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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE COMMISSION

'86 AUG 28 A10:54

In the Matter of)
Commonwealth Edison Company)
(Braidwood Station, Units 1 and 2)

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Docket Nos: 50-456
50-457

/OL

Intervenors' Brief Supporting The
Decisions of the Licensing Board To Compel
Disclosure Of Relevant Documents From Office Of
Investigation Files And To Issue A Deposition Subpoena

Intervenors Rorem, et al., by their undersigned counsel, file this brief in support of the decisions by the Licensing Board to disclose relevant documents from Office of Investigation (OI) files to the parties in the proceeding subject to protective order, and in support of the decision by the Licensing Board to issue a deposition subpoena. The disclosure procedure is governed by the Commission's "Statement of Policy; Investigations, Inspections, and Adjudicating Proceedings," 49 Fed. Reg. 36,032 (1984), which authorizes the filing of this brief. The issuance of a subpoena by the Chairman is a ministerial act authorized by 10 C.F.R. 2.720, "Subpoenas".

FACTS

On June 16, 1986, Intervenors' counsel received by mail a purported Region III NRC Memorandum, "Quality Control Allegations

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At Braidwood," dated August 2, 1983. (Attachment A hereto.) This memo memorializes an August 1, 1983 phone call to the NRC from Thomas Corcoran, then QC Manager for the Braidwood electrical contractor, L.K. Comstock Company.

In this phone call, Mr. Corcoran claimed inspection reports and QC reports were being falsified, and that he had documents to support his charges. He said he had not spoken with the Resident Inspector for fear of being seen with him, and that he had been threatened with being fired, "if he does not keep quiet". (Attachment A.)

Two months after this memo was written, Mr. Corcoran was, indeed, fired. According to his successor, Mr. Corcoran was fired because "[h]e really wasn't construction oriented. He was quality oriented...." (Tr. 1224).

On June 17, 1986, counsel disclosed the foregoing facts to the Board in open hearing and requested NRC staff to produce all documents relating to Mr. Corcoran's allegations.

On that date and subsequently, NRC staff replied that the documents related to a pending OI investigation and would not be disclosed.

On June 25, 1986, Intervenors filed a motion requesting the Board to compel disclosure of relevant documents from OI files. (A copy of this motion is attached for the Commission's convenience. See Attachment B). Intervenors have also requested a deposition subpoena for Mr. Corcoran.

On July 22, 1986, the Licensing Board announced its intention, based on two ex parte, in camera briefings with OI staff, to compel disclosure of relevant documents under a protective order. The Board also determined that Intervenors were entitled to a subpoena for Mr. Corcoran's deposition, since his allegations of document falsification, followed by his termination for being too "quality oriented", are plainly relevant to the pending harassment contention.

OI objected to the Board's decisions. This brief supports the Board's rulings.

ARGUMENT

I. The Licensing Board Was Correct In Ordering OI To Disclose Relevant Documents From Its File On The Corcoran Matter

The NRC staff is under an express duty to disclose to the board and parties "all new information they acquire which is considered relevant to any issue in controversy in the proceeding." "Statment of Policy; Investigations, Inspections, and Adjudicatory Proceedings," 49 Fed. Reg. 36,032 (1984).¹

The Commission recognizes only two limited exceptions to this rule favoring full disclosure: "(1) To avoid compromising an ongoing investigation or inspection; and (2) to protect confidential sources." Id. Documents concerning the Corcoran allegations do not fall within either of these exceptions and should be disclosed.

A. The Corcoran Allegations Are Relevant To The Pending Harassment Contention

The threshold legal question is whether the documents are "relevant to any issue in controversy in the proceeding." Id. To resolve this preliminary question, and as contemplated by the Policy Statement, the Board conducted two in camera, ex parte briefings with OI staff. On the basis of these briefings, the Board determined Mr. Corcoran's allegations were relevant to the pending contention.

Obviously Intervenors are not privy to the information disclosed to the Board.² Nonetheless, the facts known to date, all of which are part of the public record, clearly confirm the correctness of the Board's determination.

