

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

2/28/86 DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket Nos. 50-498 OL  
50-499 OL

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
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CITIZENS CONCERNED ABOUT NUCLEAR POWER, INC. (CCANP)  
MOTION TO COMPEL

On February 18, 1986, Applicants filed their Answers and Objections to CCANP Second Set of Interrogatories to Applicants ("Answers and Objections"). In said Answers and Objections, Applicants partially answered Interrogatories 12(a), (b), and (c). Applicants objected to and declined to answer all other CCANP interrogatories.

In its accompanying CCANP Response to Applicants' Motion for Protective Order, CCANP presents its overall reply to Applicants on this issue. CCANP incorporates herein said response. In this motion to compel, CCANP responds to the objections to specific Instructions and Interrogatories found in Applicants' Answers and Objections.

Instruction 2: Applicants object to Instruction 2 as overly broad and burdensome. Answers and Objections at 2 - 4. CCANP is willing to limit Instruction 2 to HL&P, Bechtel, & Ebasco and any contractors or subcontractors who performed any element of the drug control program for these three companies or whose personnel were included in investigations conducted by these three companies.

Instruction 4: Applicants object to Instruction 4 as going

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beyond the requirements of 10 C.F.R. Section 2.740(e). CCANP accepts Applicants position, except, of course, for any additional responsibility imposed by the McGuire rule.

Regarding Applicants' objections to CCANP Interrogatories, CCANP has the following general responses:

1. Applicants in general seem to ignore the availability of protective orders governing another party receiving discovered information which Applicants contend should be held as confidential information. See 10 C.F.R. 2.740(c)(2).

2. In its Interrogatories and Production Request, CCANP seeks to develop the history of Applicants' drug control programs from January 1, 1984 through the current program, including any procedural or substantive changes in said programs, the nature of tests used in said programs, which groups fell under such programs and which did not, the identities of the personnel administering the programs and of those tested pursuant to said programs, how those tested were selected, the substantive nature of the tests, the results of the tests, how personnel were treated based on test results, the identities of people identified during the testing process as possibly involved in the use and/or sale of illegal drugs, what follow up steps were taken regarding those so identified, the identities of personnel in the Operations Group implicated in the use and/or sale of illegal drugs, and how such Operations Group personnel were treated.

CCANP contends that this is a routine discovery pattern designed to pinpoint any examples of preferential treatment in the drug control program and when the Operations Group received such treatment, either by not being investigated when implicated,

not being disciplined when found to be involved in the use and/or sale of drugs, or otherwise receiving more lenient treatment than others on the Project alleged or discovered to be similarly involved with illegal drugs.

Since the allegation included the charge that non-members of the Operations Group were not fired because they would implicate the Operations Group, CCANP seeks to develop information on all individuals tested who implicated others in order to trace the path of such identifications and what was done in such instances.

All of CCANP's Interrogatories and production requests are propounded for these purposes and are, therefore, not objectionable, if the overall allegation is considered a matter falling within Issue F. CCANP addressed this question in its accompanying Response to Applicants' Motion for Protective Order. CCANP addresses below Applicants' objections other than the objection that the matter is outside the bounds of Issue F.

Interrogatory 4(e): Applicants object on the grounds that disclosure of the requested information would reveal confidential information. Answers and Objections at 6. Applicants claim by analogy to be a federal regulatory agency and entitled to the same protection from disclosure of information. Id. Such a broad claim is nowhere supported by rule, case law, or statute. More appropriately, Applicants can seek a protective order binding CCANP counsel to confidentiality regarding said information.

Interrogatory 4(h): Applicants object on grounds of confidentiality. Again, the appropriate response is to seek a protective order governing the release of said information to

Intervenor.

Applicants also object to this Interrogatory on the grounds that CCANP's request for the identities of all employees tested is overly broad and should be restricted to operations or operations QA personnel. As Applicants are well aware, See Applicants Motion for Protective Order dated February 18, 1986 at 8, CCANP's allegation, in part, is that personnel other than Operations Group personnel were not fired because they would implicate Operations Group personnel. The names of all employees tested is, therefore, discovery reasonably calculated to lead to discovery of admissible evidence.

Interrogatory 6: Applicants object to the disclosure of investigatory techniques which would impede future investigations. Again, the appropriate response is to seek a protective order permitting controlled release of this information to Intervenor.

Applicants again claim by analogy to be in the same position as a federal regulatory agency, a contention CCANP argues is legally unsupportable.

Interrogatory 10: Applicants object to CCANP's Interrogatory as too broad because it asks for people identified "as possibly involved in the use and/or sale of illegal drugs." In order to gain a comprehensive view of how Applicants implemented their drug control program and identify where preferential treatment may have been given, the treatment of all those known to be possibly involved in the use and/or sale of illegal drugs is a relevant matter for inquiry.

Applicants also argue that providing CCANP such identities

would be an invasion of privacy. Again an appropriate protective order can be fashioned prior to permitting release of said information.

Interrogatory 12(c): By the incomplete nature of Applicants answer, Applicants apparently object to providing all the requested information. As shown in Figure 1 attached to the Affidavit of Jerrold G. Dewease on the Progress of HL&P's Preparations for Operation of STP Since 1982 dated February 14, 1986, the Manager Nuclear Training and Manager Nuclear Security report to the Vice President Nuclear Plant Operations and, therefore, form part of the Operations Group. See also Dewease Affidavit at 3, item 5.

In their answer, Applicants provided "the names of individuals reporting to the Plant Manger (or his predecessor, the Plant Superintendent)." Answers and Objections at 10, Answer 12(e). Said answer thus excludes personnel in the Nuclear Training and Nuclear Security sections. CCANP moves the Board to compel Applicants to answer Interrogatory 12(c) for these organizations and to supplement their answers to Interrogatories 12(a), and (b) [and answer Interrogatory 12(d), if the Board rules (d) must be answered] with the requested information pertaining to these organizations.

For the above and foregoing reasons, CCANP moves the Board to compel Applicants to answer completely all interrogatories propounded in CCANP's Second Set of Interrogatories to Applicants.

Respectfully submitted,

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Dated: February 28, 1986  
Washington, D.C.

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of CITIZENS CONCERNED ABOUT NUCLEAR POWER, INC. (CCANP) MOTION TO COMPEL were served by messenger (\*) or by deposit in the U.S. Mail, first class postage paid to the following individuals and entities on the 28th day of February 1986.

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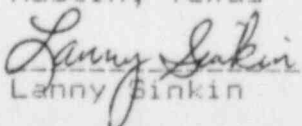
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