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

April 21, 1986

The Honorable John Dingell, Chairman  
Subcommittee on Oversight and Investigation  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to four of the five letters dated March 19, 1986 asking a number of questions concerning the ongoing review of TVA's nuclear program by NRC. With respect to the fifth letter, which deals with reports by TVA's Nuclear Safety Review Staff (NSRS), we will respond by separate correspondence at a later date.

I would like to update the Subcommittee on a number of important actions that have taken place since the February 26, 1986 hearing. I met with members of my senior staff to identify actions NRC could take to address the harassment and intimidation (H&I) issues at TVA prior to completion of investigations by our Office of Investigations. During the week of March 10, 1986, NRC sent a special inspection team to TVA to review H&I files to determine the potential safety significance of issues raised through the Employee Concerns Program and what NRC action should be taken in response to the H&I concerns. The results of this effort are under review and will be forwarded to you when completed.

Second, the Commission met with Mr. White and the TVA Board on March 11, 1986. During that briefing, Mr. White provided the results of his initial evaluation of TVA problems and provided the Commission with the description of recent TVA Corporate changes. Also, at this briefing, Mr. White introduced many of the new TVA senior managers to the Commission. Based on this briefing, the Commission is not expecting to receive TVA's detailed plans and schedules concerning restart of the Sequoyah plant before June 1986.

Finally, TVA and Quality Technology Corp. (QTC) have elected not to renew the contract for the QTC review and evaluation of employee concerns. According to QTC, files representing a large number of technical issues have not been provided to TVA because of confidentiality agreements. Since some of these issues may have safety related implications, the NRC, pursuant to the January 30, 1986 Order, is accessing the QTC records. It is our present intention to screen these records for safety significance and to alter these records to remove confidential information. Selected significant issues as well as issues which could compromise confidentiality will be retained for NRC follow-up. After NRC screening and sanitizing, remaining records will be transmitted to the TVA Inspector General for action.

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Commissioner Asselstine has the following comment:

I am not entirely satisfied with the NRC staff's proposed responses to your questions. Many of the issues raised in your letters -- TVA management, TVA's employee concern program, the role of the Nuclear Safety Review Staff, NRC's and TVA's understanding of the construction and quality assurance failures at Watts Bar and the adequacy of TVA's program for assessing the implication of the Watts Bar problems for TVA's other nuclear plants, and intimidation and harassment -- remain serious open questions today. Although I see some improvement in the willingness of the NRC staff and TVA to confront at least some of these problems, several of the responses to your questions still indicate an unwillingness on either Agency's part to seek a full understanding of TVA's problems and the reason for the NRC's past ineffective performance. In addition, recent developments, including TVA's response to the Commission's request for information on quality assurance at Watts Bar and evidence of continuing intimidation and harassment at TVA that has thus far gone unpunished, indicate to me that there is a continuing basis for concern even with TVA's new management structure. I intend to provide you with additional specific comments on the Commission's responses at a later time.

Chairman Palladino has the following comment:

I do not find any unwillingness on the part of the staff to address the problems at TVA. In fact, I believe that the staff is working very diligently in seeking to fully understand all of TVA's problems, to address each and every one of them, and to pursue a satisfactory resolution for all. I will provide you with additional comments upon receipt of Commissioner Asselstine's specific comments and any facts which he believes support his assertions.

Sincerely,

  
Nunzio J. Palladino

Enclosures:

1. Response to Questions Concerning TVA Management and the Employee Concerns Programs
2. Response to Questions Concerning the Watts Bar SALP Report
3. Response to Questions Concerning the TVA Welding Program
4. Response to Questions Concerning Harassment and Intimidation

cc: Rep. James T. Broyhill

RESPONSES TO THE QUESTIONS CONCERNING  
TVA MANAGEMENT AND THE EMPLOYEE CONCERN PROGRAM  
CONTAINED IN THE MARCH 19, 1986 LETTER FROM  
CHAIRMAN DINGELL

QUESTION 1. Has any other utility delegated such total authority to its manager of nuclear power as has been done by TVA?

ANSWER.

While NRC normally reviews the utility management responsibility structure and technical qualifications as part of the licensing review, we do not normally receive or review the specific authority delegated by the Board of Directors to the senior nuclear officer. Therefore, we do not know whether any other utility has delegated such authority.

QUESTION 2. Do NRC regulations permit a licensee to delegate such total authority to the manager of nuclear power without maintaining an institutional mechanism that allows the licensee's highest level officials to receive nuclear information, assessments, and advice not channelled through the nuclear manager? Is the answer to the foregoing question affected by the fact that at TVA the nuclear manager is not a TVA employee, but rather a person retained through a two-year consulting contract with an architect engineer?

ANSWER.

NRC regulations require that the licensees retain responsibility for the safe design, construction and operation of its nuclear plants. There are no NRC regulations addressing limitations on the extent to which the utility Board of Directors or Chief Executive Officer (CEO) may delegate authority to the senior nuclear manager or retain the services of outside organizations or individuals. There are no NRC regulations addressing the means by which the CEO and the Board remain apprised of the activities of the senior nuclear manager. For example, there is no NRC requirement that there be a separate channel of communications to the CEO or the Board that is independent of the senior nuclear manager. The March 10, 1986 TVA Corporate Nuclear Performance Plan identifies the Office of Inspector General and an independent nuclear safety review group as additional sources of information and advice on nuclear matters. This answer is not affected by the fact that Mr. White is not a TVA employee.

QUESTION 3. Does the current organization of TVA's nuclear program, which does not include a mechanism for providing on a routine basis to the Board information, assessments, and advice independent of that provided through the Manager of Nuclear Operations (sic), comply with NRC regulations and TVA's licensing commitments?

ANSWER.

Yes.

QUESTION 4. Has the Commission reviewed its communications with TVA to determine whether TVA has made commitments that were to be carried out by the NSRS? Do any such commitments exist? If so, how will TVA's ability to fulfill them be affected by the organizational change which brings NSRS under the aegis of the Manager of Nuclear Power?

ANSWER.

The NRC staff has reviewed various NRC and TVA documents and is not aware of any commitments that are required to be fulfilled by the NSRS. On May 2, 1985 and June 13, 1985 TVA met with the Commission and described the TVA Employee Concern Program. These presentations were documented by TVA in a submittal dated August 1, 1985, which included a compilation of TVA commitments in this area made during these two meetings. According to the NSRS Director (K. Whitt), in a discussion with the NRC staff on April 7, 1986, all commitments in the August 1, 1985 submittal made by TVA regarding the NSRS have been implemented. The NSRS was established by the TVA Board of Directors as a separate staff and was not required by NRC. As part of the November 20, 1985 TVA submittal on TVA's Employee Concern Program, TVA assigned NSRS the responsibility for classification of employee concern and the responsibility for investigating technical concerns assigned to them. In a TVA press release, TVA stated that NSRS will be replaced with a Blue Ribbon Review Group reporting directly to the Manager of Nuclear Power. We are aware of no commitments made by TVA that could not be fulfilled without the NSRS or with the NSRS reporting to the Manager of Nuclear Power instead of directly to the General Manager and the TVA Board.

