

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)
COMMONWEALTH EDISON COMPANY)
(Braidwood Station, Units 1)
and 2))

Docket Nos. 50-456 OL
50-457

BRIEF OF COMMONWEALTH EDISON COMPANY
IN OPPOSITION TO THE
ADMISSION OF PARKHURST CONTENTION

I. INTRODUCTION

On May 27, 1986 Intervenors Rorem et al. filed a "Motion to Admit Additional Late-Filed Harassment and Intimidation Contentions." Intervenors' Motion proposes two new contentions. One arises from the discharge on March 26, 1986 of an L. K. Comstock QC inspector, Mr. R. D. Hunter, for inspecting welds through paint. The second deals with the allegations of a clerk/typist employed by L. K. Comstock who was "loaned" to Sargent & Lundy, Ms. Bonnie Parkhurst.

Applicant does not contest the admission of the proposed Hunter contention, provided that the contention is properly focussed on the reason for Mr. Hunter's discharge. 1/ Applicant does, however, oppose the admission of the Parkhurst contention. Intervenors' Motion is based on a critical misstatement of fact as to when Intervenors learned or should have learned of Ms. Parkhurst's allegations. Intervenors are

1/ See Part III of this Brief.

unjustifiably late in proposing this additional contention. Moreover, litigating the Parkhurst contention would not contribute anything to the overall record on alleged harassment of L. K. Comstock QC inspectors, and would result in a substantial, unjustifiable delay in the completion of this proceeding.

II. UNDER THE FIVE FACTOR TEST OF 10 C.F.R. § 2.714,
THE LATE FILED PARKHURST CONTENTION IS INADMISSIBLE.

Factor (i) Intervenors Have No Good Cause For Their Failure to File the Parkhurst Contention in a Timely Fashion.

Both the Commission and the Licensing Board have recently reaffirmed that this first factor is the crucial element in the analysis of whether a late-filed contention should be admitted. CLI-86-08, 23 NRC __ (April 24, 1986); Memorandum and Order (Admitting Harassment and Intimidation Issue on Five-Factor Balance) dated May 2, 1986. Intervenors' Motion (at p. 4) asserts that:

Intervenors first learned of Ms. Parkhurst's allegations, and of the April 10, 1986 ruling by the Administrative Law Judge through a Board notification provided by Applicant under a cover letter dated April 28, 1986.

This is untrue, or at least seriously misleading. Intervenors were, or should have been, fully informed of Ms. Parkhurst's allegations on or about January 10, 1986, when the NRC Staff made its records concerning those allegations available to Intervenors and Applicant in response to Applicant's discovery request.

Attachment A to this Brief is the NRC Staff's cover letter and index to the documents made available on January 10, 1986. Thirty-five of these documents (#s 7 to 41) relate to Ms. Parkhurst's allegations. As the NRC Staff's cover letter indicates, Applicant and Intervenors agreed to treat these documents and the information they contain as confidential. Therefore Applicant is handicapped in describing to the Licensing Board what these Parkhurst documents contain. The Licensing Board should examine the confidential documents itself if it has any doubt that they were sufficient to inform Intervenors of Ms. Parkhurst's allegations. For example, the Parkhurst documents made available on January 10, 1986 include:

Doc. #9 The NRC Staff's February 20, 1985 Memorandum summarizing Ms. Parkhurst's initial February 15, 1985 telephone call to the Staff regarding her drawing control and employment discrimination concerns.

Doc. #s 28,31 Ms. Parkhurst's four page written complaint, dated February 17, 1985, documenting her allegations to the NRC and U.S. Department of Labor.

Doc. #15 The NRC Staff's June 18, 1985 Memorandum summarizing a telephone call from Ms. Parkhurst on June 17, 1985 in which she complained about being laid off.

Doc. #s 11, 14 Ms. Parkhurst's three page written complaint, dated June 18, 1985, to the NRC and to the U.S. Department of Labor.

Additional documents made available to Intervenors on January 10, 1986 reflect the NRC Staff's and the Department of Labor's processing of Ms. Parkhurst's allegations.

The Parkhurst allegations reflected in the confidential documents made available to Intervenors on January 10, 1986 are the same allegations addressed in the Administrative Law Judge's ruling attached to Intervenors' proposed contention. Intervenors' assertion that they first learned of Ms. Parkhurst's allegations in late April, 1986 is therefore inexplicable. 2/

The Administrative Law Judge's ruling in favor of Ms. Parkhurst, which was entered on April 7, 1986 and transmitted to the Licensing Board and to the parties by Applicant's counsel on April 28, 1986, does not constitute "good cause" for Intervenors' untimely contention. The Administrative Law Judge's ruling is not a final decision of the U. S. Department of Labor; it is being appealed. Moreover, in NRC proceedings a party which has sufficient facts to form the basis for a contention can not sit back and wait on the outcome of another proceeding before submitting its contention.

Previously in this proceeding, for example, Intervenors claimed that they refrained from filing a quality assurance contention pending the outcome of events--

2/ Applicant has been unable to confirm that Intervenors actually inspected the confidential documents made available to them by the NRC Staff on January 10, 1986. However, the absence of this confirmation doesn't really matter. Intervenors can not turn their back on documents made available during discovery and then, more than four months later, argue that good cause exists for a late-filed contention.

specifically, the outcome of Applicant's Braidwood Construction Assessment Program (BCAP). Intervenors argued that by refraining for five months from filing their contention, they sought to avoid needless litigation. The Commission rejected this argument, observing:

Parties to Commission proceedings must live with the choices they make. Intervenors had the option of pursuing their aims outside the adjudicatory context, or of filing a timely contention, but an untimely filing is not made acceptable by the fact that the party refrained from burdening the adjudicatory process during the months of delay.

