

September 14, 1982

James L. Kelley, Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Dixon Callihan
Administrative Judge
Union Carbide Corporation
P.O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Foster
Administrative Judge
P.O. Box 4263
Sunriver, Oregon 97702

In the Matter of
DUKE POWER COMPANY, ET AL.
(Catawba Nuclear Station, Units 1 and 2)
Docket Nos. 50-413 and 50-414

Dear Administrative Judges:

I have recently received a copy of a memorandum from Harold R. Denton, Director, Office of Nuclear Reactor Regulation, to James A. Fitzgerald, Acting Director, Office of Investigation, which responds to, and has attached to it, a memorandum from R. C. Lewis, Director, Project and Resident Programs, Region II, to D. G. Eisenhut, Director, Division of Licensing, NRR, dated July 30, 1982. The latter memorandum encloses pertinent portions of past investigations and special inspections on matters related to the construction quality control contentions raised by Intervenors at the prehearing conference.

I believe these memoranda are responsive to Judge Kelley's January 26, 1982 memorandum to James Lieberman, Acting Director, Enforcement Staff, Office of Inspection and Enforcement, drawing attention to Palmetto Alliance Contention 6 and requesting that the Licensing Board be kept advised on information developed relating to the subject matter of that contention. I am therefore forwarding copies of these memoranda, with enclosures to the Licensing Board and to other persons on the service list.

Sincerely,

George E. Johnson
Counsel for NRC Staff

cc: Service List
(w/ enclosure)

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

SEP 3 1982

K. Jabbour

MEMORANDUM FOR: James A. Fitzgerald, Acting Director,
Office of Investigations

FROM: Harold R. Denton, Director,
Office of Nuclear Reactor Regulation

SUBJECT: CATAWBA NUCLEAR STATION - ALLEGATIONS OF SYSTEMATIC
DEFICIENCIES IN PLANT CONSTRUCTION AND OF PRESSURE
TO APPROVE FAULTY WORKMANSHIP

Reference: ASLB Prehearing Conference
York, South Carolina
Pages 116-126 and 348-351

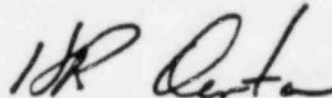
During the Catawba Prehearing Conference, held on January 12 and 13, 1982 in York, South Carolina, Intervenor R. Guild stated that former workers at Catawba (i.e. Messrs. McAfee and Hoopingarner) "have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship." In addition, Intervenor J. Riley stated that "a master welder at the Catawba plant was required by a supervisor to commence welding on safety-related welds before the specified temperature had been reached."

As a followup to the Prehearing Conference, James L. Kelly, ASLB Chairman, asked James Lieberman, Acting Director of Enforcement, I&E, in a memorandum dated January 26, 1982 (Enclosure 1), to pass on the information generated in the prehearing conference regarding these matters to the appropriate people in the field and to advise the Board of any information that may be developed regarding the ongoing licensing proceeding. In addition, Darrell G. Eisenhut, Director, Division of Licensing, NRR, transmitted, in a memorandum dated February 12, 1982 (Enclosure 2), the appropriate transcript portion to J. P. O'Reilly, Regional Administrator, Region II for his information and appropriate action as deemed necessary.

A memorandum dated July 30, 1982 (Enclosure 3) from R. C. Lewis, Director, Project and Resident Programs, Region II to D. G. Eisenhut states, among other things, that: "The Region II investigative staff has been in contact with the Palmetto Alliance legal staff, but has not been permitted by them to contact the allegers directly to seek more specific information. However, in the past, Region II has conducted investigations of allegations similar to those of Palmetto Alliance Contention number 6 and Carolina Environmental Studies Group Contention number 13. Region II also has conducted special inspections which contain information relevant to these contentions." The memorandum transmits, among other things, excerpts from a special inspection concerning similar type allegations.

Contact: K. Jabbour
X27821

Although similar type allegations may have been investigated previously, the Region could not investigate the current allegations to determine if any differences exist. In view of the nature of the allegations, we believe that further investigative response is required in order that we may provide an assessment of the safety significance of these matters in our Safety Evaluation Report to be issued on February 6, 1983. Therefore, we request your assistance in obtaining the information necessary for the staff to provide the appropriate safety evaluation. Please inform us, as soon as possible, of your schedule for providing the information needed.



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
As stated

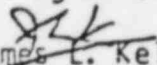
cc: J. O'Reilly
J. Lieberman
E. Christenbury
J. Scinto
G. Johnson



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL
WASHINGTON, D.C. 20555

January 26, 1987

MEMORANDUM FOR: James Lieberman
Acting Director of Enforcement, I&E

FROM: 
James L. Kelley
Chairman, Atomic Safety and Licensing
Board for the Catawba Operating Licensing
Proceeding -- Docket Nos. 50-413 and 50-414

SUBJECT: ALLEGATIONS OF DEFICIENCIES IN CONSTRUCTION AND OF
PRESSURE TO APPROVE FAULTY WORKMANSHIP AT CATAWBA

At a recent prehearing conference in the Catawba operating license proceeding, a petitioner for intervention, Palmetto Alliance, advanced a contention concerning alleged substandard workmanship that included the following sentence:

"A number of former Duke Power Company construction workers, including a certified Quality Control Inspector, have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship."

At the outset of the discussion of this contention, the Board made clear the seriousness with which it views such allegations. We said that we would make sure that these allegations were brought to your attention. As indicated in the pages of the hearing transcript we are attaching, these and related matters may have already been looked into by I&E.

I would appreciate your passing this information on to the appropriate people in the field and advising the Board about any information you may develop that may relate to the ongoing licensing proceeding.

Encl: Transcript
pages 116-126

cc: Service List (w/o encl)

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MR. KETCHEN: Mr. Chairman, our response on Contention 5 is in our pleading similar to that in Contention 2. It is difficult to tell what this contention is all about.

As we point out, it is very generalized concerns. To us, it is somewhat vague. I cannot tell from reading this contention whether I really answered or responded to the contention in my earlier remarks this morning in the argument I made with respect to the Commission's interim statement of policy involving serious accidents beyond design basis.