Mr. Corcoran was the QC Manager for the electrical contractor, L.K. Comstock Company. At approximately 7:00 p.m. the evening of August 1, 1983, he placed a call to Region III. In this call he complained that records were being falsified and that he would be fired if he did not "keep quiet." (Attachment A.) Two months later, because he was too "quality oriented", Mr. Corcoran was fired. (Tr. 1224). Furthermore, Mr. DeWald, who is Mr. Corcoran's successor as Q.C. Manager for Comstock, learned of Mr. Corcoran's purported work deficiencies from Mr. Richard Cosaro, then the Braidwood Project Superintendent for Commonwealth Edison. (Tr. 1220).

In short, Mr. Corcoran alleged document falsification and the fear of reprisal. (Attachment A). According to Mr. DeWald,

Mr. Corcoran was fired shortly after these allegations for being too "quality oriented." (Tr. 1224). And Mr. DeWald became aware of Mr. Corcoran's "deficiencies" - i.e. his quality orientation - through Mr. Cosaro, then Project Superintendent and the voice of Commonwealth Edison policy on site. (Tr. 1220).

It is abundantly clear that the Corcoran allegations, particularly when viewed in light of his successor's testimony, are relevant generally to the pending contention. The contention alleges that, contrary to Criterion I of 10 C.F.R. Part 50, Appendix B, and 10 C.F.R. Section 50.7, Commonwealth Edison has failed to provide an environment where quality considerations are free from construction and schedule pressures. The contention further alleges that intimidation and retaliation against those who raise quality concerns "discourages the identification and correction of deficiencies in safety related components and systems at the Braidwood station." (Preamble, Admitted Contention.) The Corcoran matter fits squarely within this contention.

B. The Corcoran Allegations Do Not Fall Within The Limited Exceptions To The Rule Favoring Full Disclosure

1. Disclosure will not compromise an ongoing investigation.

The Commission explicitly recognizes that the mere existence of an ongoing investigation is not license to subvert the Staff's duty to disclose.³ To that end, the Policy Statment provides for an array of disclosure options. Though each case must be decided

on its merits, the Commission correctly believes the Board can "resolve most potential disclosure conflicts" in favor of, at the least, restricted disclosure. As possible approaches, the Commission suggests:

- . "to provide for timely consideration of relevant matters derived from investigations and inspections through the deferral or rescheduling of issues for hearing." (Policy Statment).
- . "placing limitations on the scope of disclosure to the parties." (Id.)
- . "using protective order."⁴ (Id.)

Two of these disclosure options have been used with success in the current proceeding. For example, at the staff's request, recent disclosures by the NRC regarding allegations currently under investigation by the Region III staff were made subject to a protective order which limited distribution to counsel. (Attachment C hereto). The express purpose of this protective order was to maintain the confidentiality sought in ongoing NRC inspections. Analogous restrictions could be crafted which would protect OI's purported investigation into the Corcoran matter.

The third disclosure option - deferral of the proceeding - though not employed as of yet, was recognized by the Board as available to Intervenors if the NRC staff failed to comply with its disclosure duty.

Finally, OI, by its seemingly dilatory response to this matter, belies their present claim that the investigation would

in fact be compromised. Mr. Corcoran's allegations are over three years old. Leads fresh in 1983 may well be irretrievably lost in 1986. Certainly the Policy Statement does not envision withholding information as a shield for agency neglect.

2. Disclosure will not affect the confidentiality of the source.

Mr. Corcoran's identity is public information. His name appeared in a recent newspaper article, along with a discussion of his original allegations. (Attachment D hereto). Therefore, since confidentiality no longer exists, disclosure to parties will obviously not affect the confidentiality of the source. Moreover, disclosure under some form of protective order, as sought by Intervenor, will help assure that Mr. Corcoran will remain free from harassment and retaliation.⁵

II. The Licensing Board Was Correct In Agreeing To Intervenor's Request for A Deposition Subpoena, And Such Subpoena Should Be Issued Without Further Delay.

The relevant provision of the NRC Rules of Practice provides in its entirety:

On application by any party, the designated presiding officer or, if he is not available, the Chairman of the Atomic Safety and Licensing Panel, the Chief Administrative Law Judge or other designated officer will issue subpoenas requiring the attendance and testimony of witnesses or the production of evidence. The officer to whom application is made may require a showing of general relevance of the testimony or evidence sought, and may withhold the subpoena if such a showing is not made, but he shall not attempt to determine the admissibility of evidence.

