

1865

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST

WASHINGTON, D.C. 20036

DOCKETED
T-11-C

'86 DEC 12 P1:49 (202) 463-8600

ANTHONY Z. ROISMAN
EXECUTIVE DIRECTOR

ARTHUR BRYANT
STAFF ATTORNEY

BILLIE GARDE
DIRECTOR, ENVIRONMENTAL
WHISTLEBLOWER PROJECT

BARBARA PRATT
OFFICE MANAGER

KATHLEEN CUMBERBATCH
SECRETARY

DOCKET NUMBER 50-445/446-OL
PROD. & UTIL. FAC.

OFF
DOC

December 9, 1986

The Honorable Peter Bloch
Chairman, Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Pre-Hearing Conference
on Discovery

Dear Judge Bloch,

As you know the Citizens Association for Sound Energy (CASE) has filed motion to compel responses to certain interrogatories filed in CASE's Sets 1 - 7 of the discovery on the adequacy of the Comanche Peak Response Team Program Plan (CPRT). Argument on the issue is currently scheduled for December 15-16, 1986.

CASE believes that the most efficient method to handle the prehearing conference is to consider the generic arguments which apply to multiple questions, and then individual questions which are not covered by one of the generic objections. This would eliminate duplicative arguments and focus the conference on the issues of controversy. Board rulings on the generic questions would then be transferred to each specific question in a Board order.

We have listed the generic issues below, followed by the questions which we believe fall into those categories.

ISSUE 1: Interrogatories that seek relevant information, but to which Applicants object on the grounds of a claim of privilege to protect "expert opinions."

Relevant questions: Set 6, Int. # 27

8612160115 861209
PDR ADOCK 05000445
G PDR

D503

ISSUE 2: Interrogator that Applicant claims seek irrelevant information, beyond the scope of the issues now before the Board.

a. Interrogatories that Applicant claims are irrelevant solely because the question seeks information about implementation of the CPRT.

Relevant questions: Set 1, Set 2, Set 3, #4, 11, and 12, specifically, and others generally.

b. Interrogatories that Applicant claims are irrelevant because the question probes the level of involvement and/or control of "project" personnel in the CPRT development and to the extent that the CPRT has been implemented.

Relevant questions: Set 1, Set 2, Set 3, # 1,5,10; Set 6, # 39-40, 52-56,57-59 & 61, 63-64, 60, and 62.

c. Interrogatories that Applicant claims are irrelevant because the questions seek the insights of project personnel in the development of the CPRT.

Relevant questions: Set 1, Set 2, Set 3, # 2 and 9.

ISSUE 3: Interrogatories that Applicant has not provided adequate responses to.

a. Interrogatories that Applicants provided a response which is circular, i.e. it relies on the information which was the basis of the question or otherwise inadequate.

Relevant questions: Set 3, #16,50,52; Set 4,26-29,28; Set 7, #10.

b. Interrogator that are inadequate because CASE does not know to what extent Applicants ignored instructions or modified the instructions in a non-specific manner.

Relevant questions: All questions.

ISSUE 4: Applicants failure to follow the specific instructions provided by CASE, without providing a rationale or basis for their refusal to do so specifically.

Relevant questions: ALL QUESTIONS.

ISSUE 5: The remedy to which CASE is entitled if the Board finds that intervenors are entitled to a response to the question.

Relevant questions: ALL QUESTIONS

ISSUE 6: Any miscellaneous questions which do not fit into the categories above.

This category may include those questions that are explained in extensive detail, by way of example in the Motion To Compel, and raise the question of whether the motion seeks new information not sought in the original interrogatories. (It is CASE's view that a resolution of the issue of the instructions will eliminate this category, since if the instructions are valid the explanations that appear to go beyond the original question become unnecessary.)

If the Board or the parties have no objection to the proposed process CASE will prepare accordingly; however, we request that the Board set up a brief conference call to discuss the procedure for the pre-hearing conference on Friday afternoon.

Respectfully submitted,

Billie Pirner Garde

Billie Pirner Garde
Counsel for CASE

cc: Service List

Express mail to R. Gad and Judge Bloch
First class mail to all others on service list