I'm referring to the June 1980 policy statement, or some other generalized concern.

I'm not told in this contention what such serious issues are, nor any basis for some unspecified serious accidents being not now -- being now somehow plainly credible.

So, I think this contention is just vague, nonspecific, and it has no basis, in addition to the other arguments I've made with respect to Contention 2, 5, and 10 in our response earlier filed with this Board.

CHAIRMAN KELLEY: Okay. No. 6.

Let me just say, Mr. Guild, I'm looking at the last sentence of No. 6, which reads as follows: "A number of former Duke Power Company construction workers,

1 including a certified quality control inspector, have
2 complained of systematic deficiencies in plant construction
3 and company pressure to approve faulty workmanship."

4 Now, that is a very serious complaint, and it is
5 something that we will want to know more about, whether
6 it ends up as a contention or not, because we have a
7 responsibility to look into matters like that.

8 I suppose that these things can get a little
9 bit sticky in the sense that where situations like this
10 arise, it may be that people who have spoken with you, or
11 people who have spoken with people in your
12 organization, don't want it known, don't want their
13 names put out. I don't know.

14 I appreciate that consideration. But in the
15 course of speaking of this contention, if you would give us
16 a little more background, and what you are talking about,
17 then we will see where we go with it. We want to flag the
18 fact that this is something that we certainly have picked up
19 on, and we are interested in.

20 MR. GUILD: Let me have a moment, Mr. Chairman.

21 While we do not believe that it is in all instances
22 appropriate for the reasons alluded to by the Chairman, to
23 put people on the spot who may have information that goes
24 to the core of the Commission's responsibility for seeing
25 that the plant is built safely, in this instance, two of

1 the individuals who can bring information to bear on this
2 quality assurance contention, because of their
3 personal experience as former workers of the plant, are
4 Palmetto Alliance members, who have submitted affidavits to
5 this Board in support of Palmetto Alliance's original
6 petition to intervene. That is, Messrs. McAfee and
7 Hoopingarner, both of whom reside in proximity to the
8 facility.

9 CHAIRMAN KELLEY: The second name?

10 MR. GUILD: Hoopingarner, H-o-o-p-i-n-g-a-r-n-e-r,
11 the second.

12 Mr. Chairman, both of those individuals by
13 formally submitting affidavits in support of the Palmetto
14 Alliance contention obviously are willing to be publicly
15 associated with this specific part of the basis behind our
16 quality assurance contention.

17 So, to that extent, they have already gone public
18 with it, and their names should be associated with it
19 at this point, although we don't feel that is part of our
20 obligation to support a contention with that evidentiary-type
21 information at this stage.

22 We also reference what we believe to be not only
23 a policy statement, which we think makes quality
24 assurance even more a concern in licensing process than
25 heretofore, and that is the Commission's decision in the

--5 1 GPU Federal Court claim case that is referenced there,
2 that places primary responsibility for seeing a plant is
3 built as it should be built and operated as it should be
4 operated, not on the Commission whose limited Staff may
5 include only one resident inspector at the site, but on the
6 Applicant through a program of quality assurance that
7 ultimately works.

8 Again, it is more than simply a paper
9 requirement of having a plan. It is a requirement of
10 having actual work that is up to standard through procedures
11 that work in practice, and we believe that the references
12 to criticism of Duke's construction by the Commission's
13 Licensee Performance Review Group, a below-average rating
14 due to quality assurance and management and training
15 problems at the plant, provide an additional basis for a
16 concern on quality assurance matters.

17 CHAIRMAN KELLEY: Would you be able to, not
18 necessarily right here and now, but would you be able to get
19 any more specific about quality assurance in your statement
20 that it is substandard? Substandard in welding,
21 substandard in wiring, who knows what. Do you have that
22 kind of information?

23 Eventually, you will have to prove a case.

24 MR. GUILD: Yes, sir, I do. I'm not prepared to
25 go into detail at this point.

1 Let me say, in the one instance where this
2 Intervenor or this Petitioner sat down with the Company
3 Staff and counsel, and this issue was addressed, the
4 dialogue went as follows: We recognize that we have serious
5 concerns on quality assurance, and that many of the -- much
6 of the evidence in the form of documentation is in
7 your possession; we can be more precise and specific
8 in this regard if we have access to that information.
9 Will you make that information available? To paraphrase
10 the response from the Company, it was, we think, the
11 way you stated it is fine as is, and we have no interest
12 in essence in giving you anymore fuel for your fire.
13 And at this stage of the proceeding, no, we won't provide you
14 further access to documentation; exercise your rights to
15 discovery to flesh this out.

16 Both of the people that I have reference to are
17 ready and able to testify about personal knowledge with
18 respect to construction deficiencies, and they are
19 champing at the bit to some degree to explain in detail
20 what their concerns have been.

21 My advice to them, as counsel for the
22 organization, has been, at this stage of the proceeding,
23 what we are obligated to do is present a litigable contention,
24 and that the orderly licensing process gives us the
25 opportunity to, through discovery, obtain additional

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information and present our case in an orderly and effective fashion, and that we intend to do.

CHAIRMAN KELLEY: Just one further comment with regard to the information about workers, former workers.

I appreciate you providing us with the two names. As a first matter, we will just simply be in touch with the NRC inspection and enforcement people to see whether they know about this, whether they have talked with these gentlemen and others, and then we will see where we go with this matter. That is apart from the contention in the case, but it is something that we will look at as a general principle.

Okay.

MR. KETCHEN: Mr. Chairman, may I respond to that just on this one point?

CHAIRMAN KELLEY: Yes.

MR. KETCHEN: I, too, am champing at the bit. I'm champing at the bit because, as you just alluded to, we do have an inspection and enforcement process. As a matter of fact, the resident inspector is in the room, or was in the room this morning. I'm not sure he's here right now, but he was here this morning, as well as the inspector that -- his boss back in Atlanta that is responsible for the Duke plants, as far as the inspection is concerned.

In this regard, I just want to point out to

1 counsel for Palmetto Alliance and to the public that this
 2 is not a game; that if they have specific problems with
 3 quality assurance construction, they should come forward
 4 right now and give it to our inspection people, so we can
 5 look at it and get at the heart of the matter, and wait
 6 for a resolution.