CLI-86-08, 23 NRC ____ (April 24, 1986) (slip op. at 4).

Thus, whether Intervenors learned of the Parkhurst allegations in January and chose not to pursue them at that time while awaiting the outcome of the Labor Department proceeding, or whether they simply turned their back on the confidential Parkhurst documents offered to them by the Staff--the result is the same. There is no good cause for Intervenors' four-and-one-half month delay in submitting the Parkhurst contention. 3/

3/ To the extent that Intervenors seek to litigate Ms. Parkhurst's document control allegations, as opposed to her claim that she was the victim of employment discrimination (see Intervenors' Motion at 7, n.*), Intervenors' contention is even more untimely. Ms. Parkhurst's document control allegations are described in detail in NRC Inspection Report 50-456/85044(DRS); 50-457/85043(DRS), The NRC Staff concluded that the document control allegations were unsubstantiated. A copy of this inspection report was sent to the Licensing Board and all parties, including Intervenors, on October 4, 1985. See Attachment B.

Factors (ii) and iv). The Availability of Other Means Whereby the Applicant's Interest Will Be Protected and the Extent to Which Intervenors' Interest Will Be Represented by Existing Parties.

While these factors are given less weight than other factors in resolving the admissibility of late-filed contentions, the Commission has held in this proceeding that they weigh in Intervenors' favor. CLI-86-08 (slip op. at p. 9). Accordingly, Applicant does not contest that these factors are in favor of admitting the Parkhurst contention.

Factor (iii) Intervenors Have Not Shown That Litigating the Parkhurst Allegations May Reasonably Be Expected to Assist in Developing a Sound Record.

Intervenors' Motion asserts that adding evidence on the Parkhurst allegations will contribute to a sound record in two ways. First, Intervenors claim that the alleged retaliatory actions taken against Ms. Parkhurst, a clerk/typist who is not and never was employed by Comstock's QC department, show that "harassment and undue production pressure within the QC department at Comstock reflected the attitudes of Comstock's site management generally." (Motion at 6) Intervenors do not claim, nor could they, that evidence concerning Ms. Parkhurst's allegations would help the Licensing Board determine whether there was harassment and intimidation of Comstock QC inspectors within the QC department. Intervenors suggest that it is "notable" that Comstock's Project Manager and Project Engineer were implicated in the alleged discrimination against

Ms. Parkhurst. These individuals have no responsibility under Comstock's organization for QA or QC matters. (See Interveners' Ex. 7, Enclosure 2, page A0015026)

Apparently seeking to remedy this lack of relevance, Interveners speculate that "[T]he Parkhurst case appears to reflect either a failure by Comstock QA to detect the problem, or else a lack of sufficient independence of Comstock QA to challenge the actions of Comstock site management." (Motion at 7). There is no basis at all for this suggestion. The Administrative Law Judge's Decision and Order establishes that although Ms. Parkhurst was a Comstock clerk/typist, she was loaned to Sargent & Lundy, which largely supervised and controlled her day-to-day activities in Sargent & Lundy's mylar (engineering drawing) room. Ms. Parkhurst's safety concerns related exclusively to Sargent & Lundy's mylar room. (Parkhurst Contention Ex. A, pp. 4-5) Comstock QA has no responsibility for auditing or overseeing Sargent & Lundy's activities anywhere, much less Sargent & Lundy's control of engineering drawings. Sargent & Lundy's own quality assurance organization (and Applicant's QA Department) have that responsibility. ^{4/} The Administrative Law Judge's Decision and Order does not even refer to the Comstock QA organization.

^{4/} See e.g. Attachment B to this Brief, p. 2.

Intervenors have simply attempted to invent a connection to Comstock QA where none exists. 5/

Finally, it should be noted that although Intervenors refer to "the Parkhurst evidence", they have not promised to provide anything to the Licensing Board other than the record of the Labor Department proceeding. Intervenors have not offered to call Ms. Parkhurst herself as a witness, or to furnish expert testimony addressing the relevance and significance of the clerk/typist's harassment claim to the QC inspector harassment issues which are the focus of this case. The lack of probative value of the "Parkhurst evidence" in proving or disproving the Comstock QC inspector harassment claims means that this factor weighs against admission of the contention.

Factor (v) Admission of the Parkhurst Contention
Would Significantly Delay This Proceeding.

Intervenors contend that admission of the Parkhurst contention would not significantly broaden or delay this proceeding because under the doctrines of collateral estoppel and res judicata, there is no need to relitigate the Department of

5/ In the spring of 1985 Ms. Parkhurst took an extensive leave of absence due to her husband's illness. When she came back to work at Braidwood in June she worked briefly for Comstock as a clerk in its Xerox room before she was laid off. (Parkhurst Ex. A, p. 6, ¶ 42-43) Obviously Comstock QA has no oversight responsibility for such photocopying or for Comstock employment decisions with respect to clerks in the Xerox room, since these are not safety-related activities.