10 C.F.R. 2.720(a), "Subpoenas." (Emphasis added.)

Failure to issue a deposition subpoena is completely without legal basis. Intervenors have made application to the Chairman for a subpoena. The language of the Rule clearly states that the officer will issue a subpoena, contingent only on a discretionary decision to require a showing of general relevance. This showing was made in two OI briefings, after which the Board concluded that the evidence sought by deposition was relevant generally to the pending contention. As discussed above, the correctness of that determination cannot be doubted.

Furthermore, though the matter is clear on its face, it is significant that under the Federal Rules of Civil Procedure, mere proof of service of a notice to take a deposition "constitutes a sufficient authorization for the issuance by the clerk of the district court...of subpoenas for the persons named or described therein." Fed.R.Civ.P. 45(d) (Emphasis supplied.)

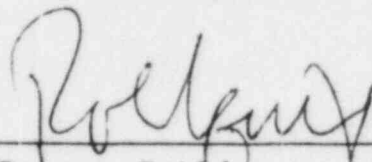
It is apparent that a deposition subpoena for Mr. Corcoran should be issued without further delay.

CONCLUSION

For the foregoing reasons, Intervenors support the decisions of the Licensing Board both in ordering OI to disclose relevant documents from its file on the Corcoran allegations, and in agreeing to issue - upon Intervenors' request - a subpoena for Mr. Corcoran's deposition.

Dated: August 21, 1986

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Robert Guild", written over a horizontal line.

Robert Guild
One of the Attorneys for
Intervenors Rorem, et al.

Douglass W. Cassel, Jr.
Robert Guild
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ENDNOTES

- ¹ This position was reaffirmed in May of 1985 in NRC Proposed Rule, "Adjudication; Special Procedures for Resolving Conflicts Concerning the Disclosure of (sic) Nondisclosure of Information," 50 Fed. Reg. 21.072 (1985) (to be codified at 10 C.F.R. §2.795a-k).
- ² The Policy Statement indicates that the Board should rule on the disclosure question after they are "advised of the nature of the investigation involved, the status of the inspection or investigation, and the projected time for its completion."
- ³ "The general rule is that all information warranting disclosure to the boards and parties, including information that is the subject of ongoing investigation or inspections, should be disclosed, except as provided herein." (Policy Statement). (Emphasis supplied.)
- ⁴ In addition to the restricted disclosure contemplated by these options, the Board can recommend complete disclosure if it disagrees that release of information would compromise a confidential source or prejudice the investigation. (Policy Statement). Intervenors do not seek unrestricted disclosure in this case.
- ⁵ If there are other confidential sources in the material to be disclosed, whose identities have not yet been revealed, their identities may of course be withheld from public disclosure pursuant to protective order.

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of Intervenors' Brief Supporting The Decisions Of The Licensing Board To Compel Disclosure Of Relevant Documents From Office Of Investigation Files And To Issue A Deposition Subpoena to each party listed on the attached Service List, by having said copies placed in envelopes, properly addressed and postaged (first class) and deposited in the United States Mail at 109 North Dearborn Street, Chicago, Illinois 60602 on this 25th day of August, 1986.

Doc Manned for

Robert Guild

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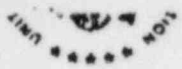
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ATTACHMENT A



August 2, 1983

MEMORANDUM FOR: Region III Files
FROM: R. C. Knop, Chief, Projects Branch 1
SUBJECT: QUALITY CONTROL ALLEGATIONS AT BRAIDWOOD

At 1905 on August 1, 1983, Tom Corcoran, a QC Manager for Comstock Engineering at Braidwood, called the IE duty officer. He stated that QC records and inspection reports are being falsified. He claims he has documents to back up his charges. He wants to remain confidential. He has been threatened with being fired if he does not keep quiet. He has not talked to the resident inspector for fear of being seen with him. He was told that someone would be in touch with him.