7 If there are serious problems, it does no good
 8 to wait for a year, while the plant is being constructed.
 9 Those things should be pointed out now, should be looked
 10 into now, and should be resolved now, and as you point
 11 out, it should be a matter separate from the litigation.

12 But hearing this, I think there is some sort of
 13 a gamesmanship here that, on these specific matters, it
 14 is just a matter of holding back the specific information
 15 so that the contention can come in and this information
 16 can come out at the hearing.

17 I just want to re-emphasize that we do have
 18 an inspection and enforcement section with the Nuclear
 19 Regulatory Commission, and if we get specific information,
 20 not generalizations, we would go and investigate these
 21 matters.

22 But we need more than very generalized
 23 accusations or allegations that are contained in the last
 24 line of this sentence, before we can go forward.

25 CHAIRMAN KELLEY: Okay. Thank you, Mr. Ketchen.

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I think the idea of prompt reporting and bringing things out in the open is certainly one that is correct, and I agree with your statement.

Let me add, we say separate from the litigation. That isn't to say it might not stay an issue in the litigation. You might seek to prove poor quality control. But I think you want to get that in the hands of the quality control people early, so they can do what they can do, so it may or may not get in the case.

MR. KETCHEN: That is correct. What I'm saying is, if there are serious concerns on the part of the potential Intervenors here, I would think a responsibility as a party and Intervenor in this proceeding, having heard what you and I have said this morning, would warrant their bringing forth this information so that in fulfilling our responsibility to the public, the Staff can go investigate it.

We would be happy to receive that information at any time.

CHAIRMAN KELLEY: Lets go to Mr. McGarry now.

MR. MCGARRY: I think our responses are all set forth. We maintain there is a lack of specificity, and I think Mr. Ketchen has just pointed out, and the Board actually inquired, what safety-related areas are we talking about. We don't have to get down to minute detail,

1 but it would be helpful to know, are we talking about
2 wiring, welding, or what are we talking about?

3 That is lacking.

4 There is a typographical error I would like to
5 point out on page 42, four lines from the bottom, the
6 last two words, "is and," should be stricken. The entire
7 next line should be stricken, and the word "program" on the
8 second to the last line should be stricken.

9 JUDGE CALLIHAN: What was the second deletion?

10 MR. MCGARRY: I'll read what should be stricken,
11 Doctor. "is and has been available in the NRC's local
12 Applicant's QA program." That all should be taken out.

13 But we maintain that we have got a QA program that
14 has been approved by the NRC; that it was in the Catawba
15 docket, the construction permit stage, of what is wrong
16 with that particular program, aside from these allegations
17 of these individuals, which is a separate matter, which
18 may or may not be in these proceedings, but in general, what
19 is wrong with the program.

20 Let's have some specificity in that regard.

21 The fact that Catawba was rated below average
22 doesn't mean the plant was not constructed safely, and the
23 controlling NUREG documents say that just because something
24 is rated below average doesn't mean that it is unsafe.

25 That is basically our position on that.

1 CHAIRMAN KELLEY: Do you have something else?

2 MR. GUILD: Let me add on that, I'm informed that
3 both of the named individuals have widely discussed
4 their complaints with either NRC Staff or publicly, in a
5 fashion that has been easily available to the Applicant,
6 and, presumably, to the Regulatory Staff. It's in the
7 area. But implicit in the pleading of that contention is
8 the allegation that there is pressure placed by the
9 Applicant upon workers at the site, to quote the specific
10 language, "approve faulty workmanship."

11 It is a little disingenuous for the Staff and
12 the surroundings of a formal hearing on the record
13 in front of administrative judges to say, well, if you've
14 got a problem, come forward and talk about it, whether in
15 fact there are considerable systematic problems or
16 barriers to workers on a job site who may know of problems that
17 implicate safety concerns in a nuclear construction
18 program, to come forward, and they do so at the risk of
19 themselves. We don't have a laundry list of the people who
20 are prepared to do so. This should not be dispositive of
21 the matter. I don't view it as a game, but we simply
22 face a Staff which has strenuously opposed the legitimacy
23 of this as an issue for this licensing case.

24 In the face of that, it surprises me somewhat
25 to hear them say that we should be more forthcoming as a

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1 matter of pleading, when they oppose the issue itself to be
2 considered by this Board.
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

ENCLOSURE 2

FEB 12 1982

Docket Nos.: 50-413/414

MEMORANDUM FOR: J. P. O'Reilly, Regional
Administrator, Region II

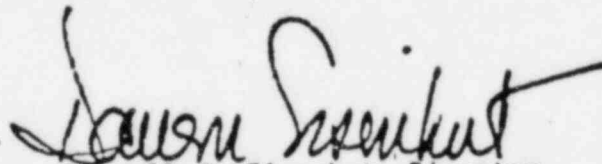
FROM: D. G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

SUBJECT: CATAWBA PREHEARING CONFERENCE - POTENTIAL INTERVENORS'
CONTENTIONS OF SYSTEMATIC DEFICIENCIES IN PLANT CONSTRUCTION
AND DUKE PRESSURE TO APPROVE FAULTY WORKMANSHIP

Reference: ASLB Prehearing Conference
York, South Carolina
Pages 116-126 and 348-351

During the Catawba Prehearing Conference, held on January 12 and 13, 1982 in York, South Carolina, Potential Intervenor R. Guild stated that former workers at Catawba (i.e., Messrs. McAfee and Hoopingarner) "have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship." In addition, Potential Intervenor J. Riley stated that "a master welder at the Catawba plant was required by a supervisor to commence welding on safety-related welds before the specified temperature had been reached."

Transcript portion is provided for your information and appropriate action as deemed necessary. Please keep us informed.


Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

Enclosure:
Excerpts from Transcript

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15 serious issues are, nor any basis for some unspecified
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23 Eventually, you will have to prove a case.