Labor's findings in this case. (Motion at 9) This is not a serious suggestion. The Administrative Law Judge's ruling is not the final decision of the Department of Labor; for this reason alone the doctrines of res judicata and collateral estoppel are inapplicable. Alabama Power Company (Joseph M. Farley Nuclear Plant Units 1 and 2), ALAB-182, 7 AEC 210, 212-13 (1974), rev'd on other grounds, CLI-74-13, 7 AEC 203 (1974).

Even if there were a final decision of the Department of Labor with respect to Ms. Parkhurst's allegations, the doctrine of res judicata and collateral estoppel would not apply, among other reasons, because Commonwealth Edison was not a party in the proceedings before the Department of Labor, and there was no privity between Commonwealth Edison and Comstock, the defendant. Although this is not the appropriate occasion to submit a brief on the legal concept of privity, it is clear that this is an issue which has to be determined based on the facts and circumstances of each case. In this case, unlike the situation in Texas Utilities Generating Co. (Comanche Peak Steam Electric Station, Units 1 and 2), LBP-83-34, 18 NRC 36 (1983), no Commonwealth Edison employee was involved in the alleged discriminatory acts against Ms. Parkhurst. Moreover, unlike the situation in Comanche Peak, Comstock's defense strategy in the Labor Department case was hardly one which Commonwealth Edison would have adopted: Comstock argued that if there was any discrimination against Ms. Parkhurst, it was

Sargent & Lundy's fault, not Comstock's, because Ms. Parkhurst was on loan to Sargent & Lundy. No Sargent & Lundy witness appeared to explain or defend its reprimand and reassignment of Ms. Parkhurst. Just as a matter of common sense, is it likely that Commonwealth Edison would take such an approach, if it had any control over Comstock's Labor Department litigation? The Administrative Law Judge's finding that harassment occurred reflects the case presented to him, which was not Edison's case, nor was it in any sense a complete case.

Intervenors also suggest that even if the Parkhurst allegations are relitigated before this Licensing Board, the time required for such relitigation would be "quite limited" in view of the small number of witnesses and the fact that the evidence has already been gathered and organized by the Administrative Law Judge. (Motion at 9) This Licensing Board has already ruled that it will not normally accept deposition transcripts in lieu of live testimony. One would therefore expect that the Licensing Board, if it is to be consistent, would require the live testimony of Ms. Parkhurst, rather than just her Labor Department transcript. In addition, the Licensing Board would have to hear at least three more witnesses: one from Sargent & Lundy to explain and justify Sargent & Lundy's reprimand and reassignment of Ms. Parkhurst; one from Comstock to explain Ms. Parkhurst's lay-off; and an NRC Staff witness. Thus it would take a minimum of four witnesses to try the Parkhurst contention. So far in this case

it has taken two weeks of hearing time to complete the examination of three witnesses. Applicant therefore believes that at least two additional weeks of hearings would be required to litigate the proposed Parkhurst contention. Such a delay is not justified in view of the limited relevance of the Parkhurst allegations to the overriding QC inspector harassment issue, and in view of Intervenors' unjustified and unjustifiable delay in proposing this new contention.

In balancing the five factors, the three most important factors all weigh against admission of the Parkhurst contention. The contention is submitted more than four months late, without good cause. The contention relates to alleged discrimination against a clerk/typist due to her safety concerns involving Sargent & Lundy's document control activities. Ms. Parkhurst's claims have nothing to do with Comstock QC inspectors. Finally, admission of the untimely contention will unjustifiably prolong this proceeding. Accordingly, the proposed Parkhurst contention must be rejected.

III. THE LICENSING BOARD SHOULD CLARIFY THE HUNTER CONTENTION.

Applicant has the ultimate burden of persuasion with respect to each admitted contention in this proceeding. Therefore it is of great concern that contentions admitted be drafted with basis and specificity as required by 10 CFR § 2.714. The gist of Intervenors' Hunter Contention is clear enough. Mr. Hunter claims that he was terminated because of his deposition testimony, and not, as Applicant contends,

because he inspected welds through paint. However, Intervenor's also incorporate in their Hunter Contention Mr. Hunter's two page Quality First letter, which appears to raise a number of much broader, much less well-defined issues, such as:

I wish to question ... the training, instructions and supervision given in any and all areas of Quality Control and Quality Assurance.

(Hunter Ex. A, p. 1) If this is in fact the contention, rather than evidence offered in support of the contention, it is not sufficient notice to inform Applicant or anyone else as to what Mr. Hunter's specific concerns are, or what evidence Applicant will have to bring forward to meet its burden of persuasion. Similarly there are cryptic references to the relationship between Comstock and Bestco, alleged favoritism given to "certain people" and alleged substance abuse problems--none of this is clear enough to allow Applicant to know what is to be litigated.

To the extent these murky issues are unrelated to Mr. Hunter's discharge, they fail to satisfy the five-factor test for late-filed contentions in 10 CFR § 2.714. Intervenor's have been in contact with Mr. Hunter by letter and by telephone since September, 1985. (See Hunter Deposition Tr. 10-12, 72-73, Hunter Dep. Ex 3). They have not shown why these generalized allegations could not have been brought forward earlier. Moreover, Intervenor's have not even attempted to show what evidence they would offer that would contribute to a sound

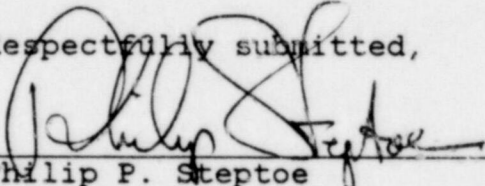
record on any of these collateral issues. Finally, these cryptic references to QC and QA training, favoritism and substance abuse hold the potential for a dramatic expansion of the hearing time in this case.

