

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	:	
	:	
THE POWER AUTHORITY OF THE	:	Docket No. 50-549
STATE OF NEW YORK	:	
	:	
(Greene County Nuclear Power Plant)	:	

MOTION ON BEHALF OF LEHIGH PORTLAND CEMENT COMPANY
TO THE PRESIDING EXAMINER, ANDREW C. GOODHOPE, TO
QUASH OR MODIFY SUBPOENAS AND FOR AN EXEMPTION FROM
DISCLOSURE OR FOR PERMISSION TO WITHHOLD FROM DIS-
CLOSURE CERTAIN DOCUMENTS.

This application is made pursuant to 10 CFR 2.740 for a protective order and pursuant to 10 CFR 2.790 for an exemption from disclosure or, in the alternative, permission to withhold certain documents requested under subpoenas of the Atomic Safety and Licensing Board dated August 17, 1978 and October 10, 1978 and by a September 8, 1978 letter from NRC Staff pursuant to 10 CFR 2.741. The ground for this motion is that the documents requested contain

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proprietary and confidential information and data concerning the manufacturing technology, design criteria, raw material reserves, evaluation of competition and future plans of Lehigh Portland Cement Company. In addition, the movant maintains that its plans with respect to a study of a new cement plant in another part of the United States are not relevant to the present proceeding.

Specifically, the applicant requests that a certain engineering planning study performed by Lehigh Portland Cement Company's parent corporation, Heidelberger Zement Aktiengesellschaft, which contains detailed information as to the amounts and quality of raw material reserves on property owned by the movant at and about the vicinity of the proposed Greene County Nuclear Power Plant and which contains specifications for the construction of a new cement production facility, including a number of confidential documents, be exempt from disclosure or, in the alternative, be withheld from public inspection. In addition, Lehigh Portland Cement Company is moving to quash requests for the production of a Lehigh Portland Cement Company planning study relating to the construction of a new cement production facility in an area other than the northeast United States.

REASONS FOR WHICH THE DATA IS CLAIMED
TO BE PROPRIETARY AND CONFIDENTIAL

The Lehigh Portland Cement Company is a wholly owned subsidiary of Heidelberg Cement, Inc., a Delaware corporation, which in turn is a wholly owned subsidiary of Heidelberger Zement Aktiengesellschaft (Heidelberger Zement) of Germany. The Lehigh Portland Cement Company was acquired by Heidelberger Zement through a tender offer initiated on September 1, 1977, which resulted in a merger in December of that same year in which Heidelberger Zement acquired one hundred percent of the outstanding stock of the Lehigh Portland Cement Company.

Heidelberger Zement acquired the Lehigh Portland Cement Company with the intention of modernizing or rebuilding the cement plants owned by the Lehigh Portland Cement Company, including the facility located in Greene County, New York, to maximize the cost efficiency of Lehigh plants in order to gain a competitive advantage in the U. S. market. In this respect, Heidelberger Zement is considered a world leader in the design of modern cement production facilities and is continuously reevaluating its policies and designs to keep abreast of current demands.

Attached and incorporated as Exhibit A is a copy of the

engineering planning study which is submitted pursuant to 10 CFR 2.790(b)(1) for an in camera inspection. Specifically, this document contains detailed specification of the situation of raw material on the property owned by the Lehigh Portland Cement Company and specifications for the proposed plant expansion, including but not limited to the proposed capacity of the various component parts of the proposed plant, all of which represent valuable proprietary information to the Lehigh Portland Cement Company. Disclosure of this highly valuable information at this time would result in an undue competitive advantage to the competitors of Lehigh Portland Cement Company.

WHEREFORE, the movant requests that the engineering planning study submitted herein as Exhibit A be exempt from disclosure or, in the alternative, that it be withheld from public inspection.

The movant seeks to protect the study performed by Lehigh Portland Cement Company for the construction of a new cement production facility in an area of the United States other than the northeast because the analyses performed in the study contain information which would be eagerly sought by Lehigh's competition in the cement industry in the region in which the proposed cement plant is to be located. Among the information contained in this study is a detailed analysis of the competition which Lehigh would

face in establishing itself in this market as well as a number of projections concerning market penetration, etc. Moreover, Lehigh is presently acquiring options on the real estate necessary for the construction of this facility and any disclosure of Lehigh's intentions would seriously disrupt this process. Lehigh maintains that the production of these documents will in no way aid the applicant or the NRC Staff in evaluating Lehigh's position with respect to the proposed Greene County Nuclear Power Plant. In no way is the construction of this new cement production facility in a region other than the northeast dependent upon or connected with Lehigh's facility in Cementon, New York.

WHEREFORE, the movant requests that Lehigh's feasibility study with respect to the construction of a new cement plant in another area of the country be exempt from disclosure and that any subpoenas relating thereto be quashed.

Attached hereto in support of this motion are the affidavits of Ralf Bohman, Vice President - Manufacturing of Lehigh Portland Cement Company and Lee Cummings, Vice President - Corporate Planning and Audit of Lehigh Portland Cement Company.

Dated: November 7, 1978

Respectfully submitted,

DeGRAFF, FOY, CONWAY & HOLT-HARRIS
Attorneys for Lehigh Portland
Cement Company
90 State St., Albany, NY 12207

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AFFIDAVIT IN SUPPORT OF MOTION ON BEHALF OF LEHIGH
PORTLAND CEMENT COMPANY TO THE PRESIDING EXAMINER,
ANDREW C. GOODHOPE, FOR EXEMPTION OR, IN THE ALTER-
NATIVE, A REQUEST FOR WITHHOLDING CERTAIN DOCUMENTS
FROM PUBLIC INSPECTION.