His address and telephone number is:

2515 Central Drive
Joliet, IL
(815) 436-2970 (available after 7:00 p.m.)

R. C. Knop, Chief
Projects Branch 1

cc: G. W. Roy
E. Pawlik

ATTACHMENT
"A"

ATTACHMENT B

June 25, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	
COMMONWEALTH EDISON COMPANY)	Docket Nos. 50-456 and 50-457
)	
(Braidwood Nuclear Station,)	
Units 1 and 2))	

INTERVENORS' MOTION FOR DISCLOSURE OF
RELEVANT DOCUMENTS FROM OI FILES

Intervenors Rorem et al., by their undersigned counsel, pursuant to the Commission's "Statement of Policy; Investigations, Inspections, and Adjudicatory Proceedings," 49 Fed. Reg. 36032, hereby move the Board to provide for "full disclosure" (id.) in this case of relevant OI documents, to the extent appropriate under the Commission's Policy Statement, as detailed below. */

FACTS

On June 16, 1986, Intervenors' counsel received in the mail a purported Region III NRC Memorandum, "Quality Control Allegations At Braidwood," dated August 2, 1983 (Attachment A hereto). An investigative reporter was in counsel's office at the time and also saw the document.

*/ By moving for disclosure consistent with the Commission's Policy Statement, Intervenors do not waive any objections they may have to the Policy Statement.

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On June 17, 1986, counsel disclosed the foregoing facts to the Board in open hearing and requested NRC staff to produce all documents relating to the allegations in Attachment A.

On that date and subsequently, NRC staff counsel replied that the document relates to a pending OI investigation. One or more additional OI investigations may be relevant as well. Pursuant to the Commission's Policy Statement, the Board has now scheduled an in camera session with OI representatives for Monday, June 30, 1986.

ARGUMENT

Intervenors are of course in no position to apply the Commission's Policy Statement to particular documents in OI files we have not seen. Our Motion For Disclosure, therefore, urges the Board to grant full disclosure of OI documents in this case, to the extent appropriate under the Commission's Policy Statement, after the Board has reviewed OI's in camera presentation.

In support of our Motion, we wish to call the Board's attention to three points: (1) the Commission's general policy favoring disclosure, (2) the disclosure options available to the Board under the Policy Statement, and (3) the particular facts favoring liberal disclosure in this case.

1. The Commission's General Policy Favoring Disclosure.

While each case must be decided on its own merits, in its Policy Statement the Commission makes clear "that as a general rule it favors full disclosure to the boards and parties, that information should be protected only when necessary, and that any limits on disclosure to the parties should be limited in both scope and duration to the minimum necessary to achieve the purposes of the non-disclosure policy." (Policy Statement.)

The only permissible purposes of non-disclosure are:

"(1) To avoid compromising an ongoing investigation or inspection; and (2) to protect confidential sources." (Id.)

2. The Board's Disclosure Options.

Under the Commission's Policy Statement, once the Board has received OI's in camera presentation, the Board has at least five disclosure options which it may employ to implement the Commission's general rule favoring full disclosure.

The first three of those options exist if OI asserts, and the Board agrees, that immediate, unrestricted disclosure would compromise an ongoing investigation or a confidential source.

These options are:

- . "to provide for the timely consideration of relevant matters derived from investigations and inspections through the deferral or rescheduling of issues for hearing" (id.),
- . "by placing limitations on the scope of disclosure to the parties" (id.) or

- "by using protective orders" (id).

The fourth and fifth of these options arise if:

- "the board disagrees that release will prejudice the investigation," (id.) or, by parallel implication,
- if the board disagrees that release of particular information would compromise the identity of a confidential source.

Intervenors urge the Board to give careful consideration to using any or all of the foregoing disclosure options, consistent with the Commission's general rule favoring full disclosure.

3. Facts Favoring Full Disclosure In This Case.

At least three facts already known to Intervenors offer further support for full disclosure of all OI and NRC staff documents related to the allegations set forth in Attachment A.

First, the allegations in Attachment A are of unquestionable relevance to this case. Mr. DeWald has already been cross examined concerning whether he was informed, at the time he assumed his position as Comstock QC manager at Braidwood, that his predecessor, Mr. Corcoran, was fired for being too quality conscious. If the allegations in Attachment A are true, they lend strong support to that suggestion. And if true, they not only shed light on Mr. DeWald's initial mission with respect to quality vs. quantity, but also raise questions about the length of time during which the Comstock QA/QC program at Braidwood has been unreliable (or worse), and thus about the adequacy of any

corrective action or reinspection programs.

