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February 5, 1990

Mr. Christopher J. Grimes, Director  
Comanche Peak Project Division  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20546

Dear Mr. Grimes:

Subject: Texas Utilities Electric Company, et al.,  
(Comanche Peak Steam Electric Station,  
Units 1 and 2), Docket Nos. 50-445/50-446

Response to TU Electric Letter TXE-89851,  
dated December 22, 1989, to NRC's  
Christopher J. Grimes, Regarding the CASS  
Documented Request for Action on  
Thermo-lag and Harassment and  
Intimidation of CPSES QC Inspectors

This letter responds to the December 21, 1989, letter (TXE-89851) to  
the NRC from TU Electric regarding the "Thermo-Lag Dispute."

BACKGROUND

In early November 1989, Comanche Peak Quality Control (QC) inspectors  
were inspecting vendor-fabricated Thermo-Lag insulation that was to be  
installed as a barrier between equipment and fires that might occur at the  
Comanche Peak nuclear power plant. This material had previously been  
fabricated onsite, installed, and final inspected. However, in July 1989,  
significant deficiencies were identified in the site-fabricated Thermo-Lag.  
TU Electric initiated a nonconformance report (NCR) which stated that the  
site-fabricated Thermo-Lag did not meet minimum specified thickness  
requirements. These problems were discovered sometime before July 18, 1989.  
Subsequent to the NCR's being written, a Corrective Action Request (CAR) was  
generated. However, the corrective action originally proposed by the CAR  
was subsequently determined to be inadequate because the cause of the  
deficiency was not corrected.

B/1

On October 30, 1989, the CAR was closed based on revising the design and installation specifications, recognizing only vendor-fabricated panels, and clarifying inspection requirements. The closure did not address the root cause of what led to inadequate specifications and inspection requirements having been developed initially.

In September 1989, this construction deficiency was reported to the NRC pursuant to 10 CFR 50.55(e). The notice stated that the issue involved about 13,000 square feet of site-fabricated Thermo-Lag, 2,000 square feet that had been installed and was traceable, and, in addition, another 13,000 square feet installed, but not traceable to onsite or offsite fabricators, and therefore suspect. As a result of that discovery, TU letter IXK-89737 addressing the SDAR concluded that the safe shutdown of the plant could not be assured in the event of a fire.

Subsequently, Thermal Science Inc., a vendor recognized as qualified to fabricate Thermo-Lag panels LA, received purchase orders from TU Electric to fabricate material offsite and ship different-sized panels and cylinders (needed to cover and protect safety-related electrical cable trays and conduit if a fire occurred). No vendor audit was performed at the time of the order because Thermal Science was on the Approved Vendor List (AVL). The material was thereafter fabricated, shipped, and received at Comanche Peak, much of it in a deficient condition. TU Electric has attributed these deficiencies to shipping damages. However, it is CAb's present position that TU Electric's failure to conduct an adequate root cause analysis to determine the primary cause of the site-fabricated panel deficiencies allowed the repetition of similar current deficiencies.

#### CASE'S POSITION

CASE asserts that it is the ultimate responsibility of TU Electric management to assure that the Thermo-Lag was properly designed, fabricated, installed, and inspected in accordance with regulatory requirements and commitments.

It is CASE's position that a root cause determination is necessary, and that included in such an analysis should be the possibility that it was not only the specification, onsite fabrication and installation process, or the offsite fabrication process that caused the deficiencies, but rather that the problems were the result of inadequate process and management controls, along with inadequate supervision of the design, fabrication, installation, and inspection process.

LA CASE has a concern about the vendor's submission of substantial deficient material in light of its status as a qualified vendor required to have a functioning 10 CFR Part 50, Appendix B, program, and the requirement to submit certificates of compliance with each shipment. This concern will be pursued directly with TU Electric.

TU Electric's position, as stated in TEX-89737, did not address the primary or probable cause of the problems but only addressed subordinate causes.