Applicant therefore requests that the Licensing Board delete Hunter Exhibit A from the admitted Hunter contention, and define the matter in controversy as whether Mr. Hunter was discharged in retaliation for his deposition testimony in this case. (Of course, to the extent Hunter Contention Exhibit A or any of the allegations made in Hunter Contention Exhibit A are relevant to Mr. Hunter's discharge, they could be offered into evidence or otherwise addressed in testimony.)

IV. CONCLUSION

For the reasons stated, the Licensing Board should reject the proposed Parkhurst contention and accept the proposed Hunter contention, limited to the issue of whether Mr. Hunter was discharged in retaliation for his deposition testimony.

Respectfully submitted,

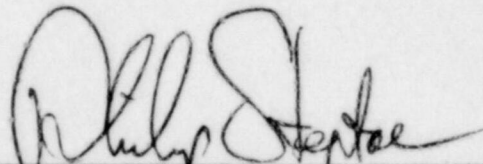

Philip P. Steptoe
One of the Attorneys for
Commonwealth Edison Company

Isham, Lincoln & Beale
3 First National Plaza
Chicago, Illinois 60602
(312) 558-7500

Dated: June 5, 1986

CERTIFICATE OF SERVICE

I, Philip P. Steptoe, do hereby certify that a copy of the foregoing BRIEF OF COMMONWEALTH EDISON COMPANY IN OPPOSITION TO THE ADMISSION OF PARKHURST CONTENTION was served on all persons on the attached service list by deposit in the United States mail, first class (or by expedited means, as shown) this 5th day of June, 1986.



Philip P. Steptoe

SERVICE LIST

* Herbert Grossman, Esq.
Chairman
Administrative Law Judge
Atomic Safety and Licensing
Board
United States Nuclear Regulatory
Commission
Washington, DC 20555

Mr. William L. Clements
Chief, Docketing and Services
United States Nuclear Regulatory
Commission
Office of the Secretary
Washington, DC 20555

* Dr. Richard F. Cole
Administrative Law Judge
Atomic Safety and Licensing
Board
United States Nuclear Regulatory
Commission
Washington, DC 20555

Ms. Bridget Little Rorem
117 North Linden Street
P.O. Box 208
Essex, IL 60935

* Dr. A. Dixon Callihan
Administrative Law Judge
102 Oak Lane
Oak Ridge, TN 37830

* Robert Guild
Douglass W. Cassel, Jr.
Timothy W. Wright, III
BPI
109 North Dearborn Street
Suite 1300
Chicago, IL 60602

* Stuart Treby, Esq.
Elaine I. Chan, Esq.
Office of the Executive Legal
Director
United States Nuclear Regulatory
Commission
Washington, DC 20555

Charles Jones, Director
Illinois Emergency Services
and Disaster Agency
110 East Adams
Springfield, IL 62705

Atomic Safety and Licensing
Board Panel
United States Nuclear Regulatory
Commission
Washington, DC 20555

William Little, Director
Braidwood Project
Region III
United States Nuclear Regulatory
Commission
799 Roosevelt Road
Glen Ellyn, IL 60137

Atomic Safety and Licensing
Appeal Board Panel
United States Nuclear Regulatory
Commission
Washington, DC 20555

Janice A. Stevens
(For Addressee Only)
United States Nuclear Regulatory
Commission
7920 Norfolk Avenue
Phillips Building
Bethesda, MD 20014

* Hand Delivery

George L. Edgar, Esq.
Thomas A. Schmutz, Esq.
Newman & Holtzinger, P.C.
1615 "L" Street, N.W.
Suite 1000
Washington, DC 20036



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

January 10, 1986

Michael I. Miller, Esq.
Isham, Lincoln & Beale
Three First National Plaza
Chicago, IL 60602

Robert Guild, Esq.
Business and Professional People
for the Public Interest
109 N. Dearborn Street
Suite 1300
Chicago, IL 60602

In the Matter of
Commonwealth Edison Company
(Braidwood Station, Units 1 and 2)
Docket Nos. 50-456 and 50-457

RE: NRC Staff Response To Applicants First Request For Production
of Documents To The NRC Staff

Dear Messrs. Miller and Guild:

On December 12, 1985, Applicant filed with the Executive Director of Operations a Request for Production of Documents pursuant to 10 C.F.R. § 2.744. In its request, Applicant seeks documents relating to a contention raised by Intervenors that "supervisors employed by Applicants' electrical contractor [L.K. Comstock Co.] allegedly harassed and intimidated their QC inspector and other employees." Letter from Elena Z. Kezelis, Esq. to William Dircks at 1 (December 12, 1985).

