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Friday, January 21, 1986

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'86 FEB 24 P2:20

Charles Bechhoefer, Esquire
Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Dr. James C. Lamb, III
Administrative Judge
313 Woodhaven Road
Chapel Hill, North Carolina 27514

Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Houston Lighting and Power Co., et al.
South Texas Project, Units 1 & 2
Docket Nos. 50-498 DL, 50-499 DL

Dear Members of the Board:

On February 7, 1986, the Atomic Safety and Licensing Board in this proceeding issued its Memorandum and Order (Additional Information Required to Resolve CCANP Motion to Reopen Phase II Record: IV) in which CCANP was directed to show cause as to why the Atomic Safety and Licensing Board should not impose sanctions upon CCANP based on letters I sent to Mr. Jack Newman, Esquire, counsel for Applicants.

I do not believe the Board should impose sanctions and herein offer an explanation for my letters to Mr. Newman which I trust will satisfy the Board in this matter. Mr. Goldstein is filing an additional response for CCANP.

First of all, as the Board is aware, I have participated in these proceedings up until quite recently as CCANP's lay representative, rather than as counsel. I still serve as coordinator of CCANP and as coordinator of CCANP, I am active in a variety of matters related to the South Texas Nuclear Project but outside the scope of this proceeding.

As I mentioned in my letter of January 17, 1986 to Mr. Newman, I helped organize a recent conference on cancellation of STNP. At that conference, I gave a formal presentation on my view of the current state of the licensing proceeding and then participated in a wide ranging discussion regarding how to cancel STNP and what energy strategies to pursue instead.

In sending my initial letter to Mr. Newman, I was motivated by a sincere belief that the Saltarelli documents provided in Motion II represented the proverbial "smoking gun" and that the ASLB would be compelled to deny the application for the operating licenses based on a lack of character as demonstrated by false and deliberately misleading testimony.

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My letter was an attempt in a private and confidential manner to inform Applicants counsel and, through counsel, Applicants themselves that there was a cancellation process under way and to offer my services in expediting that process so Applicants could avoid the harshest consequences of their actions. As stated in my letter, the purpose of the intervention has never been to punish those who have pursued the South Texas Nuclear Project.

I was (and am) convinced that this Project is over, the only question being how soon termination comes and in what manner. Since I was (and am) convinced that the ASLB will find false testimony by Applicants and complicity by Applicants counsel in the rendering of such testimony, I did not believe I was threatening Applicants but merely stating the facts of the situation as I saw them.

Prior to sending my initial letter to Mr. Newman, I asked another attorney to review the letter to be sure that on the one hand I was not appearing to threaten Mr. Newman, his law firm, or his clients while on the other hand I was being quite clear as to the dangers I perceived in permitting this proceeding to go forward to an opinion by the Atomic Safety and Licensing Board. I had no intent to threaten Mr. Newman, his law firm, or his clients. The only 'passion' motivating my letter was compassion - a recognition of the inhuman demands placed on individuals by the nuclear power endeavor. I believe it would be ironic if my reluctance to see Applicants punished provided a basis for imposing sanctions on me or CCANP.

I sent my initial letter to Mr. Newman as a personal letter accompanying CCANP's "Motion to Reopen the Phase II Record: IV; for Discovery and To Suspend Further Activity in Phase III." (Motion IV). Applicants apparently did not receive the served copy of said motion and the accompanying letter. Applicants requested a copy of the motion, which I provided along with a copy of the letter. Applicants then requested a signed copy of the letter and repeated their request when they did not immediately receive such a signed copy.

Concerned that Applicants might be misconstruing the initial letter, I consulted with another attorney who advised me to clarify my intent with a second letter. I then sent the second letter accompanying the signed copy requested by the Applicants. (A clearer copy of the second letter than provided to the Board by the Applicants is attached hereto.)

As to the filing of a complaint with the Justice Department, I forwarded a copy of CCANP's Phase II Proposed Findings of Fact and Conclusions of Law in the Form of a Partial Initial Decision dated November 5, 1985 to the Justice Department on November 14, 1985, as part of another matter I was bringing to their attention. I followed up with a telephone call to determine if I was under any legal obligation to present evidence on perjury to the Justice Department. My concern was whether I would be obstructing justice by withholding such evidence. The Justice

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Department informed me that since there was no ongoing investigation, I would not be obstructing justice. The Justice Department also informed me that there would be no formal investigation unless a complaint was filed. I stated that I had no intention of filing a complaint at that time.

After consulting with the Justice Department regarding CCANP's legal obligations and after filing Motion IV, which brought to the attention of the Licensing Board the evidence CCANP believes proves inconsistent and deliberately misleading testimony by Applicants, I believed that I had fulfilled both my legal obligations and ethical obligations.