TU Electric's failure to identify the primary or probable cause raises serious questions about the competence of TU Electric's management to control work performed at Comanche Peak by TU Electric and its contractors. Even more troublesome is TU Electric's inability to determine the cause of such deficiencies. This failure appears to be a management and implementation breakdown in the control of design, procurement, and processes as well as construction and inspection/audit activities.

#### MANAGEMENT AND INTIMIDATION OF QC INSPECTORS

According to the information CASE has gathered from its own independent investigation (most of which is also confirmed by the NRC's independent investigation and inspection report, Inspection Report 80-466/90-05, 80-466/90-05, issued January 31, 1990), the following occurred regarding the harassment and intimidation of QC Receiving Inspectors. On November 2, 1989, three QC inspectors were performing receipt inspections of Therme-Lag that Thermal Science, Inc., had shipped to the site. After identifying that approximately 30% of one configuration did not meet the specified thickness requirement and 90% of another configuration was similarly deficient, the inspectors properly recognized that a major material and quality control problem existed with the materials being received.

In accordance with guidance from their lead inspector and governing site receipt inspection procedure NQA-3.09-11.03, the inspectors attempted to initiate an NCR. However, the cognizant QC supervisor and Level III inspector jointly directed that it not be written. The Level III became very vocal and vehement and stated that "we will not write an NCR on Therme-Lag." These statements intimidated the QC inspectors and, as a result, no NCR was written on that day (Thursday, November 2, 1989). After this direction, the inspectors discussed with their Lead Inspector the fact that the TU Electric training instructed inspectors to write an NCR in cases like this, where material was in a nonperforming condition. Unfortunately, the more vocal QC inspector was laid off that same day, within a matter of hours of this incident. (The next day he made a report to SAFETeam.) Whether or not this layoff was "coincidental" (a position which CASE cannot adopt based on the facts of the matter), his immediate and unexpected layoff created an intolerable "chilling effect" with the other QC inspectors. These other QC inspectors may understandably be concerned that they might also be "coincidentally" laid off should they be too persistent about compliance with procedures and regulations.

The next day (Friday, November 3, 1989), the second QC inspector went to the QC Supervisor and again pointed out in the procedure that an NCR was required. Thereafter, the second QC inspector wrote an NCR. Shortly after



the second QC inspector wrote the NCR, the Level III inspector learned of it and again became very angry and vocal, apparently swearing and cursing about the issuance of the NCR and intimating that the whole department was going to be 'in trouble' because of its issuance. On the following work day after the second QC inspector wrote the NCR, the second inspector was in essence 'demoted' from a QC inspector to a 'helper' (although he was later reinstated as a QC inspector).

CASE observed that the first QC inspector, who was terminated, went through the chain of command regarding his concerns; that is, he went to his lead inspector, the QC supervisor, and ultimately the SAFETEM and Corporate Security. In a statement to SAFETEM, given the day following the incident (November 3, 1989), the lead QC inspector was quoted as saying that he (the lead) agreed that an NCR should have been written but that his 'word' (recommendation to write the NCR) carried no weight compared to the Level III's instruction. This view confirms that there was a feeling of discouragement toward the identification of deficiencies among this group of QC personnel, including the lead QC inspector.

CASE became aware of the matter through a request for assistance from the terminated inspector and conducted its own investigation into the facts, circumstances, apparent causes, and results of this incident.