24 MR. GUILD: Yes, sir, I do. I'm not prepared to
25 go into detail at this point.

1 Let me say, in the one instance where this
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10 the response from the Company, it was, we think, the
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21 My advice to them, as counsel for the
22 organization, has been, at this stage of the proceeding,
23 what we are obligated to do is present a litigable contention,
24 and that the orderly licensing process gives us the
25 opportunity to, through discovery, obtain additional

1 information and present our case in an orderly and effective
2 fashion, and that we intend to do.

3 CHAIRMAN KELLEY: Just one further comment with
4 regard to the information about workers, former workers.

5 I appreciate you providing us with the two names.
6 As a first matter, we will just simply be in touch with the
7 NRC inspection and enforcement people to see whether they
8 know about this, whether they have talked with these
9 gentlemen and others, and then we will see where we go with
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11 case, but it is something that we will look at as a general
12 principle.

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14 MR. KETCHEN: Mr. Chairman, may I respond to that
15 just on this one point?

16 CHAIRMAN KELLEY: Yes.

17 MR. KETCHEN: I, too, am champing at the bit.
18 I'm champing at the bit because, as you just alluded to, we
19 do have an inspection and enforcement process. As a
20 matter of fact, the resident inspector is in the room, or
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9 Those things should be pointed out now, should be looked
10 into now, and should be resolved now, and as you point
11 out, it should be a matter separate from the litigation.

12 But hearing this, I think there is some sort of
13 a gamesmanship here, that, on these specific matters, it
14 is just a matter of holding back the specific information
15 so that the contention can come in and this information
16 can come out at the hearing.

17 I just want to re-emphasize that we do have
18 an inspection and enforcement section with the Nuclear
19 Regulatory Commission, and if we get specific information,
20 not generalizations, we would go and investigate these
21 matters.

22 But we need more than very generalized
23 accusations or allegations that are contained in the last
24 line of this sentence, before we can go forward.

25 CHAIRMAN KELLEY: Okay. Thank you, Mr. Ketchen.

1 I think the idea of prompt reporting and bringing
2 things out in the open is certainly one that is correct, and
3 I agree with your statement.

4 Let me add, we say separate from the litigation.
5 That isn't to say it might not stay an issue in the litigation.
6 You might seek to prove poor quality control. But I
7 think you want to get that in the hands of the quality
8 control people early, so they can do what they can do, so it
9 may or may not get in the case.

10 MR. KETCHEN: That is correct. What I'm saying
11 is, if there are serious concerns on the part of the
12 potential Intervenors here, I would think a responsibility
13 as a party and Intervenor in this proceeding, having
14 heard what you and I have said this morning, would warrant
15 their bringing forth this information so that in fulfilling
16 our responsibility to the public, the Staff can go investigate
17 it.

18 We would be happy to receive that information at
19 any time.

20 CHAIRMAN KELLEY: Lets go to Mr. McGarry now.

21 MR. MCGARRY: I think our responses are all set
22 forth. We maintain there is a lack of specificity, and
23 I think Mr. Ketchen has just pointed out, and the
24 Board actually inquired, what safety-related areas are we
25 talking about. We don't have to get down to minute detail.

1 but it would be helpful to know, are we talking about
2 wiring, welding, or what are we talking about?

3 That is lacking.

4 There is a typographical error I would like to
5 point out on page 42, four lines from the bottom, the
6 last two words, "is and," should be stricken. The entire
7 next line should be stricken, and the word "program" on the
8 second to the last line should be stricken.

9 JUDGE CALLIHAN: What was the second deletion?

10 MR. MCGARRY: I'll read what should be stricken,
11 Doctor. "is and has been available in the NRC's local
12 Applicant's QA program." That all should be taken out.

13 But we maintain that we have got a QA program that
14 has been approved by the NRC; that it was in the Catawba
15 docket, the construction permit stage, of what is wrong
16 with that particular program, aside from these allegations
17 of these individuals, which is a separate matter, which
18 may or may not be in these proceedings, but in general, what
19 is wrong with the program.

20 Let's have some specificity in that regard.

21 The fact that Catawba was rated below average
22 doesn't mean the plant was not constructed safely, and the
23 controlling NUREG documents say that just because something
24 is rated below average doesn't mean that it is unsafe.

25 That is basically our position on that.

1 CHAIRMAN KELLEY: Do you have something else?

2 MR. GUILD: Let me add on that, I'm informed that
3 both of the named individuals have widely discussed
4 their complaints with either NRC Staff or publicly, in a
5 fashion that has been easily available to the Applicant,
6 and, presumably, to the Regulatory Staff. It's in the
7 area. But implicit in the pleading of that contention is
8 the allegation that there is pressure placed by the
9 Applicant upon workers at the site, to quote the specific
10 language, "approve faulty workmanship."

11 It is a little disingenuous for the Staff and
12 the surroundings of a formal hearing on the record
13 in front of administrative judges to say, well, if you've
14 got a problem, come forward and talk about it, whether in
15 fact there are considerable systematic problems or
16 barriers to workers on a job site who may know of problems that
17 implicate safety concerns in a nuclear construction
18 program, to come forward, and they do so at the risk of
19 themselves. We don't have a laundry list of the people who
20 are prepared to do so. This should not be dispositive of
21 the matter. I don't view it as a game, but we simply
22 face a Staff which has strenuously opposed the legitimacy
23 of this as an issue for this licensing case.

24 In the face of that, it surprises me somewhat
25 to hear them say that we should be more forthcoming as a

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matter of pleading, when they oppose the issue itself to be considered by this Board.

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1 regulations, and some authority for that is ALAB 179,
2 that once the proceeding is over, it is over as far as
3 keeping Intervenors informed continually.

4 That completes my remarks.

5 CHAIRMAN KELLEY: Why don't we take a five-minute
6 break and then come back and finish up.

7 (Recess taken.)

8 CHAIRMAN KELLEY: Well, I've got almost quarter
9 past 3:00. Why don't we spend another 20 minutes on
10 contentions, reserving some time to talk about
11 miscellaneous other matters, and again, I guess, Mr. Riley,
12 you can skip around if you want to, or you can just plow
13 ahead.

