

1/11/83

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

APPLICATION OF TEXAS UTILITIES
GENERATING COMPANY, ET AL. FOR
AN OPERATING LICENSE FOR
COMANCHE PEAK STEAM ELECTRIC
STATION UNITS #1 AND #2 (CPSSES)

Docket Nos. 50-445
and 50-446

CASE'S WRITTEN ARGUMENT ON ISSUES

As indicated in the attached CASE's Motion for Leave to File Response, CASE (Citizens Association for Sound Energy), Intervenor herein, hereby files this, its Written Argument on Issues to be argued orally on January 19, 1983, in the NRC Public Hearing Room, in Bethesda, Maryland. This is necessary since CASE is unable to attend and is unable to find anyone else who can represent us at the January 19 meeting.

NEW INFORMATION

Certifications of Charles A. Atchison

As part of the continuing information which CASE has presented in these proceedings regarding the qualifications and competence of CASE witness Charles A. Atchison, we are attaching hereto (CASE Attachment 1) copies of the Record of Qualification and Certification of Nondestructive Personnel and corresponding Certificates of Completion certifying that Mr. Atchison has now received his Level II Magnetic Particle Inspection Certification and his Level II Liquid Penetrant Inspection Certification. These certifications were recently received by Mr. Atchison and reflect test results and certification by an independent qualification agency for Mr. Atchison's present employer. We believe that these documents are self-explanatory, and further confirm the findings of the Administrative Law Judge of the U. S. Department of Labor (see CASE Attachment 1 to

CASE's Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982, dated December 21, 1982, and filed December 22, 1982).

Possible Blacklisting of Jack Doyle

We are attaching a copy of a letter we have just received from CASE witness Jack Doyle (CASE Attachment 2). We have talked by phone with Mr. Doyle regarding this matter, and he is convinced that he has been blackballed because he testified, under subpoena, as a witness for CASE in the operating license hearings on Comanche Peak. He has been unable to find a job since he testified in the hearings.

We will not take the space and time here to quote from Mr. Doyle's open letter, but we urge the Board to read it in its entirety. CASE believes it is highly pertinent to the issues at hand and should be considered in these proceedings. We realize that Mr. Doyle's letter is not in the form of a sworn affidavit; however, we just received it on 1/8/83 and we are asking him to confirm his statements in affidavit form. We ask the Board's leave to file it as soon as we receive it and that it be considered.

Investigation of Allegations of Michael Chandler

Last week, CASE received a copy of the Region IV NRC investigators investigation report on allegations made by Michael Chandler, I&E Report 50-445/82-29, 50-446/82-15 under cover letter of Dec. 21, 1982 (CASE Attachment 3). It should be noted that names and other information have been blacked out in many instances. The handling of this investigation report is puzzling to say the least, in light of the fact that CASE had received the statement from Mr. Chandler, turned it over to the NRC for investigation, then entered it as a limited appearance statement in the September 1982 operating license hearings (which at the time we

believed would be the last week of hearings). (See CASE Attachment 4.) The cover letter to the Licensing Board from CASE, the cover letter to the NRC investigator from CASE, and Mr. Chandler's original statement are already in the public record, including in the transcript of these proceedings (tr. 4866/7-4877). We will discuss this further later in this pleading.

Affidavit of Roy Keith Combs

On Sunday, 1/9/83, CASE met with Roy Keith Combs, and typed up the attached affidavits under his direction (CASE Attachments 5 and 6). Mr. Combs' statement raises still further questions about the manner in which the NRC investigator handled the investigation of allegations made by CASE witnesses Henry and Darlene Stiner. Mr. Combs was one of the individuals Henry Stiner told the NRC investigator to contact regarding his allegations. This will be discussed further later in this pleading.

Other Attachments

We are also attaching copies of some news articles which may be of interest:

CASE Attachment 7 -- 12/15/82 WALL STREET JOURNAL article (referred to in Mr. Doyle's open letter)

CASE Attachment 8 -- 1/1/83 DALLAS TIMES HERALD article

CASE Attachment 9 -- 1/7/83 FORT WORTH STAR-TELEGRAM article

CASE Attachment 10 -- 1/9/83 WESTWARD article (magazine supplement in DALLAS TIMES HERALD)

The people of this area and this country are very concerned about the matters being raised in the Comanche Peak proceedings. Many eyes will be watching to see how the NRC responds to these issues.

Other Potential Harassment of CASE Witnesses

We have recently gotten indications of possible harassment of other CASE witnesses. We do not have all the facts about this at this time; however, we are monitoring the situation closely and will advise if necessary in the future.

DISCUSSION

One of CASE's continuing excess burdens in these proceedings has been and continues to be that we have often had to take on the duties and responsibilities of an Intervenor while at the same time doing work that the NRC should be doing. This has been true in regard to supplying the Licensing Board with copies of the NRC Staff's own Inspection and Enforcement (I&E) Reports (which would not have been in the record but for CASE¹), in regard to keeping the Board properly informed of significant matters pertinent to these proceedings², and in regard to the current situation where whistleblowers and potential witnesses are coming to CASE rather than the NRC because they no longer have any confidence in the NRC's ability and/or willingness to thoroughly investigate allegations and to protect the confidentiality of whistleblowers and potential witnesses³.

The July 14, 1982, FEDERAL REGISTER (Vol. 47, No. 135, pages 30453-30459) contained a Final rule, effective October 12, 1982, on Protection of Employees Who Provide Information. It stated, in part (page 30453):

"The (Nuclear Regulatory) Commission, to effectively fulfill its mandate, requires complete, factual, and current information concerning the regulated activities of its licensees. Employees are an important source of such information and should be encouraged to come forth with any items of potential significance to safety without fear of retribution from their employers. The purpose of the final rule is to ensure that employees are aware that employment discrimination for engaging in a protected activity, for example, contacting the Commission, is illegal and that a remedy exists through the Department of Labor. The organizations subject to the rule should understand that the Commission will not permit any interference with communications between the Commission's representatives and employees of such organization. In addition to redress being available to the individual employee, the Commission may, upon learning of an adverse finding against an employer by the Department of Labor, take enforcement action against the employer because the employer engaged in illegal discrimination."

¹ See discussion at bottom of page 36 on, CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982.

² See ASLB Memorandum and Order of January 4, 1983, pages 5 and 6.

³ See CASE Attachments 5 and 6 hereto.

These truly noble and praiseworthy ideals unfortunately bear little resemblance to the reality of the situation in regard to Comanche Peak. To the contrary, the NRC Investigators have admitted that "It appears to be a common belief among them (certain Comanche Peak employees who desired to remain confidential) that their simple cooperation with NRC investigators may be interpreted as an act of disloyalty by their employers.⁴" There is no indication anywhere in the record of these proceedings that the NRC investigators did anything to discourage that idea. Nor is there any indication that the NRC investigators ever advised any whistleblowers or potential whistleblowers of the remedies available through the Department of Labor or the possibility of enforcement action against an employer by the NRC "upon learning of an adverse finding against an employer by the Department of Labor."