On November 8, 1989 (after prior verbal notification), in a regularly scheduled CASE/TU management meeting, CASE brought this matter to the attention of TU Electric's upper management, and asked that TU Electric investigate this matter and take prompt and comprehensive corrective action to remove the perceived "chilling effect" on the identification of deficiencies. CASE advised TU Electric that CASE believed it would be necessary to address the conduct of the QC supervisor and the Level III inspector. CASE also advised TU Electric management that it believed that TU must address the status of the "laid-off" QC inspector, who other inspectors perceived as having been singled out and in effect fired by the Level III because he (the QC inspector) was too vocal about the need to write an NCR. (This view was reinforced by an earlier threat, confirmed by the SAFETEM/Corporate Security investigation) by that same Level III to the laid-off inspector that if he (the Level III) was ever in a position to terminate that QC inspector, he would do so.) It was, and is, CASE's view that the layoff of the QC inspector, whether legitimate or not, has contributed to an atmosphere of intimidation and has had a chilling effect on the QC receiving department as a whole. This has been confirmed by the NRC's own independent investigation and inspection report; see Inspection Report 50-445/90-05, 50-446/90-05, at 1, and 10 and 11, which states, in part:

"Furthermore, based on the NRC interviews, it was determined that there is a strong perception within the QC Receipt Inspection organization that the termination of the alleged coincident with the events of November 2 and 3 regarding Therm-A-Lag and the direction to not document the subject deficiency on an NCR were

related. Based on interviews with QC receipt inspectors, these events together with the statement from the QC Level III to the effect that should he ever be in a supervisory position, the alleged would be "the first to go" have had a chilling effect on the QC Receipt Inspection organization."

Through this early notice by CASE, TU Electric management had the perfect opportunity to correct a serious situation before it became worse. Unfortunately, they did not take the opportunity and compounded the problem by delay, mixed signals to quality control inspectors, and ultimate taking corrective action that stopped short of openly addressing the unacceptability of the conduct and statements by the Level III in this situation. This failure to properly and promptly act had the effect of sending the clear message to the work force that the Level III's conduct was acceptable not only to TU Electric's mid-level management, but also to its upper management.

Accordingly, by mid-November 1989, since CASE could not get TU Electric to promptly address these matters, CASE submitted a dispute (first orally, then formally) to the NRC for resolution. (See also November 29, 1989, letter from CASE Attorney Billie Firner Garde to NRC's Christopher Grimes, re: Thermo-lag dispute.) CASE had hoped that the dispute review process might lead TU Electric to grasp the significance of the problem and salvage their control of the situation. Unfortunately this did not happen. The matter was only made worse by TU Electric management's response (TXX-89851, December 21, 1989), directed to you.

The CASE response provided includes information furnished to the NRC that, based on CASE's investigation, is incomplete and inaccurate. Additionally, the response is another example in which TU Electric management, even with early notice and indisputable facts, has failed to take prompt and effective corrective action. Whether they intend to or not, TU Electric management, one by one, level by level, have lined up behind one mid-level supervisor who lost his temper and clearly violated TU procedures and policies and NRC regulations, instead of supporting and applauding the actions of Quality Control inspectors who were trying to follow procedures and regulations and do a good job for TU Electric and the public. These actions send the message that TU Electric upper management obviously condones the behavior of the QC supervisor and the Level III inspector.

It is CASE's position that the action and inaction of TU Electric management in this instance raise serious questions about their corporate attitude in managing the fuel load and operation of Comanche Peak; their reaction while under a relatively small amount of pressure (compared to the pressure should there be a nuclear accident, for example) is very disturbing, and could be considered a test of TU management under fire -- a test which TU management has failed, in CASE's opinion. The management of an operating nuclear power plant requires prudent management, sensitivity to conditions and events which may lead to incidents or accidents, and calm.

rational thinking; this instance calls TU Electric management's abilities in these regards into strong question.

Whether or not it was TU Electric management's intent to produce an atmosphere of harassment and intimidation among QC inspectors (although this is important to ascertain), is in one sense irrelevant -- the effect and perception are the same. In CASS's opinion, these are the kind of problems that an applicant should be expected to work out when construction first starts or is underway, not on the eve of fuel loading. It is extremely disturbing and disappointing to CASS that this kind of problem still exists at Comanche Peak at this point in time and that TU Electric management appears totally incapable of discerning even that a problem exists and what the problem is, much less of correcting it.