QUESTION 5. Has the NRC approved TVA's current program for receiving and responding to employee concerns? If not, when does NRC expect to grant such approval? Prior to NRC approval, and in the absence of the Quality Technology Company and NSRS involvement in handling employee concerns, what is the nature of TVA's program for receiving and responding to employee concerns?

ANSWER.

Although the TVA Employee Concern Program was established in response to NRC comments and NRC approval of the TVA Employee Concern Program is not needed to meet any regulatory requirement, the NRC, however, has reviewed TVA's program

for receiving and responding to employee concerns that was in place prior to February 1, 1986 and found that the program was acceptable, provided that some changes that TVA agreed to were made by TVA. We expect to receive a revised program description shortly. Final NRC comments on the revised program cannot be given until the program has settled and we clearly understand how the program is operating or is to be operated. The effect on the program of the loss of Quality Technology Company (QTC) is unclear at this time. In a letter dated February 11, 1986, Mr. White identified some program changes that were being made and stated his intent to implement a program better than the one we reviewed and found acceptable earlier. TVA has publicized to all employees that concerns can be brought forward through a number of different means including to their direct supervisor, the Employee Concern Program, the TVA Inspector General's office or to the NRC.

QUESTION 6. Does the Commission believe that the Quality Technology Company developed the confidence of TVA employees?

ANSWER.

The Commission has not surveyed TVA employees to determine whether the presence of QTC has had a positive impact on employee attitude and confidence. However, our impression is that the employees have been more open and forthcoming in their dealings with QTC than might otherwise have been the case had they been dealing with a TVA group. This general impression is supported by the March 10, 1986, letter to you from TVA's General Counsel which states that QTC "must be acknowledged as one of the organization's best informed on the concerns and interests of TVA employees at the Watts Bar Nuclear Plant. In its years work, QTC has established its reputation for frank and unvarnished reports on its assessment of TVA problems . . . "

QUESTION 7. Has the Commission received from TVA an explanation as to its reasons for having virtually terminated the Quality Technology Company role in receiving employee concerns? If so, does the Commission agree with that explanation?

ANSWER.

Yes, in the November 20, 1985 submittal to NRC describing the TVA Employee Concern Program that was to be put in place on February 1, 1986, TVA identified the following key objectives, including TVA taking over responsibility from a third party contractor, as essential to improving the effectiveness of the TVA nuclear organization for addressing employee concerns:

- ° Providing for early identification of problems of employee/management relations within the line organization.
- ° Providing total responsibility for the ECP in a single organization.

- ° Developing improved communication between employees and supervisors.
- ° Encouraging employee participation to accomplish program and implementation improvement.
- ° Utilizing the line organization to solve problems which exist within the line organization.
- ° Providing an independent communication channel within the line organization for employees to use for reporting concerns outside their work organization.
- ° Using the IG as an outlet independent of the P&E (Nuclear) organization (now manager of Nuclear Power).
- ° Trending employee concerns received using line arrangements compared to other concern receipt mechanisms.

The termination of QTC in receiving new employee concerns is consistent with changes described to NRC as needed to establish within the TVA organization the responsibility for receiving new employee concerns. The Commission agrees conceptually with TVA's long-term solution to their employee concerns problem which includes phasing out QTC. However, as discussed in Answer 5, the NRC has not received TVA's revised Employee Concern Program; therefore, our review has not occurred.

QUESTION 8. In view of TVA's history of harassing its employees, why should employees have confidence that they would not be subject to harassment for bringing their safety concerns to management?

ANSWER.

See responses to Questions 9 and 10.

QUESTION 9. What is being done by TVA to determine whether persons currently in the TVA management chain shared responsibility for past incidents of harassment and intimidation? What is being done by NRC?

ANSWER.

TVA actions to investigate incidents of harassment and intimidation are described in the March 10, 1986 letter to Chairman Dingell. NRC's Office of Investigations is investigating certain concerns involving intimidation and harassment. In addition, NRC also has formed a special team which is reviewing cases of alleged harassment or intimidation. This is further discussed in Enclosure 4, Answers 6, 7, and 8.

QUESTION 10. What has TVA done to eliminate the distrust of TVA management that led TVA management to retain the Quality Technology Company as a third party to receive and respond to employee concerns?

ANSWER.

An entirely new corporate level nuclear organization has been developed and is now being implemented, including filling many of the new senior positions with non-TVA employees. Eleven of 15 top nuclear positions are now filled with new or different managers from what existed several months ago. Steps have been taken to reassure employees that there will be no retaliation for voicing their legitimate concerns and managers and supervisors have been advised that intimidation or harassment will not be condoned. Realization of the goal of restoring employee confidence, however, will likely require continuing efforts over a long period of time. In addition, TVA has established a new Inspector General office and has hired Mr. Norman Zigrossi to head that office. Prior to assuming that responsibility, Mr. Zigrossi was the special agent in charge of the Washington, DC FBI field office.

QUESTION 11. What standards will NRC use in determining whether to approve TVA's new Employee Concern Program?

ANSWER.

NRC has no regulations regarding Employee Concern Programs that require specific NRC approval of such programs. We will, however, examine the program to assure that it provides for employee anonymity, if requested; that it provides for a thorough, timely review of any concerns that are raised; and that it provides for appropriate feedback to the employees who raised the concerns. Equally important is that the program include provisions for taking appropriate corrective actions including reporting to the NRC when deemed necessary.

QUESTION 12. Before approving TVA's Employee Concern Program, does NRC intend to request TVA to address the matters listed in the attached draft letter which was not sent to (sic) NRC in view of Mr. White's discussion with Chairman Palladino and Commissioner Asselstine?

ANSWER.

On February 28, 1986, the Director, Office of Nuclear Reactor Regulation (NRR) sent a letter to TVA identifying a number of questions that NRC has concerning how TVA intends to resolve employee concerns both with the new Employee Concern Program as well as the completion of the Watts Bar Special Program. Most of the questions raised in the draft letter were included in the February 28, 1986 letter. The other question will likely be addressed during the meeting requested by the letter.

QUESTION 13. What is the Commission's response to assertions that TVA has taken a backward step by virtually eliminating the Quality Technology Company from the Employee Concern Program?

ANSWER.

The reduced role of QTC will likely be viewed by some as a backward step until the new program has demonstrated its effectiveness. A key element of the new TVA Employee Concern Program is whether TVA's new management (both the Manager of Nuclear Power and the new Inspector General) can effectively address employee concerns in a professional manner.

RESPONSE TO QUESTIONS CONCERNING  
THE WATTS BAR SALP REPORT

QUESTION 1a. What review of the foregoing statements from the above referenced NSRS and INPO reports were conducted prior to preparation of the SALP report?

ANSWER.