The Staff has undertaken a search for documents responsive to Applicant's request. That search has resulted in the identification of 124 responsive documents. An index of these documents is appended to this letter. Of the 124 documents, the Staff will make available to Applicant and Intervenor for inspection and copying 117 documents in their entirety. Seven documents (118-124) are being withheld in their entirety pursuant to 10 C.F.R. § 2.790(a)(7). Documents 118-124 all relate to the Staff's ongoing investigation of Allegation No. RIII-85-A-0067. Disclosure of these documents at the present time could interfere with the Staff's investigatory efforts and hamper its regulatory

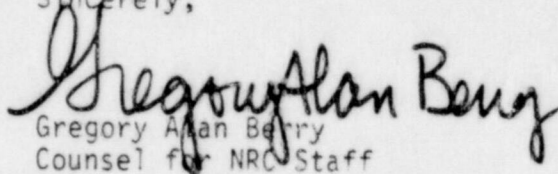
~~CONFIDENTIAL~~ 8pp.

function. Consequently, Documents 118-124 are being withheld from disclosure in their entirety at this time pursuant to 10 C.F.R. § 2.790(a)(7)(i) pending completion of the Staff's investigation of Allegation No. RIII-85-A-0067. Documents 118-124, however, will be made available to the parties after the investigation of this matter is complete.

In its December 12, 1985 letter, Applicant states that it is "willing to agree that the documents we obtain from the NRC Staff and the information they contain will be treated in accordance with the terms of [the Protective Order entered by the Board on December 6, 1985]." Id. at 2. Documents 1-117 are being made available for inspection and copying by Applicant and Intervenors based on the understanding by all the parties that these documents constitute confidential information within the meaning of the December 6, 1985 Protective Order.

The documents will be available for inspection and copying at the offices of William F. Little, Braidwood Project Director, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. Please call Mr. Little at (312) 790-5578 to arrange an agreeable time to inspect and copy the responsive documents.

Sincerely,


Gregory Alan Berry
Counsel for NRC Staff

Enclosure: As stated

cc w/o encl.: Service List

APPENDIX

Documents Responsive To Allegation No. RIII-85-A-0005

1. 7 pages of Allegation Management System Forms
2. March 14, 1985 Memorandum from P.R. Pelke to C.H. Weil
3. January 16, 1985 Memorandum from C.H. Weil to C.E. Norelius
4. Allegation Data Form (ATS-RIII-85-A-005) (January 14, 1985)
5. Same as 3, supra
6. Same as 4, supra

Documents Responsive To Allegation No. RIII-85-A-0032

7. 4 pages of Allegation Management System Forms
8. July 15, 1985 Memorandum from C.H. Weil to C.E. Norelius
9. July 12, 1985 Letter from D.P. New to W.G. Cheney
10. July 12, 1985 Letter from D.P. New to B.J. Parkhurst
11. June 18, 1985 Letter from B.J. Parkhurst to Department of Labor
12. Same as 9, supra
13. Same as 10, supra
14. Same as 11, supra
15. June 18, 1985 Memorandum from C.H. Weil to C.E. Norelius
16. Same as 15, supra
17. June 18, 1985 Letter from C.H. Weil to B.J. Parkhurst
18. April 15, 1985 Memorandum from C.H. Weil to C.E. Norelius
19. April 9, 1985 Letter from R. Wyzguski, DOL Compliance Officer, to B.J. Parkhurst
20. April 1, 1985 Letter from F. Rolan, LKC Project Manager, to R. Wyzguski
21. Sargent & Lundy Employee Performance Note re: B.J. Parkhurst (February 1, 1985)

22. Same as 19, supra
23. Same as 20, supra
24. Same as 21, supra
25. March 6, 1985 Memorandum from C.H. Weil to C.E. Norelius
26. March 4, 1985 Letter from D.P. New to T. Trumble
27. Redacted version of Document 31, infra
28. Redacted version of Document 35, infra
29. Same as 26, supra
30. March 4, 1985 Letter from D.P. New to B.J. Parkhurst
31. February 17, 1985 Letter from B.J. Parkhurst to Department of Labor
32. February 22, 1985 Letter from C.H. Weil to B. Parkhurst
33. February 22, 1985 Memorandum from C.H. Weil to C.E. Norelius
34. Redacted version of Document 25, supra
35. February 17, 1985 Letter from B.J. Parkhurst to C.H. Weil
36. February 20, 1985 Letter from C.H. Weil to B.J. Parkhurst
37. February 20, 1985 Memorandum from C.H. Weil to C.E. Norelius
38. Allegation Data Form (ATS-PIII-85-A-0032) (February 15, 1985)
39. Same as 37, supra
40. Same as 30, supra
41. Alleger Identification Sheet

Documents Responsive To Allegation No. RIII-85-A-0062

42. March 13, 1985 Memorandum to W. Forney from L. McGregor re: Allegations with regard to qualification certification of L.K. Comstock QC Personnel (5 pages)
43. March 19, 1985 Memorandum to C. Norelius from C.Weil re: Allegation No. RIII-85-A-0062 (7 pages)
44. March 13, 1985 Allegation Data Input Form (1 page)

45. November 1, 1985 Allegation Management System Forms/
Allegation No. RIII-85-A-0062 (8 pages)

Documents Responsive To Allegation No. RIII-85-A-0068

46. March 29, 1985 Memorandum to R. Spessard from C. Weil re:
Allegation No. RIII-85-A-0068 (4 pages)
47. March 20, 1985 Allegation Data Input Form (1 page)
48. November 1, 1985 Allegation Management System Forms/
Allegation No. RIII-85-A-0068 (8 pages)
49. April 4, 1985 Letters to Allegor from C. Weil (10 pages)
50. Undated Allegor Identification Sheet (1 page)
51. Undated, unsigned typewritten memorandum (2 pages)
52. November 8, 1985 Letter to Allegor from C. Weil (1 page)
53. November 8, 1985 Letter to Allegor from C. Weil (1 page)