There has been a long history of similar problems at the Comanche Peak construction site with both the failure to follow procedures in writing NCR's and harassment and intimidation of QC inspectors <sup>(2)</sup>. Some of these incidents involve the same individuals in virtually the same situations (as does this incident, which involves two of the same individuals who were accused of harassment and intimidation during the operating license proceedings in 1984). Although TU Electric may debate the affect and implications, the facts of the earlier incidents are not in dispute. In the present case, TU Electric defended the actions of repeat offenders of unacceptable conduct (the QC supervisor and the Level III), while the QC inspector who first insisted that an NCR must be written remains laid off by TU Electric. This decision sends the clear message to the work force that both mid-level and upper TU management condone and support the behavior of the supervisor and the Level III.

<sup>(2)</sup> See correspondence regarding Enforcement Actions (EA) 83-66, 83-132, and 85-63, especially August 28, 1987 letter from James G. Keppler, Director of Office of Special Projects, NRC, to Mr. William G. Council, Executive Vice President, TU Electric, which states, in part:

'The licensee's argument that a violation did not occur because none of the QA auditors were prevented from carrying out his or her job, incorrectly construes the requirement for a finding of a violation of 10 CFR Part 50, Appendix B, Criterion I. The licensee would seem to require demonstration of an actual failure by a QA auditor to carry out his or her duties as a result of the threatening remarks of the QC supervisor. However, actual impact is not a prerequisite to a violation. A violation with actual impact on QC inspectors or auditors would be viewed as a more serious violation but a licensee may be cited for a violation if sufficient facts are established to show that the actions

(continued on page 7)



The facts establish that the QC supervisors advocated the use of the design change system to avoid writing the NCR. This was improper because QC proposed a solution prior to fully identifying the deficiencies and all of the surrounding circumstances. It is CASE's interpretation of the procedures that QC's responsibility in this case was to first document hardware deficiencies on an NCR and submit it to QC management for review for completeness, then the NCR was to have been forwarded to engineering for analysis and disposition. This system was not followed. Similar misuses of the DCA system in the past have historically caused tensions between QC management/supervision and QC inspectors; unfortunately, this tension continues to exist. It appears that QC supervision was inappropriately involved with cost and schedule, i.e., trying to expedite furnishing material to the field. In doing so, TU Electric was in violation of the requirement in Criterion I of 10 CFR Part 50, Appendix B, which requires that QA/QC maintain independence from cost and schedule.

CASE believes that the Therme-Lag event has far-reaching implications about TU Electric's inability and unwillingness to adequately manage Comanche Peak once it is in operation. CASE reasserts its request that this dispute be resolved prior to a decision on fuel load and licensing by the NRC Staff.

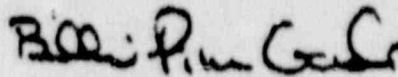
2/ (continued from page 6):

were reasonably likely to interfere with the inspectors' freedom to report safety concerns. In this case, the statement by the QC supervisor was reasonably likely to improperly influence audit findings. That the statement may not have actually influenced the QA auditors is to their credit as professionals but does not alter the fact that in making the statement, the QC supervisor failed to adhere to the standard of conduct required by the regulations. Because of this, the NRC finds that the violation occurred as stated."

See also the multiple complaints recorded in the NRC Staff's SSER's: AQE-1, AQ-14, AQO-16, AQO-18, AQO-47, AQO-83, AQ-94, AQ-95, AQ-97, AQ-98, AQ-99, AQ-100 (QC supervisor and Level III inspector presently accused of misconduct previously charged with harassment and intimidation), AQ-69, AQ-80, AQ-85, AQ-87, AQ-95, AQ-109 (QC inspector dismissed for writing NCR), AQ-114, AQ-124, AQ-128, AQ-133 (interview process inadequate)).

CASE takes no pleasure in concluding that TU Electric still cannot or will not recognize the effect of events such as these on personnel and hardware, but raises the matter for your consideration because of the potential safety impact, which is our primary concern.