14 We are at 13, I guess.

15 MR. RILEY: Right. This has to do with
16 irregular welding practices. I am told, secondhand, that
17 a master welder at the Catawba plant was required by a
18 supervisor to commence welding on safety-related welds before
19 the specified temperature had been reached. The material
20 has to be preheated before it is welded.

21 I do not know if this man will come forward
22 as a witness. That is my information and the basis
23 for contention.

24 CHAIRMAN KELLEY: Okay. Mr. McGarry?

25 MR. MCGARRY: We maintain the contention is

1 inadequate, because it fails to specify what irregularities,
2 what welding practices, what safety-related systems
3 are in issue here.

4 So, we maintain that the contention as it is
5 stated should be denied on the basis of lacking
6 specificity.

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MR. KETCHEN: We stand on our pleading.

Mr. Chairman.

CHAIRMAN KELLEY: Let me ask you, Mr. McGarry. 13 is written and says what it says, and Mr. Riley says what he has just said. On 13 what would be your response to the idea of taking 13 as just amended?

MR. MCGARRY: Clearly is a statement in the right direction, a step in the right direction. It would seem to me that I would still -- I believe the Applicants still want some more specificity. A lot of welds. Where was the area? Where are the areas we are talking about? It would seem that that individual would be contacted by CESG or some additional information should have been received, and then that could flash out. It's a step in the right direction.

CHAIRMAN KELLEY: You could get some of that through discovery, couldn't you?

MR. MCGARRY: Well, one would hope you could. That's not -- I don't mean to cast doubts -- aspersions on CESG, but they don't have much more than what they have just said today. It seems we will be in a position of making the case and finding out where they should be going in the first instance, and then we will come in on discovery.

MR. RILEY: It has been our experience that

1 people who are bashful frequently enough, some months later,
2 they will be much more forthcoming. We want to leave it
3 in -- want to leave a foot in the door on that.

4 14 we have dealt with. It's SER.

5 15 I think is an extremely important contention.
6 Probably will be a controversial one.

7 Would it be helpful to the Board if I described
8 the phenomena of electromagnetic pulse?

9 CHAIRMAN KELLEY: Let me ask my colleagues if
10 they know what it is:

11 (Conference among the Board)

12 CHAIRMAN KELLEY: Go ahead.

13 MR. RILEY: The response of NRC Staff indicated
14 that there are several -- in considering this question in
15 regard to licensing, if an act of war is involved, you may
16 not consider it. It falls under the Department of Defense;
17 and if it's an activity of the Department of Defense, it's
18 also excluded. That is broad. It means that we would have
19 to have the good fairy fly up 200 miles and set off a
20 nuclear tip in order to let it in, and I really think that
21 that is a planned exclusion of a significant issue. I
22 think that the cast of reality is given by an experience
23 we had a few months ago when we read Secretary Haig -- he
24 said consideration had been given to warning nuclear
25 discharges in case our problems with the USSR became

UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION II
 101 MARIETTA STREET, N.W.
 ATLANTA, GEORGIA 30303

JUL 30 1982

MEMORANDUM TO: D. G. Eisenhut, Director, Division of Licensing, NRR
 FROM: R. C. Lewis, Director, Project and Resident Programs
 SUBJECT: CONTENTIONS EXPRESSED AT THE CATAWBA PREHEARING IN YORK,
 SOUTH CAROLINA, ON JANUARY 11-12, 1982

This memorandum and the enclosure are to document our response to your memorandum on February 12, 1982 to James P. O'Reilly, in which you transmitted a portion of the transcript from the prehearing conference for our action. You asked to be kept informed.

Since that time, Jack Bryant, a member of my staff, has held a number of conversations with K. Jabbour, Catawba Licensing Project Manager, and George E. Johnson, Counsel for NRC staff, relative to the subject of your memorandum. The subject was Palmetto Alliance Contention number 6, which is stated as follows: "A number of former Duke Power Company construction workers, including a certified quality control inspector, have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship." Also, there was a statement from a potential intervenor who said, "A master welder at the Catawba site was required by a supervisor to commence welding on safety-related welds before the specified temperature had been reached".

Subsequent to the conference, in telephone discussions with Mr. Jabbour and Mr. Johnson, we were asked to comment on interrogatories to be put to the intervenors, which we did. Mr. Bryant was advised to wait until more definitive allegations had been obtained by discovery before providing information relative to the allegation.

In May, the not very definitive responses were received in the Region. In late May or early June Mr. Bryant provided Mr. Jabbour and Mr. Johnson, copies of relevant sections of Region II Catawba inspection reports concerning similar allegations. He also provided newspaper clippings (circa 1979-1980) concerning the alleged who had identified themselves at the conference.

In June, Mr. Johnson asked Mr. Bryant to provide a more formal paper, with some of the same information, for transmittal to the hearing board. It was agreed that this would be done by about mid July.

The Region II investigative staff has been in contact with the Palmetto Alliance legal staff, but has not been permitted by them to contact the allegeders directly to seek more specific information. However, in the past, Region II has conducted

CONTACT: Jack Bryant
 242-5537..

JUL 30 1982

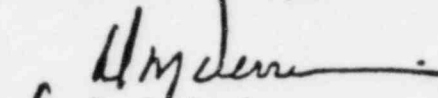
D. G. Eisenhut

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investigations of allegations similar to those of Palmetto Alliance Contention number 6 and Carolina Environmental Studies Group Contention number 13. Region II also has conducted special inspections which contain information relevant to the contentions.

The enclosure provides information from these investigations and special inspections which was prepared for your information and your transmittal to the hearing board. It also contains information concerning a current investigation of allegations made by QC inspectors at the Catawba site.