In fact, according to the sworn affidavit of Roy Combs (Attachment 5 hereto), copies of NRC Form 3, Notice to Employees, are not posted in a sufficient number of places to permit employees to observe a copy on the way to or from their place of employment, as required by NRC regulations. (Mr. Combs' statement is consistent with what CASE has heard from other workers and former workers at the plant.) Mr. Combs further states that "Until last night (1/8/83), I didn't know there was any kind of protection for whistleblowers."

This gives rise to still further questions about the NRC Region IV's dealings with whistleblowers and potential whistleblowers. If this is indeed the case, why hasn't the Region IV NRC office monitored and required the Applicants to comply with the regulations in this regard? In any event, we feel certain that by the time an investigation is made by the Region IV office of this allegation, the Notice to Employees will probably be posted

⁴ See CASE Attachment 9, page 2, A.5., of CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982.

as required, thereby assuring that the NRC investigators will have to report that they can neither substantiate or refute the allegation. If CASE had the investigatory authority of the NRC, the question would never have come up; one of our first priorities considering the testimony and record in these proceedings would have been to see to it that the Notice to Employees were posted as required beginning October 12, 1982, to prevent a recurrence of something similar to what happened to Mr. Atchison.

At any rate, perhaps CASE's bringing this allegation to light will assure that the notices are properly posted and that at last Comanche Peak employees will be made aware of their duties and rights regarding reporting construction deficiencies which may be a danger to the public health and safety. We would certainly hope so. We would also hope that it will not be necessary for CASE to have to bring this matter up again at a later time again and that the notices will stay up.

The apparent failure to post the required copies of NRC Form 3 is even more important when taken in conjunction with another point. If ever there were an instance when enforcement action should have been taken as discussed in the FEDERAL REGISTER notice, it is surely the case of Charles Atchison. One would think that the NRC would have been interested enough in the outcome of the Labor Board hearings to have inquired about the results or gotten on the service list to receive a copy of the decision. Perhaps they did inquire. But even assuming that the NRC Staff did not know about the December 3, 1982, recommended decision of the Administrative Law Judge through those channels, the indisputable fact is that they were given this information and supplied a copy of the decision itself with CASE's 12/14/82 Motion to Supplement our admitted exhibits (CASE Exhibit 738, which has now been admitted into evidence by the Licensing Board; see the Licensing Board's Memorandum and Order of January 4, 1983,

page 2). A copy was also attached to CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982 (CASE Attachment 1 thereto), and portions of the decision were quoted and discussed in our 12/21/82 pleading.

The urgency of taking prompt enforcement action in Mr. Atchison's case was increased by the findings of the Department of Labor investigation into Mr. Atchison's firing by Tompkins-Beckwith at the Waterford III nuclear plant⁵:

"Mr. Atchison was terminated only after he testified at the hearing of the Atomic Safety and Licensing Board of the Nuclear Regulatory Commission in connection with the licensing of Texas Utilities' Comanche Peak Steam Electric Station.

"Although Tompkins-Beckwith maintains non-validity, the date of hiring of Mr. Atchison directly corresponded to the date of the hearing at which Mr. Atchison was scheduled to testify (July 26, 1982) thus potentially rendering his unavailability for testimony. This is reinforced with the fact that there were quite a few present and past connections between personnel of Tompkins-Beckwith and Brown and Root. For example, C. T. Brandt, Quality Assurance Manager for EBASCO at Comanche Peak and the man who requested Atchison's discharge at Comanche, formerly was with Tompkins-Beckwith at Waterford III; Jerry Magner, the man who solicited and processed Atchison's application, formerly worked for Brown & Root; and Pete Foscolo, Project Manager for Tompkins-Beckwith at Waterford III, up until approximately eight months ago was employed by Brown & Root at their home offices and at Comanche Peak.

"...Lastly, although newspaper articles had appeared in local Ft. Worth-Dallas newspapers starting as early as June 7, 1982 (at least six articles) stating that Mr. Atchison had been fired from Brown and Root, the only ones that prompted Atchison's discharge were the ones of July 29 and July 30, 1982 - days corresponding to Mr. Atchison's testimony at the hearing."

The firing of Mr. Atchison a second time at Waterford, by Mercury of Norwood, was also the subject of a Department of Labor investigation⁶. The findings of

⁵ See CASE Exhibit 684A, Attachment to Atchison September 1982 testimony; also, see discussion on page 10 of CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982.

⁶ see CASE Attachment 2 to CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982.

that investigation indicate a continuing link with Mr. Atchison's initial firing from Comanche Peak:

"Mr. Atchison was terminated only after it was disclosed that he had been in the employ of Tompkins-Beckwith, a contractor at the same Waterford Three worksite, notwithstanding that fact that Mercury of Norwood, Inc. was informed that Mr. Atchison's discharge from Tompkins-Beckwith was determined by the Wage and Hour Division's investigation to have been discriminatory.

"Information came to your company (Mercury of Norwood) that Mr. Atchison had worked for Brown and Root at the Comanche Peak project. It was also brought to the attention of Mercury of Norwood's officials that Mr. Atchison had been considered a 'troublemaker' while there. Conclusion might easily be drawn that the factors of prior employment with Brown and Root and Tompkins-Beckwith, employment laced with controversy dealing with reporting of potential safety violations and subsequent testimony at safety hearings, could be the reason for his termination from Mercury of Norwood. Even giving EBASCO's policy of prohibiting contractors, '...from soliciting the non-manual employees of other contractors' an interpretation most favorable to Mercury of Norwood as it relates to the question at hand, would not, it is felt, lead a reasonable person to conclude that a primary concern when terminating Mr. Atchison was the fact that he was previously employed by an on-site contractor.

"In concluding, if the site policy of not hiring any employee who has worked for another contractor at the site is pivotal it has the effect of perpetuating a violation of the Act ad infinitum. This is especially true where the facts show Mr. Atchison's termination from Tompkins-Beckwith was illegal."

What else does it take to convince the NRC that enforcement action is necessary and in order? The July 14, 1982, FEDERAL REGISTER Final Rule states that "the Commission may, upon learning of an adverse finding against an employer by the Department of Labor, take enforcement action against the employer because the employer engaged in illegal discrimination." Yet here we have just such a DOL finding⁷, coupled with strong circumstantial evidence that a snowballing effect has occurred and continues to grow from the initial illegal discrimination,

⁷ As indicated by the Licensing Board in these proceedings, there is no well-founded reason to believe that the Department of Labor recommended decision will be reversed by the Secretary of Labor. See page 6 of the Licensing Board's January 4, 1983, Memorandum and Order.

thereby perpetuating and increasing the chilling effect of the initial illegal firing of Mr. Atchison. This has and continues to act as a strong deterrent to prospective whistleblowers coming forward to report potentially significant construction deficiencies.

The fact that the NRC chose not to take prompt enforcement action has now had the effect of encouraging and perpetuating the idea that whistleblowers can be fired at Comanche Peak at the whim of the utility or its contractors with the approval of the NRC. At this point in time, CASE believes that the only adequate remedy to counter this idea is swift and stringent enforcement action, including but not necessarily limited to a stiff fine. This action will probably have to come somewhere other than from the NRC Region IV office (based on their past enforcement action regarding Comanche Peak and the attitude which they have exhibited regarding whistleblowers). CASE cannot believe that there is not someone who received our instant pleading who is concerned enough to put a quick end to this flagrant violation of Department of Labor and NRC regulations. We would hope that that someone is the NRC itself; it is a bitter pill for this Intervenor to completely lose confidence in the established regulatory system.