Sincerely,



Billie Palmer Jarde, Esq.  
Attorney for CASE

Attachment:

Redacted copies of two (2) SAFETHAM reports regarding concerns of laid-off QC receiving inspector

cc: Mr. Dennis Crutchfield, Assistant Director of Special Projects, MRC  
Mr. R. G. Warnick, Assistant Director for Inspection Program, Comanche Peak Project Division, MRC  
Mr. William Council, Vice Chairman, TU Electric  
Mr. W. J. Cahill, Jr., Executive Vice President, TU Electric  
Dr. Ausaf Hussain, Chairman, Operations Review Committee (ORC), TU Electric  
Mr. George L. Edgerly, Esq., Newman & Holtzinger, P. C.  
Ms. Susan Palmer, Stipulation Manager, TU Electric



012694



January 17, 1990

Dear Concern No. 12694:

Thank you for taking the opportunity for a Comanche Peak SAFETEM interview and sharing your concern with the Comanche Peak SAFETEM.

In keeping with our promise to do our best to preserve confidentiality we are using the code number of your interview to address this letter. The computer produced your name and address label, so only SAFETEM Interview Department personnel can match your concern with your name.

You expressed the concern that the QC Receiving Supervisor and a Level III QC Inspector will not let the QC Inspectors in Receiving write an NCR on rejected Thermo-Lag.

Due to the nature of this concern, it was sent to the Manager of TU Corporate Security - Nuclear, for investigation. He provided this response:

Corporate Security's investigation into this concern included interviews with a former QC inspector, ten additional QC Receiving Inspectors, including all who were working in the Construction Warehouse on November 2, 1989, a Procurement QA employee, the QC supervisor, [redacted] and the QC Level III, [redacted]. Corporate Security's inquiry also involved a review of documentation and procedures relative to this issue.

The Corporate Security investigation into this concern substantiates that [redacted] made a statement that "we will not write an NCR on Thermo-Lag." [redacted] and [redacted] stated that they believed the procedure applicable to the situation on November 2, 1989, was NQA 3.05, Section 6.1.1.(b), which they felt allowed the material to be marked "unsat" on the inspection report and placed on "hold" pending the issuance of a DCA from engineering which supervision knew was forthcoming. Mr. [redacted] and Mr. [redacted] further stated that they were of the opinion that an NCR was not the appropriate procedural vehicle to document the fact that the Thermo-Lag conduit sections were undersized. Corporate Security's investigation established that Mr. [redacted] and Mr. [redacted] were not trying to intimidate the inspectors to prevent them from documenting the fact that the Thermo-Lag conduits were undersized. Interviews with other QC Receiving Inspectors substantiated that they did not feel intimidated or harassed by Mr. [redacted] remark. Both Mr. [redacted] and Mr. [redacted] denied that any statements they made to the inspectors during the discussion were meant to imply that the

inspectors should not document the fact the Thermo-Lag conduit sections did not meet specifications. In fact, the inspectors were told by Mr. [REDACTED] and Mr. [REDACTED] that the material should be marked "unsat" on the inspection report and placed on "hold."

The investigative evidence further suggests that the lack of effective communication by QC supervision, in failing to explain their procedural interpretation, led to a significant amount of frustration and misunderstanding on the part of the Receiving Inspectors. The Receiving Inspectors were of the opinion that the applicable procedure was NQA 3.09-11.03, Section 6.1.3, which they felt necessitated the issuing of an NCR.

[REDACTED], who had only been the Receiving supervisor for a few weeks, stated that he was shown NQA 3.09, Section 6.1.3, by the QC lead the next day and agreed that the issue could be open to interpretation. Mr. [REDACTED] said that, after reviewing the procedure, he believed that either interpretation could be applied. Mr. [REDACTED] stated that, thus when the NCR was brought to him, he had no problem signing it, because it only related to one line-item of conduit sections (NCR 89-11452, Rev. 0).

