so substantial that they must be considered an amendment to the license."

Similar, though less pronounced, legal skittishness was reflected at the commission meeting, although the Office of General Counsel (OGC) ultimately failed to recommend a course for the commission. Instead, Deputy General Counsel Martin Malsch told the commission that the office's "intuitive gut feeling" was that the courts might categorize the original shutdown order as a license amendment.