STATE OF PENNSYLVANIA :
: ss.:
COUNTY OF LEHIGH :

RALF BOHMAN, being duly sworn, deposes and says:

1. That he is the Vice President - Manufacturing at Lehigh
Portland Cement Company and has been the technical liaison between
Lehigh Portland Cement Company and its owner, Heidelberger Zement
Aktiengesellschaft (hereinafter Heidelberg).

2. He is familiar with Heidelberg's plans for the

modernization and expansion of cement plants owned by Lehigh Portland Cement Company in the United States, including the Lehigh facility at Alsen, New York.

3. Heidelberg has prepared an engineering planning study representing Heidelberg's plans for the construction of a new cement production facility on lands owned by Lehigh in Cementon. This engineering planning study was prepared in Germany by employees of Heidelberg utilizing Heidelberg's technical staff. An English translation of the study is attached to these motion papers as Exhibit A.

4. The engineering planning study attached hereto as Exhibit A is a product of Heidelberg's expertise in cement plant layout and design and, as such, would be eagerly sought by competing cement companies. The study is divided into four parts, each of which contains information which would be of special interest to Lehigh's competitors. The four parts are: 1) a survey of the raw material situation at Alsen; 2) the location for the new plant and description of the production method; 3) specifications of the plant expansion; and 4) technical equipment of the plant. Each of these items, if disclosed to competitors of Lehigh, would render to them a competitive advantage. Details of a cement plant's raw material reserves are eagerly sought by competitors. In Exhibit A details

are given not only as to the extent of the raw material reserves, but as to their quality. The location of the proposed new plant has been made available to parties in an updated interrogatory response filed earlier this year. However, a detailed description of the plant's expansion has not been furnished. Heidelberg is world renowned for its expertise in the design and construction of cement production facilities and has been approached and retained by other cement companies to design or to consult on the design of cement production facilities. Heidelberg has in most cases refused to do so, opting instead to utilize its expertise for its own advantage as opposed to marketing such expertise to its potential competitors. The report is the type of work which Heidelberg's competitors have tried to hire Heidelberg to perform. To allow full disclosure of Exhibit A, without attention to the proprietary nature of these materials would put Lehigh/Heidelberg at a competitive disadvantage by rendering an unearned advantage to competitors.

Ralf Bohman

RALF BOHMAN

Sworn to before me this 20
day of November, 1978.

James E. Stiffel

Notary Public

NOTARY PUBLIC

My Comm. Expires July 27, 1981

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STATE OF PENNSYLVANIA :
: ss.:
COUNTY OF LEHIGH :

LEE CUMMINGS, being duly sworn, deposes and says:

1. He is Vice President - Corporate Planning and Audit
at Lehigh Portland Cement Company and, as such is, and in his
former capacity as Director of Corporate Planning was, responsible
for planning corporate growth.

2. Included in the projects relating to the corporate
growth of Lehigh Portland Cement Company is a study relating to

the construction of a new "greenfield" cement plant to be located in an area of the United States other than the northeast.

3. Lehigh has compiled extensive data relating to the market to be served and the competition in the area of the proposed "greenfield" plant. This data, representing extensive efforts by the Corporate Planning Department at Lehigh Portland Cement Company, is extremely confidential and has been assembled at great cost to Lehigh. The type of data included in the study would be extremely useful to plants competing to serve the market area proposed to be served by the "greenfield" cement plant. It is reasonable to expect that Lehigh's proposed competition does not have this information available to it at present as much of it represents the original work of the Lehigh Portland Cement Company Planning Department.

4. Lehigh Portland Cement Company has commenced the acquisition of options on the real estate necessary for the construction of the "greenfield" cement plant. The premature revelation of Lehigh's plans would, without doubt, seriously affect Lehigh's ability to acquire the necessary property at a reasonable cost and could conceivably result in making the acquisition totally impossible.

5. The study of the aforesaid "greenfield" cement plant does not relate in any way and is not dependent upon Lehigh's plans

for its Cementon, New York facility. The situation confronting the company with respect to the construction of the "greenfield" cement plant and the situation presented with respect to the construction of a new production facility at Cementon are entirely different. By virtue of its long time presence in the northeast, Lehigh has had for some time the data necessary to fully consider the market which it faces in the northeast and also has considerable data on its competitors. A similar situation does not exist in the area of the United States in which the proposed "greenfield" plant is to be located.

LEE CUMMINGS

Sworn to before me this

30th day of October, 1978.

Harold B. Backenstee

Notary Public



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

MEMORANDUM FOR: TERA Corp.

FROM: US NRC/TIDC/Distribution Services Branch

SUBJECT: Special Document Handling Requirements

- ☒ 1. Please use the following special distribution list for the attached document.

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- ☐ 2. The attached document requires the following special considerations:

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- ☐ Only one oversize enclosure was received - please return for Regulatory File storage.
- ☐ Proprietary information - send affidavit only to the NRC PDR
- ☐ Other: (specify)

cc: DSB Files

Michael Owens
TIDC/DSB Authorized Signature

Distribution for GE letter from Engle

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FRANK Coffman
28050

Mike Collins
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