Our current policy is that SALP evaluations are to remain separate from information which is developed by INPO evaluations or, for example, similar information which might be developed by a licensee consultant. To date, the NRC has accepted a basic INPO premise that, in order to do their job in upgrading safety performance, INPO and individual utilities must be allowed to resolve most INPO identified deficiencies in an environment which is separate from NRC follow-up inspections or enforcement actions. Where INPO findings are reportable to NRC or represent significant safety concerns, we have been assured by INPO management that either the utility or INPO will make the required report to us. In keeping with this premise, the results of INPO evaluations should not have been incorporated into NRC evaluations such as SALP. The particular case at Watts Bar is unusual in that INPO exit notes are not normally provided to the staff for review. We do believe that final INPO Evaluation Reports should be reviewed by NRC inspectors and supervisors when onsite and we issued additional guidance to ensure this review is routinely accomplished in the future. (However, in the specific Watts Bar case, it is noted that the final INPO report was dispatched to TVA on September 19, 1985; nearly two months after the SALP board meeting.) This new guidance will ensure that final INPO reports are reviewed to identify any significant new findings which require prompt NRC inspection attention in addition to the INPO corrective action process. In the Watts Bar case, the timing of events was such that this general scheme of NRC review did not have a chance to occur.

QUESTION 1b. Since issuance of the SALP report on September 17, 1985, what reviews has NRC conducted of the cable installation problem?

ANSWER.

Three inspections relating to cable installation have been performed through February 1986. The inspections are described in our response to question 1c below. Additionally, the NRC has been receiving from TVA information developed through the Employee Concerns Program, some of which deals with alleged cable installation problems. NRC review of TVA's evaluation and resolution of these concerns will be completed after TVA's efforts have been completed. The NRC has also received some allegations of cable installation problems which are under review by the NRC technical staff and the OI staff; however, these efforts have not been completed.

QUESTION 1c. What are the results of any such reviews?

ANSWER.

An inspection performed at Watts Bar on August 20-23, 1985, examined an employee concern relating to monitoring of cable pulling tension. This inspection, documented by NRC Inspection Report No. 50-390/85-54, verified that cable installation procedures met the requirements of TVA Construction Specification No. G-38 by requiring the use of break ropes, break links, and dynamometers to monitor pulling tensions during cable installation. This matter and the other issues inspected were left open since TVA had not completed its action. This answer relates to question 7a.

An inspection performed at Watts Bar on October 28 - November 1, 1985, verified that 26 instrumentation cables had been installed in compliance with the commitments of the Safety Analysis Report, the TVA Quality Assurance Manual, and TVA construction specification No. G-38. This inspection is documented in NRC Inspection Report Nos. 50-390/85-61 and 50-391/85-50.

An inspection performed at Knoxville and Watts Bar on January 29-31, 1986, examined TVA's methods for evaluating cable sidewall pressure (SWP) issues that led to the lifting of the Stop Work Order (SWO) for cable pulling at TVA sites. The need for additional calculations in one area of cable installation was identified and will require follow-up by the NRC; however, no violations of NRC requirements were identified. This inspection is documented in NRC Inspection Report No. 50-390/86-03.

As indicated in Answer 1.b., NRC action concerning allegations and employee concerns about cable installation problems remains to be completed.

QUESTION 1d. Have NRC technical staff met with the author of I-85-06-WBN?

ANSWER.

The NRC technical staff has not interviewed the author of I-85-06-WBN. However, personnel from the NRC Office of Investigations (OI) have met with or spoken to him on various occasions. The NRC's review of employee concerns, allegations, and NSRS concerns involving electrical cable issues has not been completed since TVA's evaluation of these issues is still in progress. It may be that the NRC technical staff will want to contact this, as well as other individuals, as part of our effort in completing action on these issues; however, this decision has not been made at this time.

QUESTION 2a. Does NRC staff disagree with the foregoing statements from the above referenced NSRS and INPO reports?

ANSWER.

The NRC staff has not completed its evaluation of the referenced INPO and NSRS reports and, therefore, has no position on these statements at this time. As indicated in Answer 1.d, this review will also include relevant employee concerns and allegations, and completion of NRC action is dependent on TVA's completion of their evaluation. These reports, however, deal with a number of issues which are in excess of NRC regulatory requirements.

QUESTION 2b. What is the basis for such disagreement?

ANSWER.

See answer 2a above.

QUESTION 2c. Where is the analysis that leads to the SALP conclusions notwithstanding the NSRS and INPO findings?

ANSWER.

The SALP process attempts to periodically bring together and evaluate information generated by NRC concerning the performance of licensed facilities. Except for the functional area of "Licensing Activities", this information predominantly comes from the results of the limited, direct inspection activities carried out by Regional office inspectors and the Residents.

NRC's inspection program represents an audit activity consisting of (1) reviews of the adequacy of programs established by licensees to control construction activities and (2) a limited sampling, through direct observation, of the actual implementation of work in the plant. This audit function by NRC represents coverage of only a small percentage (less than 1%) of the total construction activities and self-inspections which are carried out by the licensee in the course of construction. While NRC resources devoted to construction inspection activities have generally increased over the past several years, historically during FY 1981-84 only 1.5 staff-years, on average, were allocated for a plant under construction. Beginning in FY-85, inspection resources for construction were increased through the assignment of a second Resident Inspector to these sites. Even at this level, only a small sample of the safety-related work activities which take place at a nuclear facility can be examined.

QUESTION 2c. (Continued)

When the Watts Bar SALP Board met in Region II on July 24, 1985, the normal process was followed in attempting to bring together an evaluation which could be supported by NRC documentation. Given the limited nature of our inspections, our inspection and evaluation programs are both clearly vulnerable to missing the mark in any particular work area. However, when viewed generally over the past few years, the staff believes that these programs are the best way to utilize our limited resources while putting the major burden on the licensee to assure that plants are adequately constructed and tested prior to licensing. In looking retrospectively at the most recent TVA SALP reports, it does now appear that the report on Watts Bar (for the period ending May 31, 1985) did not reflect many issues which have become known to us since that time.

QUESTION 3a. Has TVA complied with the Commission's requirements per 10 CFR 50.55(e) and other applicable regulations in the reporting of deficiencies of the kind described in the above referenced NSRS and INPO reports.

ANSWER.

Based on completed inspections, no significant instances were identified where TVA failed to comply with the NRC reporting requirements as required by 10 CFR 50.55(e) and 10 CFR 21 which are the generic reporting requirements for plants under construction. TVA requires that each Nonconforming Condition Report be evaluated for reportability. TVA has reported deficiencies relating to cable bend radius and sidewall pressure in the past. Examples of these deficiencies are CDR 85-44 and CDR-85-63. Some of these items have been evaluated by TVA Office of Engineering and found to be reportable while others were found to be non-reportable. The NRC has received allegations concerning TVA's failures to comply with 10 CFR 50.55(e) reporting requirements; however, our review, which involves both the NRC technical staff and OI staff has not been completed.

QUESTION 3b. Where are any such reports documented?

ANSWER.

The 10 CFR 50.55(e) and 10 CFR 21 reports are submitted to the Regional Administrator, Office of Inspection and Enforcement and INPO. All reports are sent to the NRC Public Document Room (PDR) and to a local PDR located in the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee. TVA also maintains a file of these reports.

QUESTION 4. What is the NRC's position with respect to whether TVA cable installation procedures comply with NRC regulations?

ANSWER.