Documents Responsive To Allegation No. RIII-85-A-0072

54. March 29, 1985 Handwritten notes of telephone conference taken by
F. Lerch (1 page)
55. March 29, 1985 Memorandum to R. Warnick from L. McGregor re:
telephone conference call with Applicant (4 pages)
56. March 29, 1985 Allegation Data Input Form (1 page)
57. April 1, 1985 RIII-Daily Report (1 page)
58. April 4, 1985 RIII-Daily report (1 page)
59. April 5, 1985 Memorandum from W.J. Dircks to Commission re: "Daily
Staff Notes - April 4, 1985" (1 page)
60. November 1, 1985 Allegation Management Computer Form/Allegation
No. RIII-85-A-0072 (8 pages)
61. November 7, 1985 Memorandum to E. Pawlick from C. Weil re:
Allegation No. RIII-85-A-0072 (1 page)
62. March 29, 1985 Memorandum to R. Warnick from L. McGregor re:
Quality control allegations from L.K. Comstock inspectors (8 pages)
63. April 5, 1985 Memorandum to C. Norelius from C. Weil re: LKC quality
assurance program at Braidwood (18 pages)

64. April 8, 1985 Letters to Allegers from C. Weil (17)
65. April 10, 1985 Facsimile of Memorandum to C. Weil from L. McGregor (3 pages)
66. April 17, 1985 Memorandum to C. Weil from P. Felke re: Braidwood Allegation Review Board meeting on April 12, 1985 (2 pages)
67. November 8, 1985 Letter to Alleger from C. Weil (17 pages)
68. November 4, 1985 Inspection Report No. 50-456/85021; 50-457/85022

Documents Responsive To Allegation No. RIII-85-A-0119

69. August 27, 1985 Memorandum from C.H. Weil to C.E. Norelius
70. Allegation Data Input Form (August 20, 1984)
71. August 23, 1984 Memorandum from W.L. Forney to C.H. Weil
72. August 17, 1984 Letter from J.D. Seeders to I. DeWald
73. Same as 70, supra
74. Same as 71, supra
75. Same as 72, supra
76. Alleger Identity Sheet
77. 6 pages of Allegation Tracking System Forms
78. January 25, 1985 Memorandum from E.T. Pawlik to C.H. Weil
79. January 21, 1985 Letter from C.H. Weil to J.D. Seeders
80. August 29, 1984 Letter from C.H. Weil to J.D. Seeders
81. December 31, 1984 Letter from R. Warnick to C. Reed transmitting Inspection Report No. 50-456/84-34; 50-457/84-32

DOCUMENTS RESPONSIVE TO ALLEGATION No. RIII-A-0123

82. February 14, 1985 Memorandum to C.E. Norelius from C.H. Weil
83. February 26, 1985 Memorandum to C.E. Norelius from C.H. Weil
84. January 23, 1985 Letter to C.H. Weil from S. Goldstein (Dept. of Labor) transmitting Order of Dismissal of DOL Proceeding

85. July 26, 1985 NRC Memorandum from C.H. Weil to File
86. January 29, 1985 NRC Memorandum from C.H. Weil to C.E. Norelius
87. Undated Copy of Report of DOL Investigator R. Wyzguski
88. September 5, 1985 Letter from Worley O. Puckett to DOL
89. September 13, 1985 Memorandum from C.H. Weil to C.E. Norelius
90. September 9 1985 Letter from DOL to C.H. Weil transmitting 84 exhibits from Dept. of Labor "Whistleblower file"
91. January 17, 1985 Memorandum from C.H. Weil to C.E. Norelius transmitting Order of Dismissal of DOL Proceeding
92. January 8, 1985 Memorandum from C.H. Weil to J.A. Hind, C.E. Norelius, and J.F. Sheeter
93. November 8, 1984 Memorandum from C.H. Weil to C.E. Norelius
94. November 6, 1984 Letter from D.P. New (DOL) to T. Trumble (Comstock)
95. Undated pleading from G.O. Smith, Esq. and 15 exhibits to be offered in DOL Proceeding
96. November 7, 1984 pleading from L. Hornberger, Esq. and 41 exhibits to be offered in DOL Proceeding
97. Copy of Transcript of December 12, 1984 DOL Proceeding
98. September 26, 1984 Letter from C.H. Weil to W.O. Puckett
99. September 17, 1984 Memorandum from C.H. Weil to C.E. Norelius
100. September 13, 1984 Letter from D.P. New (DOL) to W.O. Puckett
101. September 13, 1984 Letter from D.P. New (DOL) to T. Trumble
102. September 13, 1984 Letter from D.P. New (DOL) to W.O. Puckett
103. September 13, 1984 Letter from D.P. New (DOL) to T. Trumble
104. September 6, 1984 Memorandum from C.H. Weil to C.E. Norelius and R.L. Spessard
105. August 28, 1984 Memorandum from L. McGregor to C.H. Weil
106. August 28, 1984 Allegation Data Input Form (RIII-84-0213)