If you need additional information, please contact us. Region II has conducted approximately 150 inspections of the Catawba facility, and most of the subjects addressed by the allegations have been covered in depth.


for R. C. Lewis

Enclosure: As stated

cc w/encl:

J. Lieberman, IE
K. N. Jabbour, LPR
G. E. Johnson, ELD

ENCLOSURE

Information Pertinent to Contentions of Poor Workmanship and Coercion at the Catawba Site

- I. Palmetto Alliance Contention Six
 - A. Allegations Expressed in Palmetto Alliance Response to Interrogatories
 - B. Excerpts From a Special Inspection Concerning Similar Type Allegations
 - C-1. Summary of a Special Inspection to Interview Workers and Technicians
 - C-2. Excerpts From a Special Construction Team Inspection
- II. Carolina Environmental Study Group Contention Thirteen - Excerpts From a Special Inspection of Similar Type Allegations
- III. Current Investigations of QC Inspector Allegations

I. Palmetto Alliance Contention Six

A. Allegations Expressed in Palmetto Alliance Response to Interrogations (First Set)

1. Substandard workmanship and poor quality control.
2. Work performed by those under the influence of alcohol and drugs
3. Hazards to worker safety limiting work quality
4. Improper handling and storage of materials such as stainless steel and electrical cable
5. Unresponsiveness to worker complaints
6. Pressures and retaliation against those complaining
7. Portions of the concrete containment poured during heavy rainfall
8. Blueprints changed to reflect construction errors.
9. Improper inspection of anchor bolt installation
10. Rainfall leaking onto electrical equipment in the control room
11. Inadequate testing training, supervision of quality control inspectors (six)
12. Pressure to approve faulty workmanship.

B. Excerpts from a Special Inspection Concerning Similar Type Allegations

The following is from Region II Inspection Report Nos. 50-413, 414/80-08. Paragraph titles are as they appear in the report.

Safety Concerns Expressed by Site Employee

An employee at the Catawba site expressed safety concerns to the NRC Resident Reactor Inspector (RRI). He then guided the RRI and the Duke Power Company (DPC) site safety engineer on a plant tour, pointing out his concerns. Later, the employee stated his concerns to the Charlotte area news media. Some of his concerns were printed in the Charlotte Observer on May 15, 1980. Region II investigators subsequently held telephone conversations with the employee. Most of the concerns were related to personnel safety rather than nuclear safety and Region II passed the personnel safety concerns to the South Carolina Occupational Safety and Health Administration (OSHA). The employee also contacted both

the state and Federal OSHA offices. The South Carolina OSHA has conducted an investigation at the site and reportedly found no items of material significance.

The employee's concerns relative to nuclear safety, in most cases, were vague and general. The items that could be identified were investigated during this inspection with findings as given in the next section. No items of nuclear safety concern were found.

- a. The employee expressed a concern that welding had been done improperly based on:
 1. the employees's observations of welders working from improper scaffolding and his belief that the welders would not weld properly from such scaffolds.
 2. that one welding inspector had been strongly criticized by a supervisor for rejecting unsatisfactory welds and had been almost fired for doing his job as an inspector.
 3. that the employee had witnessed a welder quenching a hot weld with a damp cloth.

Relative to item a.1, the inspector discussed the subject with craft workers, QC and QA inspectors, and safety assistants and supervisors. There were no statements made that supported the alleged concern. These workers stated that scaffolds and platforms are built to satisfy the craft workers, including welders, additional work areas are provided upon request, and craft work, including welding, is not started until the worker, or welder, is satisfied that the work platform is safe and adequate for the job requirements. No related concerns were expressed to support the employee's concern.

Relative to item a.2, the inspector discussed the concern with the welding QC inspector identified by the concerned employee. The welding QC inspector stated that his supervisor had not threatened him with firing. The subject welding QC inspector stated that he is not intimidated by occasional critical comments by craft supervisors, and he is aware of his own supervisor's support and desire that he inspect as required by the QC inspection procedures.

Relative to item a.3, the inspector discussed the quenching of welds with the welder identified by the concerned employee. The welder stated that he has not practiced, nor witnessed the quenching of welds at the Catawba site. The inspector discussed the quenching of welds with the ANI (Authorized Nuclear Inspector), and knowledgeable DPC workers.

These persons stated that they had not witnessed, nor were they aware of quenching of welds at Catawba. There were no statements that supported the employee's concern relative to quenching.

- b. The employee expressed a concern that the Catawba plant was being built improperly.

The nuclear related plant design has been reviewed by the NRC and a license to construct the two unit plant was issued on August 7, 1975. Region II has conducted approximately eighty inspections to date and has found the general construction of the plant is being performed according to Duke Power Company procedures, and is inspected by the Duke Power Company, ASME and USNRC inspection programs. The inspector's review of these programs, observations at the site during this inspection and previous inspections, discussions with the persons contacted as noted in Paragraph 1, and private discussions with fifty-seven construction craftsmen (including the concerned employee) during the November 13-16, 1979 inspection (as reported in reports numbered 50-413/79-21 for Unit 1 and 50-414/79-21 for Unit 2) provide substantive evidence of proper workmanship. No one professed knowledge of any poor work that had not been found by QC and properly corrected. The concerned employee did not discuss any item related to nuclear safety-related equipment or craft work on nuclear safety-related components during this interview with the NRC on November 15, 1979. There were no statements that supported the employee's current concern relative to the plant being built improperly.

- c. On April 28, 1980, the employee had expressed concerns to the RRI relative to the following:

1. off center piping positioned in piping penetrations in the auxiliary buildings.
2. grout poured onto a wet concrete floor.
3. piping connected with a mechanical connector.
4. handling of carbon steel piping and stainless steel piping and hardware during construction.

Relative to Item c.1, the inspector and the RRI observed the off center piping and reviewed the requirements. According to the specifications, piping extending through the auxiliary building wall need not be in the center of the penetration at room temperature.

Relative to Item c.2., approved procedures permit the placement of grout on a wetted concrete floor (wetted without puddles).

Relative to Item c.3., mechanical connectors are permitted by specification for certain systems.

Relative to Item c.4., the procedures permit placement of carbon steel and stainless steel piping and valves on the floor or in contact with other material during construction.

The employee's concerns are apparently based on erroneous information. They are not based on the requirements as stated in specifications and procedures used on the Catawba project. The inspector's review of the work and his discussions with the workers provided no evidence nor statements that support the validity of the employee's concerns.