As a result of recent NRC inspections with respect to TVA cable installation procedures, the staff believes that TVA is currently in compliance with NRC regulations. A description of our inspection program throughout the construction phase is described in answer 5 below. However, in view of these recent inspections, employee concerns expressed to TVA, allegations received by the NRC, and the results of licensee self evaluations, questions concerning TVA's past compliance with NRC's rules and regulations involving cable installation procedures are under review by the NRC staff as discussed in answers 1.b, 1.c, 1.d, 2.a, 3.a, 8.a, 8.c and 9.

QUESTION 5. What reviews and/or inspections have been conducted by NRC to determine whether TVA's cable installation procedures have been and are adequate to protect against exceeding limits on bend radius and pull tension?

ANSWER 5.

The NRC inspection program requires review of cable installation implementing procedures. The initial review of these procedures is usually performed prior to the onset of safety-related cable installation. At that time, the procedures are examined to determine that they conform with industry standards and codes and applicable regulatory guides in the areas of receipt inspection, handling, storage, installation, inspection and testing, cable identification, raceway separation and protection, cable redundancy and separation, cable pulling and termination, testing after installation and the control of design changes, deviations, and non-conforming conditions as discussed in NRC Inspection Report Nos. 50-390/75-01, 50-390/75-07, 50-390/76-02, and 50-390/76-11.

Groups of cables are inspected during construction at various intervals as the installation of various voltage level cables progresses. The procedures are reviewed each time an NRC cable inspection is performed to insure that they are current for the activities in progress. Since cable installation and testing are continuous until the very last phases of construction, the cables are routinely observed as a part of other electrical and instrumentation equipment inspections.

At Watts Bar, the procedures for cable installation were initially reviewed in 1976 and due to the rate of construction completion have been reviewed frequently by various NRC personnel.

QUESTION 6a. In what manner did TVA report to NRC findings stated in NSRS Report I-85-06-WBN?

ANSWER.

The NSRS report I-85-06-WBN was formally transmitted to NRC Region II office by TVA letter dated September 6, 1985, and received in the Region II office on September 11, 1985. An NRC, Office of Investigations (OI) investigator conducting an investigation of a possible employee harassment issue received a copy of the report during the week of July 15, 1985.

QUESTION 6b. Was I-85-06-WBN provided to NRC prior to it being described in the Knoxville Journal on July 18, 1985?

ANSWER.

As indicated in answer 6a. above, an investigator received a copy of the report during the week of July 15, 1985. The exact date cannot be recalled, however, receipt of the report was unrelated to the article in the Knoxville Journal.

QUESTION 7a. What was the bases for TVA lifting of the Stop Work Order (SWO) on cable installation of Watts Bar?

ANSWER.

General Construction Specification No. G-38, Installing Insulated Cables Rated up to 15,000 volts, was revised and reissued on September 15, 1985. The revision included four items relating to cable Side Wall Pressure (SWP) requirements during cable installation. TVA's Electrical Engineering Branch (EEB) developed procedures for evaluating the installed cables at the Watts Bar site. The Quality Control Instructions for site engineering were revised on November 26, 1985, to include the requirements set forth by G-38. QC inspection procedures that are used to inspect the crafts' work were revised on November 26, 1985, to incorporate the requirements of G-38 for inspection of installed cables and in-process inspections to assure that pulling tension and SWP values are acceptable.

QUESTION 7b. Was NRC informed of this action?

ANSWER.

The NRC was notified that cable pulling would resume on December 10, 1985.

QUESTION 7c. Were documents provided the NRC justifying the lifting of the SWO?

ANSWER.

The SWO was a voluntary action by TVA and not an NRC directed action. Therefore, there was no requirement for TVA to submit documents justifying their decision to lift the SWO.

The NRC performed an inspection at the TVA Offices of Engineering (OE) and at the Watts Bar and Bellefonte sites to review the actions taken to control cable pulling tensions and SWP values. A review of specifications, drawings, and procedures was performed and no violations or deviations were identified. See NRC Inspection Report No. 50-390/86-03 in answer 1c.

QUESTION 8a. What was the basis for any TVA closure of this issue?

ANSWER.

TVA developed an Electrical Engineering Branch (EEB) Procedure No. 22.29, to establish a sampling program for SWP evaluations and subsequent resolutions. The evaluation process identified 12 cable installations where SWP had exceeded TVA calculated values. When TVA has completed their evaluation, NRC will review the documentation. (See response to question 1.c.)

QUESTION 8b. Does NSRS concur in any such closure?

ANSWER.

The NRC called the Director of NSRS by telephone on March 27, 1986, and was informed by the Director that, "NSRS chose neither to concur or not concur on the item since they (NSRS) did not initiate the Stop Work Order."

QUESTION 8c. Does NRC believe TVA's closure of the issue was proper?

ANSWER.

TVA evaluated the SWP issue, and identified actions to prevent recurrence. A preliminary report which evaluated cables installed in two fossil plants and three nuclear plants, resulted in the identification of 12 cables where sidewall pressure exceeded TVA calculated values. Based on the NRC review (see answer 1.c, third paragraph), it appears that TVA has adequately addressed the pulling tension and sidewall pressures for cable installation in conduits by incorporating a conservative table of pulling values, adequate formulas for single and multiple cable pull tension calculations and controlling the number of conduit bends to not exceed a total of 360° between pull points. As indicated in answers 1.c and 8.a, NRC review of TVA's evaluation of cable installations where SWP may have been exceeded remains to be completed.

QUESTION 9.      What efforts are being undertaken to determine whether the environmental qualification of cable is maintained for cables installed without adhering to limits on bend radius and pull tension?

ANSWER.

By letter to Harold Denton dated March 20, 1986, TVA submitted its Corporate position regarding concerns on the environmental qualification of Class 1E cables. The licensee stated that the "Preliminary results of the evaluation program indicate that the cables have not been damaged during installation." However, TVA has initiated an evaluation and testing program intended to verify the validity of this position. The staff will evaluate the results of TVA's effort to ensure the environmental qualification of these cables is maintained. The staff will report on this issue in its restart safety evaluation report for Sequoyah.

RESPONSE TO QUESTIONS CONCERNING  
THE TVA WELDING PROGRAM

QUESTION

1. One aspect of the welding issue concerned whether TVA had met its commitments regarding structural steel welding. TVA officials met with NRC in February 1984. The purpose of the meeting was to seek NRC views as to the adequacy of TVA's G-29c welding procedure. Following this meeting, NRC staff wrote a memorandum which stated:

After a cursory review of GCS G-29c, and the presentation made by TVA, the [NRC] staff had no concerns with regard to TVA's commitment to AWS D1.1 as it is clarified by G-29c.

By April 1985, NRC staff had learned that the argument about G-29c continued within TVA. Upon receiving information beyond that provided in 1984, the NRC Director of Reactor Regulation (Harold Denton) said he believed he had been snookered. Dr. Denton also stated in April 1985 that if in 1984 he had known the extent of TVA's questions about the acceptability of its own weld program, that NRC management would have devoted more attention to the question.

- a. Does the Commission agree that in early 1984 TVA failed to present material facts concerning the controversy as to whether TVA had abided by its welding commitments?
- b. What is NRC's position as to whether TVA carried out its structural steel welding program in accord with its commitments and NRC regulations?