107. September 6, 1984 Letter from C.H. Weil to Worley O. Puckett
108. August 28, 1984 Handwritten memo from L. McGregor to R. Warnick
109. Same as 106, supra
110. Same as 105, supra
111. Allegor Identification Sheet
112. September 11, 1984 Transcript of Allegation Interview
113. October 26, 1984 Memorandum from C.H. Weil to R.L. Spessard
114. Undated Memorandum of Memorandum to File from C.H. Weil (10 enclosures)
115. December 4, 1985 Memorandum from C.H. Weil to W.O. Puckett
116. Allegation Management System Form (December 4, 1985) re: Allegation RIII-84-A-0123
117. Inspection Report No. 50-456/85009; 50-457/85009
Withheld Documents Responsive To Allegation No. RIII-85-A-0067
118. November 8, 1985 Letter to Allegor from C. Weil (1 page)
119. March 29, 1985 Memorandum to R. Spessard from C. Weil re: Allegation No. RIII-85-A-0067 (5 pages)
120. April 4, 1985 Letter to Allegor from C. Weil (6 pages)
121. Undated and unsigned typewritten memorandum (3 pages)
122. Undated Allegor Identification Sheet (1 page)
123. November 1, 1985 Allegation Management System Form/Allegation No. RIII-85-0067 (8 pages)
124. March 20, 1985 Allegation Data Input Form (1 page)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

OCT 4 1985

Docket No. 50-456
Docket No. 50-457

Commonwealth Edison Company
ATTN: Mr. Cordell Reed
Vice President
Post Office Box 767
Chicago, IL 60690

OCT
CONFIDENTIAL

Gentlemen:

This refers to the special safety inspection conducted by Mr. R. Mendez of this office on August 22 through September 5, 1985, of activities at Braidwood Station, Units 1 and 2, authorized by NRC Construction Permits No. CPPR-132 and No. CPPR-133 and to the discussion of our findings with Mr. L. Kline at the conclusion of the inspection.

The enclosed copy of our inspection report identifies areas examined during the inspection. Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

No violations of NRC requirements were identified during the course of this inspection.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter and the enclosed inspection report will be placed in the NRC's Public Document Room.

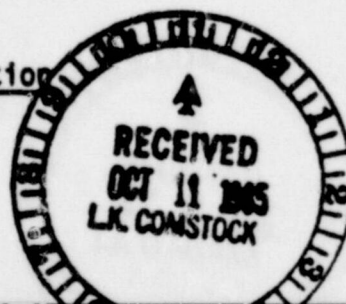
We will gladly discuss any questions you have concerning this inspection.

Sincerely,

J. J. Harrison, Chief
Engineering Branch

Enclosure: Inspection Reports
No. 50-456/85044(DRS);
No. 50-457/85043(DRS)

See Attached List For Distribution



DISTRIBUTION:	
D. OVENS	
J. KLENA	
I. DEWALD	
R. SELTMANN	
P. FOSS	

8510110029 2 pp.

OCT 4 1985

Distribution:

cc w/enclosure:

D. L. Farrar, Director
of Nuclear Licensing
M. Wallace, Project Manager
D. Shamblin, Construction
Superintendent
J. F. Gudac, Plant Manager
C. W. Schroeder, Licensing and
Compliance Superintendent
DCS/RSB (RIDS)
Licensing Fee Management Branch
Resident Inspector, RIII
Braidwood
Resident Inspector, RIII Byron
Phyllis Dunton, Attorney
General's Office, Environmental
Control Division
D. W. Cassel, Jr., Esq.
J. W. McCaffrey, Chief, Public
Utilities Division
H. S. Taylor, Quality Assurance
Division
E. Chan, ELD
J. Stevens, NRR
The Honorable Herbert Grossman, ASLB
The Honorable A. Dixon Callihan, ASLB
The Honorable Richard F. Cole, ASLB

U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Report No. 50-456/85044(DRS); 50-457/85043(DRS) -

Docket No. 50-456; 50-457

License No. CFPR-132; CPR-133

Licensee: Commonwealth Edison Company
Post Office Box 767
Chicago, IL 60690

Facility Name: Braidwood Station, Units 1 and 2

Inspection At: Braidwood Site, Braidwood, IL

Inspection Conducted: August 22, 23 and September 5, 1985

Inspector: *R. Mendez*
R. Mendez

9/26/85

Approved By: *Cordell Williams*
C. C. Williams, Chief
Plant System Section

9/26/85

Inspection Summary

Inspection on August 22 through September 5, 1985 (Report No. 50-456/85044(DRS); 50-457/85043(DRS))

Areas Inspected: Special, unannounced inspection of allegations; and licensee action on allegations. The inspection involved a total of 16 inspector-hours by one NRC inspector.

Results: No violations or deviations were identified.

~~8510110038~~ 5pp.

DETAILS

1. Persons Contacted

Commonwealth Edison Company (CECo)

*L. M. Kline, Project Licensing and Compliance Supervisor
R. M. Preston, Director, Quality First

L. K. Comstock (LKC)

F. Rolan, ^{PEW.} Manager

The inspector also contacted and interviewed other licensee and contractor personnel during this inspection.

*Denotes those personnel attending the September 5, 1985 exit interview.

2. Review of Allegations

a. (Open) Allegation (RIII-85-A-0032)

As part of an allegation received on February 15, 1985, the alleged advised the NRC that: (1) the S&L Mylar Department was not secure which allowed anyone to come into the department and remove mylars and Engineering Change Notices (ECNs); (2) mylars and ECN books were being taken from the room without proper sign-out; (3) the document control room has inadequate file cabinets and bookcases; and (4) she was not provided with adequate training. The individual had previously discussed her concerns with the Braidwood site Quality First Team on January 14, 1985, after being contacted by the team for an interview.