Corporate Security's inquiry further failed to substantiate the allegation that QC supervision attempted to persuade [REDACTED] to change the requirements on the verification plan to 3/8 of an inch. [REDACTED] stated that he was aware of the problems with the Thermo-Lag and was in contact with both QC Receiving and Procurement Engineering in an attempt to come to a solution that would "get the most out of the material." [REDACTED] stated that no QC Receiving personnel had asked him to change the requirements on the verification plan. [REDACTED] further stated that he did not have the authority to change the acceptance criteria.

In addition, the Manager, Quality Control stated that a meeting with all QC Receiving Inspectors was held Monday, November 27, 1989. During this meeting, the philosophy of NCRs was discussed along with the intent of NQA 3.03, Section 6.1.1.(b), and other programmatic options (e.g., DCAs, Vendor performing work on site, returning material to vendor, etc.) available to resolve receiving inspection problems.

QC management has discussed the situation with [REDACTED] and [REDACTED] and has taken appropriate corrective action to preclude a recurrence of the ineffective communication.

Again, thank you for sharing your concern. Should you have any questions about your concern, or any other concerns you wish to share, please write me at the above address, call or come by the Comanche Peak SAFETeam Appreciation Center.

Concern No. 12694

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The SAFETEM telephone numbers are extension 8149 (on site), 1-800-633-6502 (In Texas) or 1-800-645-0021 (out of state).

Sincerely,

*Richard Werner*  
Richard Werner  
SAFETEM Manager



012696



January 17, 1990

Dear Concern No. 12696:

Thank you for taking the opportunity for a Comanche Peak SAFETEM interview and sharing your concern with the Comanche Peak SAFETEM.

In keeping with our promise to do our best to preserve confidentiality we are using the code number of your interview to address this letter. The computer produced your name and address label, so only SAFETEM Interview Department personnel can match your concern with your name. This standard procedure is followed even though you signed an "Authorization to Disclose Identity" permitting SAFETEM to use your name during the investigation of your concern.

You expressed the concern that your ROF was part of a "vindictive layoff." You stated that [REDACTED] told you two months earlier, "If I ever get in the position to terminate anyone, you will be the first to go." You also stated that he has also threatened another individual.

Due to the nature of your concern, it was sent to the TU Manager of Corporate Security - Nuclear, for investigation. He provided this response:

The evidence obtained in Corporate Security's investigation fails to substantiate the allegation that you were the victim of a "vindictive lay-off." The decision to include you in the ROF was made by the QC Manager based on applicable policy which evaluated such factors as seniority, billing rate and performance. The QC Manager was not aware of the alleged conflict between you and [REDACTED] and the alleged conflict was not a factor in the decision to include you in the ROF. Furthermore, [REDACTED] did not evaluate you, and had no input into the factors which determined your ranking on the ROF list, and had no input into the ROF decision.

Corporate Security's inquiry substantiated that [REDACTED] had previously made a statement that should he ever be in the position, you would be the "first to go." However, neither this statement nor the fact that you and [REDACTED] had disagreed over the issuance of an NCR was known by the QC Manager or were factors in your inclusion on the ROF list.

In addition, Corporate Security could not substantiate that lead [REDACTED] had been threatened by [REDACTED] as you alleged.

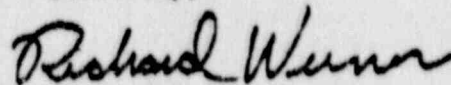
Concern No. 12696

Page 2

Appropriate action has been taken by QC management with regard to the comment Mr. [REDACTED] made to you.

Again, thank you for sharing your concern. Should you have any questions about your concern, or any other concerns you wish to share, please write me at the above address, call or come by the Comanche Peak SAFETEM Appreciation Center. The SAFETEM telephone numbers are extension 8149 (on site), 1-800-633-6502 (in Texas) or 1-800-645-0021 (out of state).

Sincerely,



Richard Werner  
SAFETEM Manager

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FEB 08 1990	_____
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NEWMAN & HOLTZINGER P.C.	