ANSWER

1. a. The Commission is still evaluating whether in early 1984 TVA failed to present material facts concerning the controversy involving TVA welding program implementation. With respect to Mr. Denton's statements and beliefs, he referred to the February 10, 1984 meeting between TVA and the NRR staff. In the February 10, meeting, the NRR staff discussed, in general terms, how TVA's General Construction Specification G-29c was written to implement TVA's FSAR commitments for the construction of TVA nuclear plants. The issue as characterized by TVA representatives to the NRR staff then was that some TVA employees had expressed their concerns over the process of deviating from the American Welding Society's Welding Code (AWS D1.1). The specific issues of the controversy within TVA were not discussed. The exact nature of the controversy was not known to the Commission staff until March 1985.

- b. NRC has not taken a position as to whether TVA carried out its structural steel welding program in accordance with its commitments and NRC regulations. However, NRC's review of information generated by TVA's employee concern program has caused the Commission to believe that TVA may not have fully implemented its commitments in its structural steel welding program. For example, there were no records of inspections having been performed on HVAC system duct and duct support welds. The enforcement history also clearly indicated numerous violations related to the welding program in the past.

QUESTION

- 2. A particular aspect of the welding controversy involved questions as to whether TVA had conducted inspections after welds had been painted.
  - a. Has NRC determined whether production welds received final inspections after they had been painted?

ANSWER

- 2. a. There is no question that TVA performed initial acceptance inspections of a significant number of welds after painting. The exact number is difficult to determine, even by TVA itself. As an example, TVA admitted to having performed such improper inspections in their NSRS Report R-82-07-WBN, dated June 23, 1982. That there were several reinspections performed to resolve several Non-Conformance Reports (NCR), and that there was never a distinction made between reinspection and inspection in G-29c and other documents further confuse the issue as to the extent of improper inspections.

QUESTION

- 3. A TVA contractor concluded in August 1985 that production welds had been inspected after they had been painted. The TVA general manager appears to have concurred in this finding. Although the TVA Nuclear Safety Review Staff (NSRS) initially investigated the inspection through paint problem and had concluded that it was real, the NSRS current position appears to be that production welds were not inspected through paint. However, this position is disputed by at least two of the NSRS personnel who had conducted the original NSRS investigation.
  - a. What does the Commission understand to be TVA's current

position with respect to whether welds were inspected through paint? What reviews of the technical basis for this position have been conducted by the NRC?

ANSWER

3. a. The NRC staff does not know TVA's current official position. However, the September 27, 1985 memorandum, from K.W. Whitt to W. F. Willis, transmitting NSRS response to QTC Report NS-85-001-001 is TVA's last correspondence that the Commission has received on this issue. This report continues not to differentiate inspections from reinspections. The report is regarded as having obfuscated the issue and has many misleading and inaccurate statements. TVA has not defined the extent of this particular issue at this time. As a result, we are not able to undertake a meaningful review of that report. This issue will be reviewed as part of the large-scale reinspection of welds at Watts Bar to determine their "fitness for service," which will be submitted for our review (see answer to Question 7b.).

QUESTION

4. Other aspects of the welding controversy involved questions as to adequacy of control of weld rod material and as to adequacy of TVA programs to assure that inspectors were appropriately qualified.
- a. Has NRC determined whether TVA adhered to its commitments vis-a-vis development and implementation of a weld material control program?
- b. Has NRC determined whether TVA adhered to its commitments vis-a-vis weld inspector qualifications? For example, were structural steel weld inspectors trained and tested in a manner required by the codes to which TVA was committed?

ANSWER

4. a. The issue of weld rod control has been an ongoing issue for many years, and has been investigated many times. It has been difficult to differentiate the employee concerns between those that had been investigated and resolved in the past and new demonstrations of uncorrected practices. We believe that TVA has taken corrective actions to control weld rod material, and the problems that remain are more of a good housekeeping nature rather than any programmatic breakdowns in meeting TVA's commitments.
- b. The NRC staff routinely examines licensees' programs for weld inspector qualifications for every licensee. In addition to the routine program, the TVA inspector

qualifications program for structural welding inspectors was specifically reviewed because of a workers' concern about the qualification of a supervisor and the amount of on-the-job training (OJT) received by new inspectors.

Inspection Reports 50-390/84-79 and 50-391/84-53 discussed the review of the qualification of ten (10) structural welding inspectors, and opened a followup item concerning the qualifications of supervisory inspectors.

Inspection Reports 390/85-18 and 391/85-16 discussed a review of OJT records for ten (10) QC inspectors certified as Level II in the area of weld inspection. An unresolved item was opened when OJT records could not be found for three inspectors.

Inspection Reports 390/85-27 and 50-391/85-23 closed the unresolved item after a review of the documentation of the OJT for the three inspectors in question.

Inspection Reports 50-390/85-45 and 50-391/85-36 closed the inspector followup item concerning the certification of supervisory inspectors.

The workers' concern about OJT was satisfied when it was found that the required amount of OJT was dependent on the experience of the new inspectors. (Workers who had been certified as a Level II inspector at another TVA facility did not require OJT.)

On the basis of above discussion, the Commission believes TVA has adhered to its commitments regarding structural steel weld inspectors qualification program. Note that the AWS recommended inspector qualification Standard QCI is not mandatory (as part of the D1.1 Code), and was not available until after about 1980. Therefore, TVA has never committed to any of the AWS/QCI (the latest one is QCI-85).

#### QUESTION

5. a. Another issue concerns alleged improprieties involving the Authorized Nuclear Inspector (ANI). Among matters under investigation are alleged pressures upon the ANI's to certify workmanship and/or tests that did not comply with applicable codes. Please explain the role of the Authorized Nuclear Inspector and the reliance placed upon the ANI by the NRC and its licensees.

- b. What would be the implication of finding that the ANI had been pressured to certify compliance with the code when the item subject to certification did in fact not comply with the code? How would the NRC determine which items had in fact been improperly certified?
- c. What is the status of any NRC inquiry into alleged improprieties involving the ANI?

ANSWER

- 5. a The ASME Code requires that the Code-sanctioned activities (such as design, construction, inservice inspection and testing, etc.) in connection with a nuclear power plant be inspected by an Authorized Inspection Agency. An Authorized Inspection Agency is one designated as such by the appropriate legal authority of a State or Municipality of the United States. An Agency may be a State or Municipality of the United States or an insurance company authorized to write boiler and pressure vessel insurance. Tennessee Valley Authority (TVA) has employed Hartford Insurance Company to be the Authorized Inspection Agency for their nuclear power plants.

The Agency employs the Authorized Nuclear Inspectors (ANI) who perform inspections and who verify that the work conforms to the requirements of the Code. The ANI performs detail inspections, witnesses and verifies examinations, and also performs all the necessary inspections which are required by the ASME Code. The inspector is also empowered by the Code to make any other inspections, to witness or verify any other examinations and to conduct any additional investigations which in his judgement are necessary to ascertain whether the item being inspected has been constructed in compliance with the Code. After he has been satisfied that all requirements of the Code have been met and that each certified Data Report is a correct record, the inspector certifies the appropriate Code Data Reports.