In addition to the questions raised in our 12/21/82 pleading, still further very troubling questions have been raised by the Affidavit of Roy Combs (CASE Attachment 5). What kind of "confidentiality" is it when someone being interviewed regarding allegations is called into the Administrative Building, left sitting in the NRC waiting room where everyone could see him, where he saw other individuals coming and going from interviews with the NRC? It is apparent from the comment and treatment by Mr. Combs' General Foreman to the effect that Mr. Combs was "probably a stoolie" that he was aware that Mr. Combs had talked with the NRC. How did he find out? Did he also know what Mr. Combs had said?

Who heard the tape recording that the NRC investigator made of the interview? What happened to the tape? Who has it now? When Mr. Driskill contacted Mr. Combs by phone later, Mr. Combs told the investigator that he didn't care about remaining confidential and also told him the reason he didn't care was because of what had been going on at work and that he thought he was being harassed because he had talked to the investigator. Why didn't Mr. Driskill advise Mr. Combs that he had redress available through the Department of Labor? Why didn't Mr. Driskill tell Mr. Combs that if the Department of Labor made a finding that the employer had engaged in illegal discrimination, the NRC might take enforcement action against the employer? And perhaps the most disturbing question of all: Why did an NRC investigator advise a potential whistleblower/witness to remain confidential?

It should be noted that Mr. Combs has stated in his affidavit (page 4, Attachment 5) that now that he knows that there is protection available to whistleblowers to protect their jobs and to protect them from other illegal discrimination, he wants "to be protected and to be able to bring these problems to someone's attention who will see that they are corrected without my being fired because of it." Whatever has happened in the past in regard to CASE's witnesses, we want to go on record that this Intervenor fully expects and demands protection for this whistleblower and potential witness. We do not believe that the NRC Region IV office can be relied upon to monitor compliance by Applicants and their contractors in this regard. We therefore request that the Appeal Board and/or the Licensing Board (or whatever agency within the NRC is responsible for handling matters such as this) monitor such compliance and take swift enforcement action should any discriminatory actions occur against Mr. Combs. We further request that this agency monitor Applicants' compliance on a continuing basis with the regulation that copies of

NRC Form 3, Notice to Employees, be posted in a sufficient number of places to permit employees to observe a copy on the way to or from their place of employment, as required by NRC regulations.

I&E Report 82-29/82-15

Although not identified as such, 82-29/82-15 (CASE Attachment 3 hereto) is the investigation report regarding allegations of Michael Chandler. As discussed earlier in this pleading (pages 2 and 3), the handling of this I&E Report is puzzling to say the least. Names and other information have been blacked out in many instances. CASE had received Mr. Chandler's statement through the mail (see CASE Attachment 4 hereto), turned it over to the NRC for investigation, then entered it as a limited appearance statement in the September 1982 operating license hearings. The cover letter to the Licensing Board from CASE, the cover letter to the NRC investigator from CASE, and Mr. Chandler's original statement are already in the public record, including the transcript of these proceedings (tr. 4866/7-4877).

It was a fairly simple matter to match up the dates of the August 4 letter and meeting by CASE with the NRC investigator, the June 14 statement by Mr. Chandler, and the allegations themselves. We would assume that it would have been equally easy for the Applicants to figure out that this investigation report was concerning Mr. Chandler's allegations, using the information already in the public record. What then, was the reason for the NRC's blacking out the information on CASE Attachment Page 6, which apparently discussed the meeting held with the writer and her husband and NRC Investigator Richard Herr in his office on August 4, 1982? Who is being protected from whom? Why was the writer's name blacked out in this investigation report but not blacked out in the back-up "sanitized" notes regarding the allegations of Henry and Darlene Stiner (see CASE Exhibit 666C-17)? Why did the NRC black out the writer's

name in I&E Report 82-29/82-15 (although the writer had identified herself in the public record) while arguing that the NRC Staff acted properly when it prefiled testimony concerning the QA/QC allegations which had been made by Mr. Atchison to the NRC (on the basis that Mr. Atchison had identified himself as a former QC inspector employed by Brown & Root, prefiled testimony setting out a number of allegations concerning QA/QC practices at CPSES, made statements to the press repeating the allegations, and had been identified by CASE as a witness⁸)? The Staff's position is eternally inconsistent.

Further, the information (what is left after being "sanitized") in I&E Report 82-29/82-15, to anyone who was not familiar with the original documents which led to the investigation, would be very misleading, to say the least. For example, it is stated "On September 2, 1982, (blacked out) employed at the Comanche Peak construction project, Glen Rose, Texas, was interviewed by NRC Investigator R. K. Herr and NRC Inspector L. E. Martin at (blacked out). (Blacked out) executed a signed sworn statement, Attachment (2), wherein he identified four areas of alleged 'deficiencies' and drew a map depicting the exact location of these deficiencies. (Blacked out) further described these deficiencies as follows...." (CASE Attachment 3, Page 9.) This would give the impression that the person interviewed was presently employed at Comanche Peak. However, if one reads further, it is obvious that the person interviewed was Michael Chandler himself, who no longer works at Comanche Peak. The report states: "(Blacked out) other general allegations of deficiencies identified in his previous statement of June 14, 1982, were addressed in the following manner...(Blacked out), after reviewing the nonconformance reports, stated

⁸ See page 4 of NRC Staff's 11/17/82 Brief in Support of Its Exceptions to Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982.

that the deficiencies identified in the nonconformance reports and subsequent corrections appeared to address the concerns that he identified in his previous statement of June 14, 1982." (Emphases added.) The June 14, 1982, statement referred to is obviously Mr. Chandler's original statement which CASE supplied to the NRC investigator.

This leads to the obvious question: Are there other portions of the "sanitized" report which, because of the blacked out portions, are also misleading?

No help in resolving this question is to be found in the "(blacked out) signed statement" or "(blacked out) signed sworn statement" which are indicated to be Attachments 1 and 2 to the report (CASE Attachment 3, Page 14). CASE did not receive copies of those statements with the report, and upon inquiring, we were told that those statements were not being released to the public and CASE would not be given copies of them. It is not clear whether these are the same documents which CASE originally supplied to the NRC investigator (in which case, why wouldn't they have been provided, since they are already in the public record of these proceedings anyway?) or new statements by the alleged or others.

Apparently this was the first investigation report done at Region IV under the new system where the investigative section has been separated from the inspection section, and we can look forward to these "sanitized" investigation reports in the future. If this is the case, it may well be that (at least in CASE's mind) the reports will raise more questions than they answer.