C-1. Summary of a Special Inspection to Interview Workers and Technicians

A special inspection was performed at Catawba in 1979 according to a Temporary Instruction (TI) which required that each Region select a construction site at random, and perform a special inspection. The requirements of the TI were that a minimum of 30 craftsmen (including QC inspectors and craft foremen) involved in safety-related work be selected at random for private interviews. The questions they were to be asked were as follows:

- a. Do they have any outstanding concerns about the quality of construction? If so, what are they?
- b. Are they aware of any instances where construction did not meet prescribed specifications, codes, standards, or other requirements and corrective actions were not taken?
- c. Are they aware of any day-to-day problems or irregularities affecting quality that they believe the NRC should know about?

This special inspection was conducted on November 13-16, 1979 by three inspectors and a supervisor from Region II. The lead inspector selected names from personnel records in a manner that met TI requirements. Twenty-eight persons so selected were interviewed. In addition, the licensee announced to the work force that anyone desiring to talk to NRC should make it known to the inspectors. Twenty-nine persons came forth and were interviewed also.

Results of the inspection are documented in Report No. 50-413, 414/79-21. The summary words of the interviews are as follows: Several of those interviewed mentioned occasions where extra work was required to repair poor work caused by haste or improper planning. No one professed knowledge of any poor work that had not been found by QC and corrected.

C-2. Excerpts From a Special Construction Team Inspection Report

Trial construction team inspections were conducted at one or two sites in each Region in 1981. Such an inspection was conducted at Catawba on January 26 - February 6, 1981. An integral part of this inspection was to determine by observation and conversation the qualifications of craftsmen and QC personnel; another part was to question these people concerning assistance available when needed, relationship between work groups, any indication of harassment of inspectors or workers, and worker recourse if they were harassed or saw poor workmanship.

This special inspection was performed by four Region II inspectors and a supervisor. During, and in addition to, inspections, Region II personnel held discussions with 25 engineers, construction foremen and supervisors, 47 construction craftsmen, 35 technicians (QC), and 16 clerical (records) personnel. Results of the inspection are documented in Report No. 50-413, 414/81-02. Selected portions are given below. Paragraph titles are as they appear in the report.

Management Accessibility to Employees

(1) Availability of Technical Assistance

Discussions were held with craftsmen, inspectors and engineers by all of the NRC inspectors during conduct of this inspection. As described in other sections of this report, the site engineering staff work very closely with construction forces. Problems are approached together in the field and resolutions determined. Construction personnel and inspectors stated that assistance was always available.

(2) Freedom to Express Opinions

Duke procedure Q-1 states that all employees are required to report conditions adverse to quality. There was evidence that employees are encouraged to take any problem to their supervision and to higher supervision, if they feel the need. Employee Relations documented 255 cases in 1980 of employees going to higher supervision and believed there may be many cases undocumented.

(3) Employee Relations

There is an employee relations office on site, located in the work area. Employees are encouraged to use these services for any problem. On all terminations for cause, Employee Relations conducts an investigation independent of other company investigations.

(4) Grievance Procedure

The site has a Construction Department Employee Recourse Procedure which expresses the belief that employee concerns should be addressed promptly and should receive thorough consideration without recrimination. The procedure directs Employee Relations to assist in preparation of grievances as desired by employees; it also details steps and required response times.

An informal procedure is described which provides for oral discussions through four steps to the project manager. A formal written procedure is described with steps up through the president of Duke Power Company.

(5) Harassment

The company has a procedure which is posted on site forbidding harassment of any employee for any reason by anyone and describing penalties up through termination.

NRC inspectors discussed with QC inspectors and craftsmen the possibility that they might be pressured or harassed about rejecting work or into performing poor quality work. Some of those interviewed were amused at the thought of such pressure. None of those talked to felt that such a situation might develop.

(6) Management Contact

In January 1981, the company instituted an Employee Forum program. This provides for meetings with 20-30 employees, without their supervision, by management. The first meetings were held in January and were attended by craftsmen and the project manager, the general superintendent, and the personnel manager. Meetings were described as totally open to any subject, completely confidential, and followed up by answers, if the answer could not be provided at the time.

The Employee Forum announcement is posted in the general work area. The project manager stated that he hopes to reach 2000 employees in 1981. The personnel manager described the meetings as very open.

The inspector has observed the project manager in the work areas and noted that he was well known by the workers. He was frequently greeted by his first name.

In summary, it is the inspectors' opinion from interviews, observations, and review of site and company policies that top management and supervision are available to employees at a very low threshold. It is unlikely that harassment detrimental to quality work could develop under these conditions.

8.i Personnel Interviews (Electrical)

The inspector conducted interviews with several craftsmen, QC inspectors, engineering technical support and supervisory personnel. All discussions indicated that safety concerns could be carried to the highest level necessary to obtain satisfactory answers or resolution. No resentment was observed between the craftsmen and the inspection personnel. The craftsmen were aware of the requirements to do the work properly. Most were aware of the separation criteria and power train requirements for separation. All had access to procedures and drawings and indicated that they used them frequently.

The QC inspectors appeared to be well versed in the inspection procedure to which they were inspecting.

Throughout the organization, no problems appeared that would indicate that there was not cooperation between all parties involved.

11.b Mechanical

QC engineers and technicians inspect work performance while QA engineers and technicians perform surveillance of QC and craft work and documentation of the work.

The inspector held discussions with personnel from each of the groups listed above. All of those contacted demonstrated sufficient knowledge of their assignments, interface with the other groups and of the QA/QC requirements to perform the work satisfactorily.

At the time of the team inspection, more than 11000 NCI's had been processed. It was the concern of the NRC inspectors that many NCI's were written concerning minor items that should have been corrected by available, simpler procedures. NCI's require an engineering evaluation which is wasted on minor construction errors which have an obvious solution.

11.c Design Functions

The applicable specifications and drawings are prepared by the corporate design engineering department and are readily available on site as controlled documents.

Variation Notices (VN's) are processed for design changes deemed necessary by on site construction engineers and on site design, and result in revisions to design drawings. Minor changes may be

worked out by telephone between the two design groups but these are followed up by drawing changes from corporate. The design groups meet regularly either in the field or in corporate, usually weekly, to assure proper understanding of problems.