I can assure the Board that my only intent in sending the letters to Mr. Newman was to seek a resolution of the South Texas Nuclear Project matter prior to what I believe will be a significant deterioration in the position of the Applicants. There is, in my view, this brief period prior to the ASLB's ruling when this entire matter can be terminated without Applicants facing more serious adverse consequences than would result from a reasoned and cooperative effort to negotiate a speedy end to this Project. A desire to use this opportunity before it disappeared was the sole motivation for my letters to Mr. Newman. I perceived availing ourselves of this opportunity as very much to the advantage of the Applicants.

As far as CCANP gaining "advantage" from serious negotiations commencing to cancel the South Texas Nuclear Project, I believe CCANP is essentially in a win-win situation. CCANP can achieve the first license denial based on lack of character in NRC history by pursuing the intervention and not settling, a result that would obviously produce cancellation of the Project and bring great credit to CCANP for its efforts, or CCANP can enter into cancellation negotiations with Applicants leading to a reasonable cancellation plan, a result which would also benefit CCANP but would be credited to a much broader group of individuals and organizations. The party most advantaged by the plan I proposed in my letter to Mr. Newman, again in my view, was the Applicants. That the Applicants chose to view their situation differently does not detract from the sincerity of my beliefs in this matter.

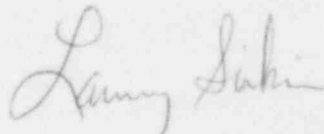
I do wish I had written the letter of January 17 in less forceful terms and recognize now that said letter could be read as threatening, although that was not in any way my intent. But I also believe that the Applicants had a choice. They could choose to interpret my January 17 letter as threatening, in spite of the clarification letter of January 24, or they could accept my representations as clarified by the January 24 letter. After ten days deliberation, the Applicants chose to use my letter for adversarial purposes in an effort to damage my credibility with the Board. The Applicants then released my letters, Mr. Newman's letter, a draft of Mr. Axelrad's letter, and the Board's February 7 Order to the press in an effort to damage my credibility with the public.

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I obviously made an error in judgment in assuming the Applicants or their attorneys would perceive current settlement opportunities as I do. I realize now that believing they cannot lose this case, the Applicants would never accept my perception that the evidence is conclusive against their application. My mistake in sending the letter was an honest mistake based on sincere beliefs. My attempt at initiating settlement negotiations may have been clumsy, perhaps attributable to my limited experience in such matters. It is regrettable that these settlement overtures were unsuccessful. But the motive and intent of my letter to Mr. Newman as set forth herein do not call for the imposition of any sanctions by the Board.

If the Board desires any additional information or has other questions on this matter, I, of course, would be happy to respond further.

Respectfully submitted,



Lanny Sinkin
1324 North Capitol Street
Washington, D.C. 20002
(202) 797-8106

c.c. Service List

Friday, January 24, 1986

Jack R. Newman, Esquire
Newman & Holtzinger, P.C.
1615 L Street, N.W.
Suite 1000
Washington, D.C. 20036

Dear Jack,

Attached is a copy of the January 17, 1986 letter which your office requested I send to you. I hope you viewed the letter as it was intended, i.e. as a sincere attempt to initiate settlement negotiations at an opportune time.

My purpose in writing was to inform you of what others, not parties to this proceeding and not subject to my control, see as the necessary future course of this proceeding. As I say in the attached letter, this is not a course I favor.

The point of the letter was to draw your attention to what I see as a potential growing polarization which, if it goes forward, may foreclose, or at least make far more difficult, any later efforts to reach a settlement of this case and of the underlying problem of what to do about STNP.

Since in my view it would be a disservice to the people of Texas and all others affected by STNP to let this proceeding produce such polarization, I wanted to be sure that we did not lose what I view as an opportunity to resolve this case before matters get out of hand. I sincerely believe that this is an opportune moment to bring together a broad cross section of interests to begin serious settlement talks.

At the same time, I think we are at a significant crossroads in this case where opportunities exist which can be lost by an insistence on a continued adversarial confrontation. I also think those opportunities are available only until the ASLB issues its partial initial decision in Phase II.

I am trying to establish a place outside the adversarial arena where we can communicate. Perhaps that is not possible given the supercharged atmosphere which already surrounds this case.

If there is anything positive you think we can do, please let me know.

Sincerely,

Lanny Sinkin
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Washington, D.C. 20002
(202) 797-8106

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of ()
()
HOUSTON LIGHTING AND ()
POWER COMPANY, ET AL. ()
(South Texas Project, ()
Units 1 and 2) ()

DOCKETED
USNRC

Docket Nos. 50-498 DL
50-499 DL

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CERTIFICATE OF SERVICE

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I hereby certify that copies of **LETTER FROM LANNY SINKIN TO THE BOARD DATED FEBRUARY 21, 1986** were served by messenger (*) or by deposit in the U.S. Mail, first class postage paid to the following individuals and entities on the 21st day of February 1986.

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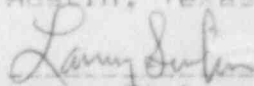
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