There are several other questions raised by this report; however, we will make only two further comments about it at this time. Mr. Kelley, the NRC Senior Resident Reactor Inspector at Comanche Peak, stated that his report was regarding conditions as they existed as of August 31 or September 1, 1982, and that he could not comment on the conditions as they existed in January 1980 (CASE Attachment 3, pages 11 and 12). CASE would be interested to know what the

conditions were between the time the allegations were reported and the time the investigation was made, and whether or not the NRC made any attempt to ascertain whether or not the conditions with which Mr. Chandler was concerned had existed prior to the time the allegations were reported and had been repaired prior to the NRC's beginning the investigation (apparently on August 31, 1982).

There is one further concern expressed in Mr. Chandler's original June 14, 1982, statement (CASE Attachment 4, page 3). Mr. Chandler indicated that he is presently incarcerated in a Federal Correctional Institution, and states: "Prior to incarceration, I was working at the Comanche Peak nuclear power plant construction site under the name of Michael Gale Maxfield, identification number T-797. I was arrested at the site on January 11, 1980. The very fact that a fugitive could obtain employment at the site caused questions to be asked about their security measures, especially when it was learned that my job gave me access to all areas of the construction job, even the most confidential." It is interesting to CASE that the NRC investigators were apparently not at all concerned about this disturbing fact, and if one did not have the original statement from Mr. Chandler and relied solely on the investigation report by the NRC, one would never have even been aware of it. Why wasn't this concern addressed by the NRC investigators in their investigation report?

LEGAL ARGUMENTS

As CASE has stated previously, we do not have an attorney to advise us regarding the legal cases and arguments. We have to depend primarily on our common sense in interpreting court cases and NRC rulings. We will attempt to present our understanding of the two cases cited by the Appeal Board in its December 30, 1982, Order in that light.

Westinghouse Electric Corp. v. City of Burlington, Vermont, 351 F.2d 762 (D.C. Cir. 1977):

It would appear to CASE that this case has much to say which is relevant to this proceeding and the issues at hand. It makes it very clear that there should be no hard and fast rule of confidentiality under all circumstances and that each case should be considered individually and that a balance of competing interests should be struck in each case in deciding whether disclosure of an informer is essential to a fair determination of a cause. The Licensing Board in this instance has carefully considered and weighed such considerations and found that the names and documents in question are essential to a fair determination of the cause before it. As pointed out by the Licensing Board, it "must reach conclusions on the serious charges that the Applicants discharged a quality control inspector because he was properly reporting nonconformances at the site. To do so, the Board must evaluate the credibility both of Mr. Atchison and the other individuals, including Mr. Driskill."⁹

The Licensing Board has not sought to learn the identity of any individual who allegedly has requested confidentiality¹⁰. But, as pointed out by the Board, "...this does not mean that it is reasonable to withhold all information because one or two individuals out of ten or eleven desire confidentiality.

⁹ Page 6, Licensing Board's August 4, 1982, Order to Show Cause.

¹⁰ Page 4, Licensing Board's September 30, 1982, Order Denying Reconsideration.

A single request for confidentiality cannot be used to shield an entire investigation from scrutiny in an adjudicatory setting." In the Westinghouse case, citing the Supreme Court's decision in *Roviaro v. United States*, 353 U. S. 53, 77 S.Ct. 623, 1 L.Ed.2d 639 (1957), the court stated that it would seem from this opinion "that an informer can waive the privilege...It is difficult to see how the Government could prevent him from revealing himself, practically or theoretically, or why, as a matter of policy, it would want to do so." Since according to the NRC investigators, only two of the ten individuals now desire confidentiality, there is no rational reason for the Staff to continue to refuse to identify the other eight. The reasoning presented by the Staff that to identify the other eight could lead to one's being able to identify the other two is a lame reason indeed, which, if used as a precedent, could presumably lead to everyone involved in future NRC investigations being kept confidential (even if they did not request it) because one utility official who might have an ax to grind wanted his name kept confidential.

CASE must question the NRC's strong commitment to keeping the identity of whistleblowers confidential, considering the testimony and information brought out in the Comanche Peak hearings. This, then, inevitably leads one to question what other possible reason could there be for refusing to obey the Board's order in this instance. As we have indicated before, CASE has no investigatory authority and we do not have the answers to these many questions. But we urge that someone with proper authority ascertain the answers.

As set forth in the Westinghouse case, again referencing the *Roviaro* opinion, "The purpose of the (informer's) privilege is not to protect the particular informer from retaliation, but to protect the flow of information to the Government." It further states that "The Roviaro balance should be

struck in each case...in deciding whether disclosure 'is essential to a fair determination of a cause.' 353 U.S. at 61, 77 S.Ct. at 628."

Black v. Sheraton Corp. of America, 47 F.R.D. 263 (D.D.C. 1969), affirmed, 564 F.2d 550 (D.C. Cir. 1977).

In our layman's review of the second of the two cases the Appeal Board indicated in its Order, there appears to be nothing to support the Staff's claims. It discusses the Westinghouse and Roviario cases and their applications, and states: "...the Court must balance the public interest in protecting the flow of confidential information to the government against the individual's right to prepare his defense, 386 U.S. at 310, 87 S.Ct. 1056, citing 353 U.S. at 62, 77 S.Ct. 623."

Surely the building of a nuclear power plant and consideration of whether or not to grant an operating license to the Applicants is one of the most important areas in which the public interest must be considered. It has always been CASE's position that the public interest lies in having all the facts come out -- and they will come out, whether before the plant is granted an operating license, or after it has begun operation and perhaps had a serious or even catastrophic accident.

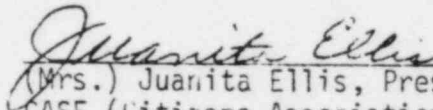
CASE's position regarding whistleblowers has already been detailed in previous pleadings which we have already asked the Appeal Board to consider (see especially CASE's 9/3/82 Answer to NRC Staff's Response to Order to Show Cause and Motion for Reconsideration and CASE's Motions, bottom half of page 4 through page 6). We will not reiterate our position here, but ask that the Appeal Board consider all the pleadings we have previously indicated.

CASE regrets that we have been unable to include more information herein and that we have not been able to address more fully the particular cases cited by the Appeal Board. However, the other matters which CASE has discussed herein

and in our previous pleadings is of such overriding concern, where the credibility of the NRC itself and the entire licensing process is called into question, that we have of necessity devoted most of our time to getting that information into the hands of the Board.

We also regret very much that we will be unable to attend the January 19 oral argument in Bethesda.