II. Carolina Environmental Study Group Contention Thirteen - Excerpts From a Special Inspection of Similar Type Allegations

CESG contention 13 (Prehearing Minutes, page 348) alleges that a welder was required to weld without the required preheat. Region II has been unable to get additional information on this allegation; however, a special inspection of an allegation concerning preheat was reported in Region II Report No. 50-413, 414/80-29. Relevant portions of the report are given below, paragraph titles are as shown in the report:

Concern Regarding Structural Welding

The Region II office was contacted by an individual who expressed the following concerns in substance:

- a. Some of the stiffeners on the containment walls are "ground slick" from top to bottom even though the welds are not supposed to be ground in any way.

The individual believes the grinding is necessary because the welders may make the pass too wide or put in overlaps on a vertical weld (roll over). The individual also believes that, although the welds are tested, the tests cannot determine if the welds are adequate.

The inspector determined that there is no prohibition for grinding containment liner plate to stiffener fillet welds. ASME B&PV Code Section V, paragraph T-221.2, T-641(a) and T-721(a) permit surface preparation by grinding where surface irregularities would otherwise mask indications or be confused with discontinuities. The inspector examined approximately one hundred fifty randomly selected containment plate to stiffener fillet welds in the second and third courses of Unit 2 containment liner plate. The inspector noted no examples where weld width exceeded that permitted by the applicable Welding Procedure Specification.

Within the area inspected, the inspector noted five examples of mechanical undercut, at the toe of stiffener to Unit 2 containment liner plate fillet welds in the liner plate base material. The above undercut was in excess of the 1/32" that is permitted by Section III of the ASME B&PV Code. At the time of this inspection it could not be determined whether the undercut had been evaluated to and was consistent with the type 1 defect criteria (minimum wall not violated, no weld repair required) of Catawba. Construction Procedure CP-64, "Repair of Arc Strikes and Minor Surface Repairs on Containment Plate." The licensee indicated that they

would look further into the matter. The inspector stated that the above would be an unresolved item and identified as 414/80-29-02: "Mechanical Undercut".

- b. The required preheat temperatures were not maintained when two different thicknesses of metal were welded together on the personnel hatch.

The individual said the welders were using "rosebuds" to heat the pipe and it was noted that the temperature was below 175° F. An engineer subsequently said the welds were okay because the outside temperature was above freezing, but when the welds were radiographed twelve inches of bad welds (cracks) were found. The individual stated that the hatch is located at the bottom of the turbine building as one enters the containment through a conduit.

From other information provided by the individual, the inspector located Nonconforming Item Report (NCI) Serial NO. 2669 dated February 10, 1978, covering the item described above. As the result of a review of the above NCI, the inspector noted that although there had been a violation of the Welding Procedure Specification (WPS); there was no violation of the ASME B&PV Code. The inspector reviewed the records of radiographic inspection for weld Nos. 2 PAL-205 and 2 PAL-206 identified in NCI No. 2669. The preceding welds contained 7 3/4" of combined slag. These welds were properly repaired and accepted by nondestructive examination.

The inspector determined that the close out of NCI 2669 was consistent with ASME B&PV Code requirements, and that the actions taken to prevent recurrence were acceptable.

With regard to the above inspection, the inspector noted on October 16, 1980 that Welding Procedure Qualification Record (PQR) L-110A dated August 17, 1977 lists preheat temperature as 60°F to 120°F ASME Section IX Table QW 255 lists preheat, QW-406.1, as an essential variable. ASME Section IX Paragraph QW-201.2 requires that specific facts involved, in WPS qualification, be recorded on the PQR. In view of the fact that PQR L-110A qualification testing was accomplished in August the inspector stated that preheat range listed (60°-120°F) was not representative of the actual testing conditions without refrigerator. The licensee stated that the preheat temperature listed on the PQR was a range, not the actual temperature values used.

Failure to include specific facts involved in WPS qualification on the PQR is in noncompliance with 10 CFR Appendix B Criterion XVII. This is a deficiency and is assigned item no. 413, 414/80-29-03: "Failure to Properly Document PQR Testing".

- c. The individual was concerned that the close out action on NCI 2794, concerning forged inspector's initials for a preheat sign-off, was not proper.

The inspector reviewed NCI 2794 dated May 5, 1978, including the investigation conducted by the licensee, and determined that the corrective action, investigation to determine extent of the condition, and action to prevent recurrence were complete and acceptable.

III. Current Investigation of QC Inspector Allegations

During the fall of 1981, QC welding inspectors at Catawba expressed technical and non technical concerns to Duke management. These concerns were expressed during a review of employee recourse action being taken by the inspectors as a result of a negative pay adjustment. On January 29, 1982, Duke informed Region II that concerns had been expressed and that a task force composed of Duke personnel from other sites and of outside consultant services had been formed to investigate the concerns. Duke requested that the company be allowed to pursue the investigation on their own for the time being. Region II agreed, but it was understood that the Senior Resident Inspector (SRI) would keep abreast of the findings.

On February 1, 1982 three QC welding inspectors expressed their concerns to the SRI. They told the SRI that Duke had been informed of each item. Each QC inspector was concerned that Duke would "white wash" the problems as being the result of the recent pay adjustment. The QC inspectors were content that Region II take no action as long as Duke was actively pursuing the complaints.

The three stated that a lack of support for implementation of the welding QA program had existed for years and that they were expressing their concerns strongly now that they had the attention of off site management for the first time.

On May 25, 1982, Duke presented to Region II a status report of the investigation, including a description of how the investigation was conducted and a summary of the concerns. Since Duke appeared to be conducting a thorough unbiased review, Region II decided to withhold its own investigation until Duke had finished.

Duke reported that fourteen inspectors had expressed 129 technical concerns, and 11 inspectors had expressed 19 non-technical concerns. The non technical concerns were those which could not be tied to specific hardware.

As of May 25, 1982 Duke had substantiated 75 technical concerns of which 42 involved QA procedure violations. No hardware inadequacies had been identified; however, 23 potential technical inadequacies had

been found. Most of the review, and implementation of corrective actions, are scheduled for completion by July 1, 1982.

Region II will perform a detailed inspection of each concern and of task force actions, independent review of the more important concerns, interviews of QC inspectors, examination of hardware where indicated, and involvement of investigation personnel where necessary.