Second, the vintage of Attachment A - nearly three years old - suggests several considerations. It may no longer be likely that disclosure of other three-year-old or two-year-old documents would, in fact, compromise an ongoing investigation. By now, any evidence not yet uncovered may have been destroyed. Alternatively, the perpetrators of any wrongdoing may no longer be on site, and their successors may be unlikely, at this late date, to destroy evidence, because they may not even know which documents are inculpatory, or where they are located.

Intervenors urge the Board to question OI representatives carefully about the real, practical impact of any disclosure - especially disclosure under a protective order - at this late date. For example, disclosure under a protective order limited to attorneys in this case would not include disclosure to attorneys for Comstock, against whom the allegations in Attachment A appear to be made.

The age of OI's investigation also suggests either that the matter is not one of high priority - and thus of questionable importance - or that OI has been stumped in its efforts to investigate. Petitioners believe that it would be appropriate for the Board to inquire into why the investigation has taken so long, and to weigh the answers in deciding whether to order disclosure.

Third and finally, disclosure of relevant OI and NRC staff documents can no longer be withheld on the ground of protecting

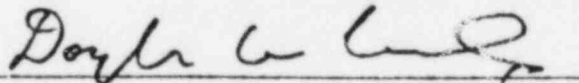
the alleged's identity. His identity, as shown in Attachment A, is known to Intervenors; it is public information. Other documents naming him can no longer be withheld on the ground of protecting his confidentiality, because that confidentiality no longer exists. */

CONCLUSION

For the foregoing reasons, Intervenors move the Board to provide for full disclosure, to the extent permitted by the Commission's Policy Statement, of all OI or other NRC staff documents concerning the matter set forth in Attachment A or otherwise relevant to the issue in this licensing proceeding.

DATED: June 25, 1986

Respectfully submitted,



Douglass W. Cassel, Jr.
One of the Attorneys for
Intervenors Rorem, et al.

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*/ Of course, if there are other confidential sources in the investigation, whose identities have not yet been compromised, their identities may still be withheld.



August 2, 1983

MEMORANDUM FOR: Region III Files
FROM: R. C. Knop, Chief, Projects Branch 1
SUBJECT: QUALITY CONTROL ALLEGATIONS AT BRAIDWOOD

At 1905 on August 1, 1983, Tom Corcoran, a QC Manager for Comstock Engineering at Braidwood, called the IE duty officer. He stated that QC records and inspection reports are being falsified. He claims he has documents to back up his charges. He wants to remain confidential. He has been threatened with being fired if he does not keep quiet. He has not talked to the resident inspector for fear of being seen with him. He was told that someone would be in touch with him.

His address and telephone number is:

2515 Central Drive
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(815) 436-2970 (available after 7:00 p.m.)

R. C. Knop, Chief
Projects Branch 1

cc: G. W. Roy
E. Pawlik

ATTACHMENT
"A"

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 86 AUG 28 10:54

In the Matter of:)

COMMONWEALTH EDISON COMPANY)

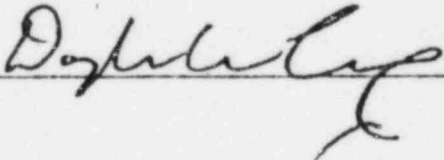
(Braidwood Nuclear Station,)
Units 1 and 2))

) Docket Nos. 50-456 and 50-457

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of Intervenors' Motion For Disclosure of Relevant Documents From OI Files on all parties to this proceeding as listed on the attached Service List, by having said copies placed in envelopes, properly addressed and postaged, and deposited in the U.S. mail at 109 North Dearborn, Chicago, Illinois 60602, on this 25th day of June, 1986; except that the Licensing Board and counsel for Edison and counsel for NRC Staff were served by personal delivery at the hearing held on June 26, 1986 in Joliet, Illinois.