Respectfully submitted,

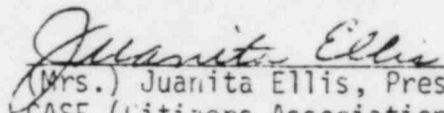


(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sound Energy)
1426 S. Polk
Dallas, Texas 75224
214/946-9446

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Respectfully submitted,



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1426 S. Polk
Dallas, Texas 75224
214/946-9446

RECORD OF QUALIFICATION AND CERTIFICATION
OF NONDESTRUCTIVE PERSONNELNAME Charles A. AtchisonEMPLOYER Tri-Con IndustriesTYPE OF CERTIFICATION:MAGNETIC PARTICLE: LEVEL I LEVEL II LEVEL III PENETRANT: LEVEL I LEVEL II LEVEL III

TESTS RESULTS:

GENERAL 24.8%SPECIFIC 23.0%PRACTICAL 39.4%COMPOSITE 87.2%CERTIFICATION DATE: 11-23-82 RECERTIFICATION DATE: 11-23-83TECHNICAL TRAINING: See Company RecordsEXPERIENCE: See Company Records

EYE EXAMINATION: SEE EYE EXAMINATION FOLDER

QUALIFICATION AGENCY: Universal Laboratory, Inc.ADDRESS: 2633 S. Garland RoadGarland, Texas 75041EXAMINER: Charles Stanley DATE: 11-23-82EMPLOYER REPRESENTATIVE: Clifton N. Abernathy DATE: 11-23-82NOTE: EQUIPMENT, PROCESS AND OPERATORS CERTIFIED IN ACCORDANCE
WITH MIL-STD-410D.

Universal Laboratory, Inc.

P. O. Box 1087 • 2633 S. Garland Avenue
Garland, Texas 75040

Certificate of Completion

This is to certify

CHARLES A. ATCHISON

has completed successfully Magnetic Particle Inspection, Level II Per MIL-STD-410

during the year 1982

Charles Stanley
Charles Stanley, Examiner

RECORD OF QUALIFICATION AND CERTIFICATION
OF NONDESTRUCTIVE PERSONNEL

NAME Charles A. Atchison

EMPLOYER Tri-Con Industries

TYPE OF CERTIFICATION:

MAGNETIC PARTICLE: LEVEL I LEVEL II LEVEL III

PENETRANT: LEVEL I LEVEL II LEVEL III

TESTS RESULTS:

GENERAL 25.8%

SPECIFIC 26.7%

PRACTICAL 38.0%

COMPOSITE 90.5%

CERTIFICATION DATE: 11-23-82 RECERTIFICATION DATE: 11-23-83

TECHNICAL TRAINING: See Company Records

EXPERIENCE: See Company Records

EYE EXAMINATION: SEE EYE EXAMINATION FOLDER

QUALIFICATION AGENCY: Universal Laboratory, Inc.

ADDRESS: 2633 S. Garland Road

Garland, Texas 75041

EXAMINER: Charles Stanley DATE: 11-23-82

EMPLOYER REPRESENTATIVE: Clifton D. Abernathy DATE: 11-23-82

NOTE: EQUIPMENT, PROCESS AND OPERATORS CERTIFIED IN ACCORDANCE
WITH MIL-STD-410D.

Universal Laboratory, Inc.

P. O. Box 1087 • 2633 S. Garland Avenue
Garland, Texas 75040

Certificate of Completion

This is to certify

CHARLES A. ATCHISON

has completed successfully Liquid Penetrant Inspection, Level II Per MIL-STD-410

during the year 1982

Charles Stanley
Charles Stanley, Examiner

An open letter from an
American dissident

An article by John R Mashwiller titled "Troubled Project" appeared in the Wall Street Journal on Dec., 15, 1982. The article raised several provocative questions, two of which I address at this time.

The first question asked is "How facility in Ohio got so near completion with so many problems". The second question, which also appears on page one and is attributed to Rep. M.K. Udall of Arizona, is "It makes one wonder how many other Zimmers might be lurking out there."

The article would seem to suggest that these two questions would require at least two answers. The fact is that a single answer will suffice. In fact one word would, with modification, lead to an understanding of both questions and the word is "intimidation".

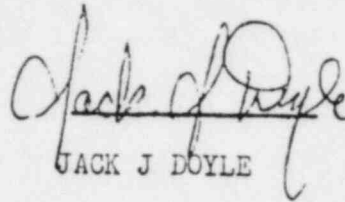
The law requires that: all violations of safety criteria at a Nuclear facility be reported immediately (10CFR21.1). The law further states that those who report such violations, request investigations by the N.R.C. or appear as a witness before an N.R.C. investigative board or hearing are participating in a federally protected activity (10 CFR 50.7 Federal Register July, 14, 1982, volume 47 number 135 page 135). Beyond this the criminal codes of the United States prohibit the intimidation of witnesses who appear in proceedings pending or who have appeared before any department, agency or committee of the United States Government (18 USC 1505). However these are merely the laws and noble as they appear, they do not of themselves, imply that justice will prevail.

Justice in America is only available to those with the power required to insure that there share (or more) is aquired, those with the monetary means to buy it and to a very limited degree those willing to make the necessary sacrifices required. For the powerless, in short, there is no justice only the pursuit of justice and the hope that a small measure of it is attainable.

As a case in point: I appeared, under subpoena, as a witness in the hearings before the Atomic Safety and Licensing Board concerning the licensing of the Comanche Peak Steam Electric Station Glen Rose Texas. Refusal to appear is a Federal crime (Contempt section 231 Atomic Energy Act 1954 as amended). Compliance on the other hand is tantamount to committing economic suicide, unless you plan on staying with your present employer until retirement in which case it is fair to assume that if he fires you the proof of discrimination may be easy to exhibit. On the other hand if you quit your job or are unemployed at the time that you appear as a witness (as was the situation in my case) you will find that there is little protection in the real world against "Blacklisting".

This insidious practice is one of the most difficult to adjudicate. It is this difficulty which renders all of the laws and all of the pronouncements of protection by the N.R.C. mute, because now the problem is reduced to subjectivity contorted by legal gymnastics. Apparently I missed an asterick when I read the laws offering protection to witnesses because it must state in the law "Justice will prevail if you can beat the batteries of attorneys that are employed by your adversary and do it in there arena".

When newsmen ask "why" I find it amusing because I and everyone in the Nuclear industry know the answer--In America there are too many laws but little justice; too much freedom but still no justice, therefore to speak out counter to the desires of those who wield the power will result in severe repercussions. The result is, in the case of the nuclear industry, too many Zimmers with too many problems which will become all too apparent in the event that an earthquake occurs in proximity to one of the engineering fiascos which is passed off as state of the art. Freedom and power without justice is tyranny (Plato The Republic).


JACK J DOYLE



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION IV
 611 RYAN PLAZA DRIVE, SUITE 1000
 ARLINGTON, TEXAS 76011

Dockets: 50-445/82-29
 50-446/82-15

DEC 21 1982

Texas Utilities Generating Company
 ATTN: Mr. R. J. Gary, Executive Vice
 President & General Manager
 2001 Bryan Tower
 Dallas, Texas 75201

Gentlemen:

This refers to the investigation conducted by Mr. R. K. Herr of the Office of Investigation, and Messrs. L. E. Martin and D. L. Kelley of our staff during the period August 4 to September 17, 1982, of activities authorized by NRC Construction Permits CPPR-126 and CPPR-127 for the Comanche Peak facility, Units 1 and 2.

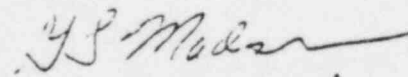
Areas examined during the investigation and our findings are discussed in the enclosed investigation report.

Within the scope of this investigation, we found no instance where you failed to meet NRC requirements.