In addition to the ANI inspection, the licensee is also required by the NRC regulations to establish and maintain a formal QC/QA program which independently provides for inspection and monitoring of all activities affecting quality. The licensee has the overall responsibility to ensure that the design, construction, testing and operation of the facility is done in accordance with the technical and quality commitments included in his Safety Analysis Report (SAR).

- b. A finding that the ANI had certified compliance with the ASME Code when, in fact, such compliance did not exist would raise serious questions regarding the adequacy of installed Code components and systems. If such a finding were made, the NRC would immediately bring the matter to the attention of TVA management and request a comprehensive corrective action plan. In parallel, NRC would notify the National Board of Boiler and Pressure Vessel Inspectors so that they could initiate appropriate actions to ensure that the Board's responsibilities were met. Then, based on the corrective actions proposed by TVA and the actions planned by the National Board, the NRC would develop its course of action to ensure verification of compliance with Code requirements, including recertification of items certified by that particular ANI in question.
- c. The NRC Office of Investigations (OI) is making inquiries into alleged improprieties involving the ANI; one alleges that the ANI was coerced into accepting possible rejectable work done by TVA at the Watts Bar site and the other involves possible extortion matters concerning salary conditions. The current status of these inquiries is described below:

- ANI Coerced into Accepting Possible Rejectable Work

During an interview conducted by an OI investigator on November 5, 1985, it was learned that Authorized Nuclear Inspectors (ANI) employed by the Hartford Steam Boiler Insurance Company, Atlanta, Georgia has been allegedly coerced into accepting possible rejectable work done by TVA personnel at the Watts Bar site. The Director, Office of Investigations Field Office, Region II, forwarded a memorandum dated November 19, 1985, to Region II advising Region II of the information and requesting guidance as to possible regulatory and statutory violations involved if the allegations were valid. On November 25, 1985, a formal request for investigation was submitted by Region II to the Director, OI Field Office, Region II relative to the alleged coercion of ANI personnel at the Watts Bar Nuclear Plant.

The OI investigation is currently in progress.

- Anonymous Salary Condition

On September 5, 1985, Region II opened an allegation case file based upon information received from TVA concerning an anonymous undated letter received by TVA. The letter threatened that unless certain salary conditions were met for Hartford Steam Boiler personnel at TVA sites, information

would be given to NRC and the news media relative to construction deficiencies at TVA sites. TVA referred the matter to the FBI as an extortion matter and the Office of Investigations Field Office, Region II initiated an inquiry to monitor FBI investigative actions in the case.

In addition, a Region II review of the alleged extortion letter indicated five possible technical concerns which were subsequently forwarded to the TVA for review and action. Region II requested the licensee to initiate a review of those concerns and to provide the results of that review to Region II no later than April 15, 1986.

#### QUESTIONS

6. Questions that need to be resolved with respect to welding are (a) the failure of TVA, pursuant to NRC regulations, to report welding deficiencies and (b) possible raise statements and/or certification regarding weld quality. The record indicates that TVA failed in significant respect to adhere to its reporting requirements and that TVA made significant material false statements with respect to welding.
  - a. Does the Commission believe that TVA's reporting of welding program deficiencies has complied with NRC reporting requirements?
  - b. What analyses have been conducted of information provided prior to 1985 to NRC by TVA concerning deficiencies in its weld program?
  - c. What inquiries are now underway to determine whether TVA has made material false statements with respect to its adherence to welding commitments?

#### ANSWER

- a. The staff does not believe TVA has failed to meet NRC reporting requirements under 10 CFR 50.55e for welding program deficiencies. However, as indicated in response to Question 6c., our reviews are continuing.
- b. Currently, as well as prior to 1985, the Inspection and Enforcement Manual inspection procedures provide analysis guidance to ascertain, via systematic review of each report,

whether additional inspection effort or other response is warranted; whether corrective action discussed in the licensee's report appears appropriate; and whether information reported to the NRC satisfies reporting requirements. The inspection procedures covering licensee identified items (Construction Deficiency Reports, Licensee Event Reports) are IP No. 90712, "In-Office Review of Written Reports of Nonroutine Events at Power Reactor Facilities," and IP No. 92700, "Onsite Followup of Written Reports of Non-routine Events at Power Reactor Facilities." Inspection Procedure No. 92702, "Followup on Items on Noncompliance and Deviations," provides similar analysis guidance for NRC identified items of noncompliance and deviations.

The NRC Region II staff inspects and documents the followup of all Construction Deficiency Reports. Also, as a result of the TVA Employee Concern Program findings, TVA is undertaking a major reevaluation of its welding program, including both programmatic review and physical reinspection of welds. The Commission staff is monitoring and will review TVA's program implementation and final report(s), and will make a finding whether TVA complies with its commitments and whether the welds are "fit for service."

- c. The Commission staff is evaluating correspondence to determine whether TVA has made material false statements with respect to its adherence to its welding commitments. If the results of this evaluation indicate that TVA has done so, the Commission will initiate an investigation and will consider taking enforcement actions as appropriate.
7. We understand that, as of this date, NRC has not approved TVA's program for review of the adequacy of welds at Watts Bar. We further understand that TVA has sought approval of a review procedure that will make determinations on the basis of an engineering analysis of sample welds rather than on the basis of a finding that welding was conducted in accord with TVA's licensing commitments.
- a. Has the NRC approved TVA's program for review of the adequacy welding programs and implementation thereof at Watts Bar?
  - b. Has TVA sought approval of a review procedure that will base its determinations on the basis of an engineering analysis of sample welds rather than on the basis of a finding that welding was conducted in accord with TVA's licensing commitments? If so, does NRC intend to approve such a procedure? If such a procedure is to be approved, please

provide justification for doing so in light of previous NRC staff objections.

ANSWER

7. a. TVA submitted its Welding Project Program Plan on January 17, 1986. The Commission has not approved this plan for Watts Bar, because TVA has not submitted the final details for implementing this plan. The final details are the definition of populations, and the extent of sampling from these populations, including justifications. TVA committed in early January 1986 to provide these details by January 23, 1986. The Commission has yet to receive this information.
- b. TVA has not sought approval of a review procedure that will base its determinations on the basis of an engineering analysis of sample welds. On the contrary, it is the Commission's understanding that TVA intends to seek approval of an extensive reinspection program which defines various population groups for reinspection. Some groups would be 100% reinspected and some groups may be reinspected on a sampling basis in accordance with a statistically meaningful sampling scheme. The Commission has provided guidance to TVA for developing this reinspection program in two separate meetings with TVA, the last one being conducted on January 7, 1986 in Bethesda.

The results of this reinspection will be reviewed and used as a basis, along with appropriate engineering analyses permitted by the AWS D1.1 Code as committed by TVA, to arrive at a determination whether the weldments at Watts Bar are "fit for service." Prior to arriving at this determination, a finding would have to be made whether TVA has met its commitments to various industry Codes and applicable regulations.

In addition, the NRC may perform its own independent weld reinspection program to determine the acceptability of the welds.

QUESTION

8. We understand that many issues raised in interviews conducted by the Quality Technology Company may apply to the Sequoyah Nuclear Plant.
  - a. What analysis is being conducted to determine whether questions raised about welding at Watts Bar might apply also to Sequoyah?