BPAIDWOOD SERVICE LIST

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ATTACHMENT C



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

August 11, 1986

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Business and Professional People
for the Public Interest
109 N. Dearborn Street
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In the Matter of
Commonwealth Edison Company
(Braidwood Station, Units 1 and 2)
Docket Nos. 50-456 and 50-457

RE: NRC Staff Additional Production of Documents
Responsive To Intervenor's Harassment Contention

Dear Messrs. Miller and Guild:

On August 5, 1986, the Staff provided you with certain documents described in its cover letter of August 4, 1986 which updated and augmented the Staff's document production on Intervenor's harassment contention. In the August 4, 1986 letter, the Staff reiterated its understanding of the scope of the contention. Subsequently, the Board and other parties discussed the Staff's view of the scope of the contention and it appears the Board and other parties believe the Staff has been too restrictive in its view. Tr. at 10250-259. They would find relevant documents relating to any allegation of harassment or of emphasis by Comstock management of production over quality made by any Comstock quality control inspector. While the Staff does not agree with this broader view of the scope of the contention, 1/ nonetheless the Staff

1/ See e.g. - This Board's Memorandum And Order (Admitting Harassment and Intimidation Issue on Five-Factor Balance) dated May 2, 1986 in which the Board, while discussing the factor of good cause, described briefly the scope of the contention:

"Although Subpart 2.C, as filed on May 24, 1985, was specific enough to have met the specificity requirements for the filing of a contention and could have been admitted at that time, the Board established further deadlines for filing of additional

(FOOTNOTE CONTINUED ON NEXT PAGE)

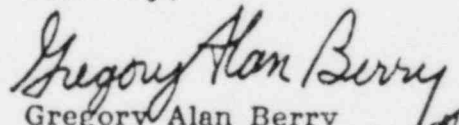
has determined to provide the following nine documents relating to an allegation recently received by Staff (and the only other one known to Staff counsel) from a quality control inspector performing work for Comstock at the Braidwood site.

RIII-86-A-0096

0096-1 June 4, 1986 Allegor Identification Sheet
0096-2 Allegation Management System (2)
0096-3 June 6, 1986 Letter to Allegor from C.H. Weil
0096-4 June 6, 1986 Memorandum For C.E. Norelius from C.H. Weil
0096-5 June 13, 1986 Memorandum For C.E. Norelius from C.H. Weil
0096-6 July 14, 1986 Letter to NRC from Allegor
0096-7 July 17, 1986 Memorandum For C. Paperiello from C.H. Weil
0096-8 July 6, 1986 - Newspaper article, Chicago Tribune
0096-9 August 7, 1986 - Memorandum For C.E. Norelius from C.H. Weil

The Staff notes that the investigation of this allegation is ongoing. Therefore, disclosure of these documents should be accorded the same protection as that accorded to the documents relating to Allegation No. RIII-86-A-0079 produced by the Staff on August 6, 1986, pursuant to Board order. In other words, disclosure of the subject documents is to be limited to counsel until such time as the Staff completes its investigation and issues its report on Allegation No. RIII-86-A-0096.

Sincerely,


Gregory Alan Berry
Counsel for NRC Staff

Enclosure: As Stated
cc. w/o encls: Service List

(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

specific information for the purpose of limiting Intervenor to only those specifics in discovering and trying the harassment issue."

" Order at 6 (emphasis added). The Staff has maintained that instances of alleged harassment or intimidation not specifically identified in Intervenor's amended contention are beyond the scope of this proceeding.

ATTACHMENT D

NRC 'sitting on' Braidwood probe

Thomas M. Burton

manager at the Braidwood reactor plant construction site. The federal Nuclear Regulatory Commission in 1983 that records on the project being falsified, but three months later the federal agency has begun its investigation of the matter.

NRC officials say they were to investigate because of power shortages, but an attorney opposing the licensing of Braidwood charged in an interview that the agency is "sitting on" the allegation.

On the evening of Aug. 1, the quality-control manager of the electrical contractor at Braidwood construction site

told the NRC that "quality-control records and inspection reports are being falsified," according to an NRC memorandum. Such falsification of safety records would be a criminal offense.

The manager, Thomas Corcoran, directed the quality-control section at Braidwood for L.K. Comstock & Co. Inc. of Danbury, Conn., the electrical contractor on the \$5.05 billion plant being built 55 miles southwest of Chicago. He since has left Comstock.