In accordance with 10 CFR 2.790(a), a copy of this letter and the enclosure will be placed in the NRC Public Document Room unless you notify this office, by telephone, within 10 days of the date of this letter and submit written application to withhold information contained therein within 30 days of the date of this letter. Such application must be consistent with the requirements of 2.790(b)(1).

Should you have any questions concerning this investigation, we will be pleased to discuss them with you.

Sincerely,


 G. L. Madsen, Chief
 Reactor Project Branch 1

Enclosure:
 Appendix - NRC Investigation Report
 50-445/82-29; 50-446/82-15

cc:
 Texas Utilities Generating Company
 ATTN: H. C. Schmidt, Project Manager
 2001 Bryan Tower
 Dallas, Texas 75201



UNITED STATES
NUCLEAR REGULATORY COMMISSION

CASE ATTACHMENT 3 - Page 2

REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

OFFICE OF INVESTIGATIONS

DATE: November 23, 1982

REPORT OF INVESTIGATION

TITLE: Comanche Peak Steam Electric Station
Alleged Electrical Deficiencies

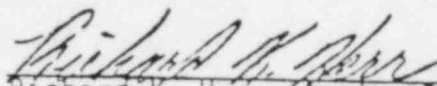
SUPPLEMENTAL: DN 50-445/50-446

CASE NUMBER: 4-82-012

CONTROL OFFICE: REGION IV STATUS: CLOSED

PERIOD OF INVESTIGATION: August 4 - September 17, 1982

REPORTING INVESTIGATOR:

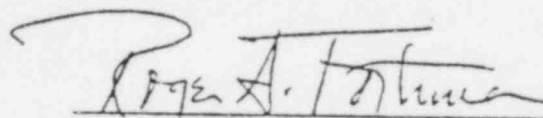

Richard K. Herr, Acting Director
OI Field Office, Region IV

PARTICIPATING PERSONNEL:


Lawrence E. Martin, Reactor Inspector
Reactor Project, Section B, Region IV

D. L. Kelley,
Senior Resident Reactor Inspector
Reactor Project, Section A, Region IV

REVIEWED BY:


Roger A. Fortuna, Acting Deputy Director
Office of Investigations

APPROVED BY:


James A. Fitzgerald, Acting Director
Office of Investigations

SUMMARY

Investigation of alleged electrical deficiencies that occurred from August, 1979 to January, 1980 in the construction phase of the Comanche Peak Nuclear Power Plant at Glen Rose, Texas, included an interview of [REDACTED], the review of numerous electrical records, and the inspection by NRC personnel of identified alleged electrical "deficiencies." Investigation disclosed that three of the four basic alleged "deficiencies" were in the areas of non-safety wiring. During August and September, 1982 all alleged deficiencies were examined and no irregularities were found. Review of nonconformance report records did identify similar deficiencies discovered in the December 1979 through January/February 1980 time frame; however, these deficiencies were properly addressed in 1980.



DETAILS

Purpose of Investigation

The purpose of this investigation was to investigate allegations of electrical "deficiencies" during the 1979/1980 construction phase of the Comanche Peak Steam Electric Station, Glen Rose, Texas.

Background

On August 4, 1982, [REDACTED] met with NRC Investigator R. K. Herr at the NRC offices in Arlington, Texas. [REDACTED] provided reporting investigator a copy of a statement executed on [REDACTED]

[REDACTED] explained that [REDACTED] worked at the Comanche Peak construction site in the [REDACTED]

[REDACTED] remarked that [REDACTED] alleged "electrical faults of construction" at the Comanche Peak site located in Glen Rose, Texas.

Interview of [REDACTED]

[REDACTED]

Brown and Root, contractors for Comanche Peak construction, was interviewed by NRC Investigator R. K. Herr at the construction site located in Glen Rose, Texas. [REDACTED] explained that he was present during the 1979 time frame, and in December 1979, the electrical department created a "termination crew." [REDACTED] stated that this crew would check out all electrical (safety and non-safety) wiring to ensure that work had been accomplished and that the work was done satisfactorily. [REDACTED] remarked that the men assigned to the work crews would submit handwritten reports to show what work was done, where the work was done, and the status of the work. [REDACTED] emphasized that this crew checked the electrical wiring before the Quality Control Inspectors were advised that the electrical wiring was ready for inspection. [REDACTED] explained that the termination crew conducted a preinspection review of all electrical work. [REDACTED] also pointed out that, if a deficiency was noticed and reported, the deficiency would be addressed before the Quality Control Inspector would conduct his inspection. [REDACTED] explained that this extra "check out" by the electrical personnel was used as a management tool to show the electrician where problems arose and to point out various potential deficiencies. [REDACTED] stated that the Quality Control Inspector could still find various deficiencies, and that the practice of utilizing "termination crews" to check the electrical wiring is no longer being used. [REDACTED] remarked that "termination crews" were not a requirement in the Brown and Root procedure or instructions, but were merely an extra check for the electrical department itself, and therefore, none of the handwritten reports or status sheets were kept.

The Review of [REDACTED] Daily Time Sheet

On August 31, 1982, a review of [REDACTED] Daily Time Sheet, [REDACTED] by NRC Investigator R. K. Herr at the Comanche Peak construction site, Glen Rose, Texas was accomplished. This review disclosed that [REDACTED] worked for Brown and Root (contractors) from August 21, 1979 to January 11, 1980. The records further disclosed that from August 21, 1979 to January 1, 1980, [REDACTED] worked on non-safety related wiring. According to the records, [REDACTED] worked for the "termination crew" from January 3 to January 11, 1980.

Interview of [REDACTED]

On September 2, 1982, [REDACTED] employed at the Comanche Peak construction project, Glen Rose, Texas, was interviewed by NRC Investigator R. K. Herr and NRC Inspector L. E. Martin at [REDACTED]. [REDACTED] executed a signed sworn statement, Attachment (2), wherein he identified four areas of alleged "deficiencies" and drew a map depicting the exact location of these deficiencies. [REDACTED] further described these deficiencies as follows:

- (1) Motor control center located in the circulation water system: use of 1000 MCM cable, using 750 MCM lug that was drilled to accept larger cable.
- (2) Auxiliary Building, Reactor No. 1: lug designed for an approximate screw size of 3/8 inch was used on a terminal block designed for #10 screws.
- (3) Switch Gear Room, Reactor No. 1, black cable: lug designed for 1/2 inch screws were used on terminal blocks designed for #10 screws.
- (4) Annunciator logic panels, Control Room, Reactor No. 1, black cable: improper cable splicing and wiring to the wrong side of lugs.

[REDACTED] other general allegations of deficiencies identified in his previous statement of June 14, 1982, were addressed in the following manner. [REDACTED] expressed concern with the improper installation and check-out of Cannon type plugs. [REDACTED] was provided NRC Inspection Report 50-445/80-13, dated May 21, 1980. [REDACTED] stated that after reading the NRC Inspection Report, the report answered all his concerns in this area. [REDACTED] had also expressed concern regarding the patching/repairing of damaged cable, faulty grounding, and wiring not protected from abrasions. [REDACTED] was provided eight nonconformance reports covering the above general allegations that were issued from December 20, 1979 to March 18, 1980 and subsequently corrected. [REDACTED], after reviewing the nonconformance reports, stated that the deficiencies identified in the nonconformance reports and subsequent corrections appeared to address the concerns that he identified in his previous statement of June 14, 1982.