- b. What analysis is being conducted to determine which of the weld issues applicable to Sequoyah must be resolved prior to restart of Sequoyah?

ANSWER

- 8.
  - a. TVA has a program for determining the generic applicability of a given concern to other TVA plants. The NRC staff has been monitoring the outcome of this program. We believe this program is being conducted effectively. We have made this determination on the basis of comparing the percentage of concerns for a given issue at Watts Bar with the percentage for the same issue at Sequoyah. The patterns of the histograms (plots of issue vs. number of concerns) are very similar; i.e., the most frequently raised issues are identical for both sites.
  - b. The NRC staff sees no need to conduct an analysis to determine which of the weld issues applicable to Sequoyah must be resolved prior to restart because all welding issues, except possibly those related to intimidation and harassment of ANI or QC inspectors, at Sequoyah are to be resolved prior to restart.

The NRC staff has reviewed and concurred in the implementation of the portion of TVA Welding Program Plan for Sequoyah with comments that were incorporated into the Plan; i.e., a physical reinspection of a large number of welds on a sampling basis and the use of an independent AWS-Certified Weld Inspector (CWI) from Bechtel Power Corporation to supervise the evaluation of reinspection results. Further, the NRC staff from Region I also performed an independent inspection of some of the welds reinspected by TVA plus additional welds not in the TVA reinspection scope. The preliminary results of both re-inspections indicate that the general quality of welds reinspected is good. The degree of differences is relative minor, no worse than the industry average. In addition, four members of the NRC consultant team visited the Sequoyah site and observed the Region I inspection effort. They concurred with the preliminary findings stated above.

RESPONSE TO QUESTIONS CONCERNING  
HARASSMENT AND INTIMIDATION

QUESTION 1: What is the purpose of section 210 of the Energy Reorganization Act and section 235 of the Atomic Energy Act?

ANSWER:

Section 210 of the 1978 Energy Reorganization Act (ERA) was enacted to provide the Department of Labor with new authority to investigate alleged discrimination against employees who assist or participate in any proceeding to administer or enforce the ERA or the Atomic Energy Act (AEA) and to afford a remedy for the individual if the allegation proved true. The section did not alter the NRC's already existing authority under the AEA to investigate alleged discrimination and take appropriate action against the licensee.

Section 235 was enacted in 1980 following acts of physical intimidation of quality assurance inspectors at a reactor facility under construction. The provision makes it a Federal crime to kill or forcibly interfere with any person who performs inspections related to activities licensed by the Commission and which are being carried out to meet Federal requirements governing the safety of licensed activities.

QUESTION 2: What is the number of cases in which violations of Section 235 of the Atomic Energy Act have been the basis for NRC enforcement action or of Federal indictments?

ANSWER:

None. The central authority for investigating violations under Section 235 is the FBI. The NRC may investigate instances of employee intimidation under its authority to investigate potential safety violations and, if appropriate, bring an enforcement action against the employer for these actions if they violate NRC safety regulations, such as 10 CFR 50, Appendix B, as discussed in other answers.

QUESTION 3: What is the number of cases in which violations of Section 210 were the basis for NRC enforcement action. How many Section 210 enforcement actions have been taken against the TVA?

ANSWER:

The NRC has initiated six enforcement actions based on violations of section 210 of the Energy Reorganization Act of 1974, as amended. They are:

Questions 3. (Continued)

- Ellis Fischel State Cancer Hospital

4/22/81

Dr. Richter was employed as a chief medical physicist, head of the medical physics department and hospital radiation safety officer, and served as the hospital's contact with NRC. When a patient was erroneously released with iridium left in her body, Dr. Richter reported the mistake to the NRC. Subsequently, he was excluded from a critical hospital meeting, received three progressively less favorable evaluations of his work and, after the appearance of a newspaper article concerning storage of radioactive materials at the hospital, was given a suspension. Finally, the staff was reorganized to eliminate the division of medical physics and although Dr. Richter was the most senior of the medical physicists, he was laid off, purportedly because the position of chief medical physicist had been abolished.

On August 10, 1979, the Secretary of Labor affirmed an Administrative Law Judge's decision that the actions taken against Dr. Richter were in retaliation for his having reported violations to the NRC. The decision was upheld on appeal to the United States Court of Appeals for the Eighth Circuit.

Based on Section 210, Notice of Violation was issued on April 22, 1981 for a violation of 10 CFR 19.16(c).

- Bellefonte

EA 82-47

An employee of H. L. Yoh Company, a TVA contractor, was discharged from employment at the Bellefonte site on September 4, 1981. The reason given to the employee for his discharge was poor job performance. However, an investigation conducted by the U.S. Department of Labor under the authority of Section 210(b) of the Energy Reorganization Act concluded that the employee's inspection rate per day compared favorably with other inspectors and that the action taken against the employee was a result of his threat to report TVA to the NRC. Further, two TVA licensee employees responsible for overseeing the on-shift work activities of the employee, provided signed statements to the NRC investigator indicating that the employee was considered average in productivity and quality of hanger inspections, when compared with other hanger inspectors at the Bellefonte site.

A Notice of Violation (Severity Level III) was issued on January 11, 1982. No civil penalty was proposed since the violation occurred before NRC regulations were promulgated

Question 3. (Continued)

which would have provided a basis for civil penalties for violations of Section 210.

- Deford      TVA                      EA 83-54

William Daniel Deford, the manager of the Quality Assurance Engineering Section for TVA at Sequoyah, assisted in an NRC inspection at the Sequoyah Nuclear Plant. He was subsequently transferred from a supervisory position in the Quality Assurance Engineering Section to a lesser supervisory position in the Electrical Engineering Branch. The Secretary of Labor affirmed an Administrative Law Judge's decision that Mr. Deford's transfer was in retaliation for cooperation with the NRC. The decision was upheld on appeal to the United States Court of Appeals for the Sixth Circuit.

A Notice of Violation was issued on September 20, 1983. No civil penalty was proposed since the violation occurred before NRC regulations were promulgated which would have provided a basis for civil penalties for violations of Section 210.

- Wells              Kansas Gas & Electric      EA 84-87

James E. Wells was a Quality Assurance Inspector at Wolf Creek who identified a number of safety problems to management as part of his job. He was subsequently put on probation and terminated. The Secretary of Labor affirmed an Administrative Law Judge's decision that Mr. Wells was terminated for engaging in a protected activity even though no reporting to the NRC occurred.

Based on the Section 210 proceeding, Notice of Violation (Severity Level II) was issued for a violation of 10 CFR 50.7 and a civil penalty of \$64,000 was proposed on September 27, 1984. Kansas Gas & Electric appealed the Secretary of Labor's decision to the United States Court of Appeals for the Tenth Circuit. The Court of Appeals upheld the Secretary of Labor's decision on December 26, 1985 but stayed its mandate to enforce the Secretary's decision pending completion of a petition for writ of certiorari to the Supreme Court of the United States. The NRC has agreed to suspend imposition of the civil penalty pending completion of Supreme Court review of the matter but has required Kansas Gas & Electric to respond insofar as providing a written statement of actions taken to prevent similar violations and actions taken to remove any chilling effect arising from the matter.