Licensee Review

The licensee review of this allegation was documented in its records as Concern Number QF-85-291 as follows:

- (1) S&L and the licensee conducted audits of both the mylar and ECN document control systems during the period January 15 - August 7, 1985. The audit effort covered both past and current document control activities. The audit of the mylar control system identified approximately 2% administrative errors such as typing errors, timing of status posting, and misfiling of the mylar drawings. No deficiencies were identified during the ECN control system audit. The audits did not identify any instances where documents were improperly removed from the document control room.

- (2) The licensee determined that the document control room is staffed during working hours (including two shifts) and at other times when special work schedules require the document room to be open.
- (3) The licensee determined the document control room to be adequately sized early in 1985 after it had been enlarged in November 1984. With the increase in document flow to approximately 10,000 pieces of paper per month, the document control room was moved to a large trailer in April 1985.

NRC Review

The NRC inspector determined through discussion with S&L personnel that the allegor was in charge of mechanical pipe support mylars. Mylar drawings are translucent documents which are copied to produce blueprints.

- (1) During a review by the NRC inspector of the original document control room (where the allegor worked during the time that the allegation was made) it was determined that there was only one entrance into the room. Licensee personnel stated that the entrance to the room was blocked by a counter where drawings or ECNs could be signed-out. Licensee personnel also stated that it was the responsibility of the assigned clerk to keep unauthorized personnel out of the room. S&L management stated, however, that the clerk had allowed unauthorized personnel into the room on several occasions.
- (2) Mechanical support mylars are required by S&L Procedure BFFI-5 to be controlled and anyone checking out a mylar drawing was required upon receipt to provide their signature for tracking and accountability purposes. Based on discussions with S&L personnel and review of the reprimand the allegor received, it appeared that the assigned clerk (the allegor) had allowed mylar drawings to be checked out without receiving the required signatures. The inspector conducted a review of the control process for 50 randomly selected mylar drawings and all of the ~~documents showed~~ proper adherence to procedural requirements.
- (3) It was determined by the NRC inspector that original ECN documents are not released from the document control room. A copy of the ECN is made for the individual requesting the ECN. This practice was in accordance with the approved procedure and was found to be acceptable to the NRC.
- (4) According to S&L management, the assigned clerk (the allegor) had been given adequate verbal instructions for her task and was verbally warned about permitting unauthorized people into the room and the clerk was informed several times that she had complete control of access to the room.

- (5) The present document control room appeared adequate and mylars and ECN books were observed to be filed in an appropriate manner.

Conclusion

The allegation could not be substantiated. Based on the audit conducted by the licensee and the NRC inspection, no significant adverse conditions were noted regarding Mylar and ECN controls and facilities. It appears that adequate verbal instructions were given to the allegor to enable her to properly control activities at the document control room where she was assigned. This allegation remains open pending completion of Department of Labor action related to this matter. SCHEDULED FOR DEC. 10, 1985 AT 9:00 A.M. IN CHICAGO

b. (Closed) Allegation (RIII-85-A-0005)

On January 14, 1985, an allegor telephoned Region III and provided the following allegation:

The allegor stated that Comstock Rework Program is "full of loopholes and that the documentation flow through QC is not clear in the procedure." As an example, the allegor stated that seldom is a basemetal inspection performed. The allegor stated that the basemetal inspection is required to be done after a defective part is removed and before the replacement is installed.

NRC Review

The NRC inspector reviewed L. K. Comstock Procedure 4.3.2.4, Revision B, "Rework". The purpose of the procedure is to provide instructions to control and track rework. A review of the procedure indicated that it is clear and adequate in scope and applicability. The procedure requires that QC hold points be established and that the work described on the rework form be completed. For example, Comstock Engineering initiates a rework traveler (form No. 223) and rework tag which may establish a hold point. Form No. 223 requires that the licensee approve the traveler. The traveler is sent to the field along with the rework tag. A copy of the traveler is also sent to QC. When a designated hold point is reached, the craft foreman contacts the QC inspector for inspection. When QC determines that all the work has been properly performed, they remove the rework tag. The completed traveler and QC inspection report is then sent through LKC Engineering and QC for final review. Discussions with five QC inspectors indicated they had no problems following the procedure and that they had not experienced any instances of harassment and intimidation associated with the performance of this activity.

With respect to the allegation that base metal inspections were not being performed, the NRC reviewed approximately two hundred rework travelers in various stages of completion. Travelers were reviewed in the records vault, in the LKC engineer's office and in the field. Where applicable, it was noted that a hold point was established in

every situation requiring a base metal inspection. Additionally, L. K. Comstock weld inspection checklist form No. 19 requires that base metal be within the requirements described by L. K. Comstock Procedure 4.8.3, "Weld Inspection." All weld inspection checklists were noted to be properly signed off.

On August 23, 1985, the NRC inspector witnessed a hanger being removed in the field. The rework traveler noted that a base metal inspection was to be performed after removal of the hanger. The NRC inspector observed that this work was proceeding in accordance with the instructions.

Conclusion

The allegation could not be substantiated. Procedural requirements regarding rework and base metal inspections, including the associated procedures directing this element of the Comstock Rework Program, were found to be adequate and appropriately implemented.

3. Exit Interview

The inspector met with the licensee representative (denoted in Paragraph 1 above) at the conclusion of the inspection on September 5, 1985. The inspector summarized the scope and findings of the inspections noted in this report. The inspector also discussed the likely informational content of the inspection report with regard to documents or processes reviewed by the inspector during the inspection. The licensee did not identify any such document/processes as proprietary.