[REDACTED] explained that [REDACTED], he was not in a position to determine if his concerns were addressed properly, pointing out that he did not have access to the nonconformance reports or NRC inspection reports. Further, [REDACTED] remarked that most of his work was with non-safety cable. However, he stated that between January 2 and January 11, 1980 he was assigned to the Electrical Department "termination check-out crew" that went around to ensure that all work was done properly, and that some of the items he checked could have been safety related.

[REDACTED] stated that he was unaware of QA/QC activities or procedures that took place subsequent to the check-out crew activities on all safety-related activities. [REDACTED] also expressed concern that when cad-welding was done, welders only protected an area of about 3 feet; however, [REDACTED] had not inspected any of these to determine if any cables had been damaged and could not identify any specific areas for follow-up by NRC.

Inspection of Alleged Deficiencies

On August 31, 1982, Dennis L. Kelley, NRC Senior Resident Reactor Inspector (SRI), assigned to Comanche Peak, Glen Rose, Texas, met with NRC Investigator R. K. Herr to review the allegations set forth by [REDACTED]

Allegation Number 1: Kelley was able to physically locate the motor control center (MCC) located in the circulating water system, as described in the allegation concerning the use of 1000 MCM cable with a 750 MCM lug. Kelley stated that he inspected the area in question and found no 1000 MCM cable in the motor control center. Kelley reported that he did find one 750 MCM cable in MCC XB3-2 that is matched up to the proper lugs. He also found that the MCC 1B3-2 contained paired 350 MCM cables properly terminated. Kelley remarked that as of August 31, 1982, no improper wiring was evident in the MCC's of the circulating water system.

On September 17, 1982, Kelley advised that the areas of the alleged deficiencies that were identified by [REDACTED] in his statement of September 2, 1982 (see below), were located with the assistance of the maps drawn by [REDACTED]

Allegation Number 2, Auxiliary Building, Reactor No. 1, improper screw size for lugs: Kelley stated that he physically located this area utilizing Map No. 1, and found that there were no washer/screws in panel 5 or 6. However, he did discover a number of screws with attached washers. Kelley explained that upon close examination he found that the washer attached to the screws is an intricate part of the screw (manufactured together) and it not an add-on as it may appear at first glance. Kelley stated that some screws contained brass plate and some contained chrome plate. Kelley remarked that the chrome plate gives the appearance of a steel washer and could easily be mistaken for steel. Kelley concluded that as of September 1982, there was no improper wiring in this area.

Allegation Number 3, Switch Gear Room, Reactor No. 1, improper screw size for lugs: Kelley stated he physically located this area utilizing Map No. 2 and found that the same conditions existed as per Allegation No. 2, above. Kelley added that as of September 1982, when he inspected Switch Gear Room, Reactor No. 1, no improper wiring was observed.

Allegation Number 4, Control Room, Reactor No. 1, splicing and cable termination to wrong side of fuse block with some shaving of the lugs: Kelley stated he physically located this area, using Map No. 3, and found no evidence of shaving or erroneous termination of cable. Kelley further stated that he checked the section in question as well two other sections in the control panel and found that there was no evidence of lugs being shaved and added that blocks were of such a nature that it makes no difference which side accepts power leads. Kelley remarked that there were three blocks located in this area at the time of his examination. He did not find any improper wiring. Kelley confirmed [REDACTED] statement that the wiring in this area is black cable wiring, and is non-safety.

Kelley stated that during his inspection effort, he also examined safety and non-safety cable in the location of [REDACTED] concern, utilizing Map No. 4, to determine if any cables were pulled too tight. Kelley explained that the cables are tied off with tie wraps and anchored with adhesive clips to hold wires down and stated he found adequate slack in these cables. Kelley pointed out that these conditions are in existence at the present time. However, he could not comment on the conditions as they existed in January 1980.

Status of Investigation

The status of this ~~investigation is~~ CLOSED.

Attachments

Attachment 1 - [REDACTED] signed statement [REDACTED] 6-14-82 . COPY ALL

Attachment 2 - [REDACTED] signed sworn statement 9-06-82 ORIG OI:RIV/CY ALL

CASE

(CITIZENS ASSN. FOR SOUND ENERGY)

CASE ATTACHMENT 4 - Page 1
1426 S. Polk
Dallas, Texas 75224

214/946-9446

September 15, 1982

Administrative Judge Marshall E. Miller
U. S. Nuclear Regulatory Commission
Atomic Safety & Licensing Board Panel
Washington, D. C. 20555

Dr. Richard Cole, Member
Atomic Safety & Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Kenneth A. McCollom, Dean
Division of Engineering, Architecture
and Technology
Oklahoma State University
Stillwater, Oklahoma 74074

Subject: Application of Texas Utilities Generating
Company, et al. for an Operating License
for Comanche Peak Steam Electric Station
Units #1 and #2 (CPSSES)
Docket Nos. 50-445 and 50-446

Limited Appearance Statement
Michael Chandler

Gentlemen:

On July 12, 1982, CASE contacted the Board and all parties via a telephone conference call to discuss an usual situation which CASE had encountered. On Friday, July 9, 1982, in the afternoon mail, CASE received a signed statement from Michael Chandler regarding allegations of improper and faulty workmanship at the Comanche Peak plant in regard to electrical construction (including control panel wiring). The problem was that Mr. Chandler is presently incarcerated at the Federal Correctional Institution in El Reno, Oklahoma.

During that conference call, CASE indicated to the Board and the other parties the above information and a few other brief details. The best possibility that the Board offered was that Mr. Chandler's statement be submitted by CASE as a limited appearance statement in these proceedings.

However, upon further reflection, we felt that the magnitude of the problems indicated by Mr. Chandler's statements were such that they should be more thoroughly looked into than what might be the case if they were submitted only as a limited appearance statement. Subsequently, following the hearings in July, CASE contacted Mr. Richard Herr, Acting Director, Field Office Investigations, NRC, Region IV, Arlington, Texas, and turned Mr. Chandler's statement over to him for investigation (see copy attached of CASE's August 4, 1982, letter to Mr. Herr, and copy of Mr. Chandler's statement).

Mr. Herr at that time indicated that he did not expect to be able to conduct his investigation prior to the September hearings, and as far as we know at this time, the investigation has not been done. Although CASE would like to cooperate with the NRC in its investigation of these allegations, we also strongly believe that the Board should be aware of these allegations and that they should be included as a part of these proceedings. We are therefore submitting Mr. Chandler's statement herewith and request that the Board consider it as a limited appearance statement.

Sincerely,

Juanita Ellis
(Mrs.) Juanita Ellis, President

Attachments

C A S E

(CITIZENS ASSN. FOR SOUND ENERGY)

CASE ATTACHMENT 4 - Page 2.