Question 3. (Continued)

- Ross            Duke Power Company            EA 84-93

Gary E. "Beau" Ross, a QC Welding Inspector Foreman at the Catawba nuclear power plant, was given poor performance appraisals after he and his crew expressed safety concerns to management. The Atomic Safety and Licensing Board in its Partial Initial Decision in the operating license proceeding for Catawba identified the discrimination and expressed the view that the action violated the spirit of Section 210 of the Energy Reorganization Act, but not its letter because Mr. Ross had not communicated his concerns to the NRC. Mr. Ross did not file a complaint with the Secretary of Labor and there has been no Department of Labor investigation.

The NRC staff believed the Board was incorrect as a matter of law and instead has adopted the position taken by the Secretary of Labor in Energy Reorganization Act discrimination cases that reporting of defects by a quality control inspector to his employer is a protected activity under Section 210 and 10 CFR 50.7. A Notice of Violation (Severity Level II) for a violation of 10 CFR 50.7 was issued and a civil penalty of \$64,000 was proposed on August 13, 1985. The NRC is reviewing Duke Power Company's response to that Notice contesting the violation and the proposed civil penalty.

- Parks            GPU Nuclear            EA 84-137

Richard D. Parks, a Bechtel employee, raised safety concerns to his management associated with the TMI-2 polar crane refurbishment, requested assistance from the NRC, and commenced a proceeding with the Department of Labor (DOL). He was subsequently relieved of previously assigned duties, subjected to allegedly intimidating interrogation and ultimately placed on leave of absence. DOL conducted an investigation of the matter and concluded that the discrimination Mr. Parks alleged was related to his complaint to the NRC and DOL. Mr. Parks and Bechtel subsequently reached a settlement agreement pursuant to which on August 4, 1984, Mr. Parks withdrew his complaint before DOL.

Based on the DOL investigation, Notice of Violation (Severity Level II) was issued for a violation of 10 CFR 50.7 and a civil penalty of \$64,000 was proposed on August 12, 1985 and imposed on March 4, 1986. GPU Nuclear has requested a hearing on the matter.

Question 3. (Continued)

In a seventh case, the NRC initiated enforcement action for a violation of Appendix B of 10 CFR Part 50 (Quality Assurance Criteria). The case was based on facts developed by the Department of Labor pursuant to a Section 210 complaint. The following is a summary of this enforcement action.

- Atchison            Texas Utilities Electric Co.    EA 83-64

Charles A. Atchison became a QA Auditor and Inspector at Comanche Peak. He filed two NCF's and was involved in an incident which raised questions with broad implications for the QC program. He was subsequently transferred and terminated. The Secretary of Labor affirmed an Administrative Law Judge's decision that Mr. Atchison was terminated for engaging in protected activities even though no reporting to the NRC occurred.

A Notice of Violation (Severity Level III) was issued and a civil penalty of \$40,000 was proposed on August 29, 1984. Imposition of the civil penalty was delayed pending the outcome of an appeal of the Secretary's decision taken in the United States Court of Appeals for the Fifth Circuit. On December 10, 1984, the Fifth Circuit vacated the Secretary's decision, holding that conduct that does not involve the employee's contact or involvement with a competent organ of government is not protected under the Energy Reorganization Act. The NRC is evaluating the impact of this decision on the NRC enforcement action.

Of the seven cases discussed above, only the "Deford" and "Bellefonte" cases involved action taken against TVA.

QUESTION 4:    How many Section 210 complaints filed by TVA employees are currently under investigation by the Department of Labor?

ANSWER:

The NRC is aware of two Section 210 complaints filed by TVA employees which the Department of Labor currently has under investigation. The name of the complainant and date of complaint are:

<u>Name</u>	<u>Date</u>
Clayton Bolinger	2/19/86
Phillip Washer	3/5/86

In addition, the Department of Labor has completed nine investigations during the last thirteen months of Section 210 complaints involving TVA employees. They are:

Question 4. (Continued,

<u>Name</u>	<u>Date of DOL Area Directors Decision</u>	<u>Finding</u>
Lindell Delius	3/25/85	No discrimination
Larry W. Briggs	7/19/85	No discrimination
Steve Doka*	8/6/85	Complaint not timely filed.

<u>Name</u>	<u>Date of DOL Area Directors Decision</u>	<u>Finding</u>
Lillard Blevins*	10/9/85	Complaint conciliated.
Stephen Mindel*	10/9/85	Complaint conciliated.
Jerry D. Smith*	3/10/86	Found discrimination.
Johnny French*	2/7/86	Found discrimination.
Mansour Guity*	2/28/86	Found discrimination.
Robert C. Sauer*	3/10/86	Found discrimination.

\*NRC enforcement action is being or will be considered for these cases.

QUESTION 5. How many potential Section 235 violations are now under investigation?

ANSWER.

No potential Section 235 violations are currently under investigation by the NRC.

QUESTION 6. What is the conclusion of the NRC inquiries into harassment and intimidation of TVA employees?

ANSWER.

There have been incidents of harassment and intimidation at TVA; however, the extent won't be known until the NRC has completed its inquiries.

From March 10 through March 21, 1986, a 7-person NRC team conducted a review of existing files from various sources dealing with harassment, intimidation and wrongdoing at TVA. The report of this review is being prepared and is expected to be completed the week of April 7, 1986. Following NRC Senior Management review, a copy of this report and a discussion of our planned actions will be provided to you.

Question 6. (Continued)

In addition, the NRC Office of Investigations (OI) conducted an investigation of alleged discrimination against TVA employees by TVA management for reporting safety significant concerns. A copy of the OI report will be forward under separate cover.

QUESTION 7. At what levels in the TVA organization have there been managers who had knowledge of and/or participated in discriminatory or harassing acts? What actions are being undertaken by the Commission to assure that, where appropriate, cases involving apparent criminal violations of the Atomic Energy Act will be referred to the Department of Justice? What actions are being taken to assure that TVA managers who harassed or intimidated subordinates no longer occupy supervisory positions in TVA's nuclear program?

ANSWER.

As discussed in answer 6, the NRC has not yet finally determined which TVA managers and supervisors had knowledge of, or participated in, discriminatory or harassing acts. The staff has conducted a review of files including allegations of harassment and intimidation at TVA and expects to provide its report and recommendations to the Senior Management Team during the week of April 7, 1986.

With regard to referring potential criminal cases to the Department of Justice, the NRC Office of Investigations (OI) reviews all completed investigations for potential criminal referral. The Director, OI refers to the Department of Justice all cases in which the OI finds potential criminal wrongdoing. These are standard Commission procedures and will be followed for the matters involving TVA.

QUESTION 8. Please describe recent acts of harassment and intimidation. Are these alleged acts under investigation? When will such investigations be completed? When will reports of such investigations be completed?

ANSWER.

The summary of the NRC Office of Investigations report provided in response to Question 6 describes recent alleged acts of harassment and intimidation at TVA. As stated in the report, investigation of these acts and a report of the investigation was completed on March 6, 1986. Numerous additional allegations of harassment and intimidation are under investigation by OI. A list of the open OI cases will be provided under separate cover.