One Braidwood reactor is 96 percent complete and is scheduled to begin operations in May, 1987; the other is set for completion in October, 1988. But

before Braidwood can open, it must overcome some obstacles, including an NRC board considering safety and the Illinois Commerce Commission's consideration of costs.

At least 26 employees of Comstock have made other allegations to the NRC that Comstock harassed them on the job site to overlook safety problems and to speed up construction at Braidwood—a charge Comstock has denied.

But Corcoran's allegation is unique in two ways. He is the only high-level official for a Braidwood contractor known to have raised safety-related charges. And he is the first to raise issues that potentially could

be found to be criminal.

An attorney for Commonwealth Edison Co., Michael J. Miller, said last week that "to my knowledge, there has been no contact between the NRC and Commonwealth Edison" on the alleged falsification of safety documents at Braidwood. Miller said he would be likely to know about it if the NRC had contacted either Edison or one of its contractors.

And NRC officials conceded that little had been done on the matter, blaming a shortage of personnel for the three-year delay.

An NRC spokesman at the agency's Midwest regional office in Glen Ellyn, Jan Strasma, said:

"All we can say on this investigation is that there are things underway that date back two or three years. The reason they have not been investigated previously has to do with shortage of manpower. There is a backlog of investigations, and has been ever since the NRC Office of Investigations was created."

Douglass Cassel Jr., a Chicago attorney representing residents near the plant who oppose the licensing of Braidwood, called this an example of the NRC's lack of concern for safety issues. Cassel charged that Corcoran "was pressured to leave by Comstock because he was too zealous

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on safety."

Miller said Corcoran was not fired but left Comstock on his own. But Miller did say that Comstock officials were unhappy with Corcoran's work at the approximate time Corcoran complained to the NRC, and that he was "laterally transferred to another job" before leaving Comstock about three months later.

The backlog of cases and the manpower shortage at the NRC's investigative office have caused criticism by Democrats on Capitol Hill as the Reagan administration has cut NRC funding.

The Office of Investigations, based in Washington, is a quasi-independent office within the NRC that reports directly to the five-member commission that runs the agency, not to officials in regional offices. The investigative office is assigned the task of looking into potentially criminal cases related to nuclear power plants.

The 1983 NRC memorandum, written by R.C. Knop of the agency's Glen Ellyn office, said Corcoran had reported having documents to back up his charges of falsification of safety records.

Corcoran, who stopped working at Braidwood within months after making his report to federal regulators and who has since moved to California, declined to comment in a recent interview, saying only, "I no longer work in Illinois."

Residents living near the power plant construction site, who are opposing the licensing of Braidwood through ongoing NRC hearings, also have found out about Corcoran's charges. Attorneys representing the residents are seeking to have detailed files on Corcoran's allegations turned over

to them, a request being opposed by the NRC.

One of those attorneys, Cassel, was irate that the NRC had not told him or others representing residents near the plant about Corcoran's charges.

In a recent filing in the licensing proceedings for Braidwood, the NRC said the Corcoran "investigation is ongoing and is still in its early stages."

In an apparent attempt to explain why so little has happened on the matter over the last three years, the agency said, "The Office of Investigations has finite investigatory resources."

In April, Ben Hayes, director of the NRC's Office of Investigations, testified on Capitol Hill that he could not see how his "28 investigators can handle a caseload of the magnitude that we have." Hayes testified that his office had about 190 unfinished investigations in the works at the time.

"The fact that the Office of Investigations' inspections are delayed or not as well done as they might be has been a source of concern to me," Miller said. "Three years is a bit much under any circumstances." But he agreed that "this branch of the NRC has just an incredible number of allegations."

U.S. Rep. Edward Markey [D., Mass.] said at that April hearing of his House Subcommittee on Energy Conservation and Power that, "excluding cases that are less than 2 months old, my staff has done a statistical analysis showing 37.3 percent of the Office of Investigations' backlog cases are older than 12 months."

Markey added: "Cases do get stale. The trail of evidence grows a little weaker. Documents get destroyed, lost, memories fade, and, of course, prosecution becomes more difficult."