1426 S. Polk
Dallas, Texas 75224

214/946-9446

August 4, 1982

Mr. Richard Herr
Acting Director, Field Office Investigations
U. S. Nuclear Regulatory Commission
Room 1114
Arlington, Texas

Dear Mr. Herr:

I am attaching a copy of the statement of Michael Chandler, an inmate at the Federal Correctional Institution, El Reno, Oklahoma, who states that he worked at the Comanche Peak nuclear power plant until he was arrested there on January 11, 1980.

He alleges certain specific electrical faults of construction at Comanche Peak which we believe should be investigated more thoroughly than the only other avenue open to us, that of presenting his statement as a limited appearance statement in the operating license hearings for Comanche Peak. The members of the Board in those proceedings, the NRC Staff attorney Marjorie Rothschild, and the attorney for the Applicants, Nicholas Reynolds, are aware of the alleged's name, his assumed name at the time he worked at the plant, the date he was picked up onsite, and the fact that his allegations concern electrical matters including problems with the control panels. They do not know the specific details of his allegations.

We ask that you expedite this investigation as much as possible and that the following be done:

1. That the investigation be made by you personally.
2. That information regarding your investigation not be given to Donald Driskill or Robert Taylor prior to your making the actual physical investigation yourself.
3. That I be kept apprised of the progress of your investigation.
4. That I be provided with a copy of the investigation report as soon as possible (I assume this would be in the form of an Inspection and Enforcement Report).
5. That the Applicants be asked to waive the usual period for review for proprietary information due to the fact that the Comanche Peak licensing hearings are due to resume September 13.

Sincerely,

CASE (CITIZENS ASSOCIATION FOR SOUND ENERGY)

Juanita Ellis
(Mrs.) Juanita Ellis, President

STATEMENT OF MICHAEL CHANDLER

My name is Michael Chandler, Register No. 03036-064, and I am presently incarcerated at the Federal Correctional Institution, El Reno, Oklahoma. Prior to incarceration, I was working at the Comanche Peak nuclear power plant construction site under the name of Michael Gale Maxfield, identification number T-797. I was arrested at the site on January 11, 1980. The very fact that a fugitive could obtain employment at the site caused questions to be asked about their security measures, especially when it was learned that my job gave me access to all areas of the construction job, even the most confidential.

I can personally attest to and will be supported by documented records of several faults in the electrical phase of construction at Comanche Peak as of January 11, 1980. Having been employed as a journeyman electrician by Brown & Root, Inc. during the latter part of 1979 until January 11, 1980 at Comanche Peak, I worked in the electrical "termination crew" doing the actual physical termination of the wiring and later on the "checkout crew". This latter crew checks the wiring done by the termination crew as to accuracy and proper termination technique. I was required to turn in a written and signed report on each cable checked by me. Some, if not all of these faults can be verified and located through these reports. These faults include improper lug sizing and actual physical alteration of lugs, splicing of cable, patching of damaged cables, improper pin setting on "canon" type plugs, faulty grounding, wiring not properly protected from abrasion, wire tension too high, and improper protection of cables during thermal welding.

Lugs are a wiring device that attach to the ends of wires or cables as an aid to termination and come in a variety of styles and sizes. The "ring type" used at Comanche Peak has a hole in its tongue to accept screws from terminal blocks. These holes can be of varying size dependent upon what diameter or stud size screw the terminal block is engineered for. A stud size six is smaller in diameter in both the threaded portion and the head of the screw than a stud size 8 or 10. The lugs for these, in order to fit the different terminal blocks and screw size and at the same time maintain the amperage capacity they are rated for, are manufactured with a different shaped tongue. For example, #12 copper wire has an amperage rating of 20 amps, and a lug designed to accept the wire must have the same or larger ampacity. The rating of the wire is determined by the diameter of the copper conductor. The rating of a lug is determined by the size and shape of the tongue. It must have a specific area of its surface in contact with the terminal block or its ampacity will be lessened. A lug with its tongue designed for a #10 screw has a hole in its tongue that is larger than the hole in one designed for a #6 or #8 screw. The tongue is also wider and thinner. If a lug designed for a #10 screw is used on a terminal block designed for use with #8 screws, its ampacity is lessened because a #8 screw having a smaller head size only applies pressure to the inner ring of the lug tongue causing a "balling" effect. It causes the outer edges of the tongue to curl outward, also less area under the screw head is in contact with the terminal block because of its larger hole. There are many instances where this has happened at Comanche Peak. Some of these are:

1. Auxiliary building Reactor #1---lug designed for an approximate screw size of 3/8" was used on a terminal block designed for #10 screws. This was done with the aid of a steel washer without the use of contact aid to prevent electrolysis between the two dissimilar metals.

2. Switchgear Room. Several lugs designed for 1/4" screws were used on terminal blocks designed for #10 screws.

These two instances stand out in my mind but there are many more in particular concerning the circulating water system and fire control; however without reference materials I cannot be more specific. However, there is at least one instance I can recall--in fact for which I am at least partially responsible. This is the termination of a 1000 MCM cable with the use of a 750 MCM lug that was drilled to accept the larger cable size. It was done after protest by both myself and Dennis Neaves, another journeyman working as my partner on the termination crew. Drilling the lug affected its capacity in two manners: one, it reduced the amount of metal to conduct electricity and it was a bolt type mechanical lug, meaning that the lug was secured to the cable by means of a bolt or set screw in its body. Drilling the lug body had the effect of lessening the number of threads to not more than three or four for the set screw to be screwed into. This was in a Motor Control Center in the Circulating Water system. Any failure in the circulating water system which provides coolant water for the reactor could possibly cause very serious problems.

At least one cable in the Annunciator Logic Panels in the control room for Reactor #1 was spliced in the annunciator panel itself and covered over with other wires to hide it from sight. The cable was too large (it was assumed) to terminate on the fuse block to which it was designated. Upon examination of the fuse block I found the cable terminated to the wrong side of it. Had it been terminated on the correct size the original cable would have fit. The splice was made on the orders of Frank Platt, the General Foreman over termination. Also in the Annunciator panels there were several "Canon" type plugs in which the pins were not seated properly. This can cause the connector pins to be pushed back into the body of the plug causing the pin or pins to have poor contact. The Annunciator Logic Panels give the alarm if any part of the system malfunctions. Any malfunction in the annunciator system can cause no alarm to be given in any emergency to which the plant may be subject.

Portions of the grounding system for the cable trays in the Spreader Room were damaged either by an employee collecting copper or deliberate vandalism. Strands were cut from the cables in several places. The conductors were never cut entirely in two but the removal of a strand of no matter what length reduces the capacity of the conductor.

In the Control Center for Reactor #1 literally hundreds and possibly thousands of wires were brought out of their metal raceway and pulled sharply over their sharp, unprotected edges, making them particularly vulnerable to abrasion and vibration. Every portion of every system in the plant could be adversely affected by this faulty procedure.

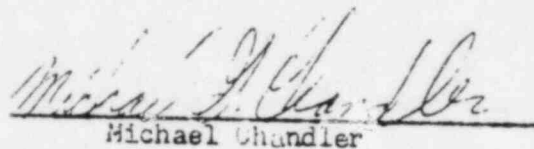
At least one cable in the Switchgear Room was damaged while being pulled. Its insulation was nicked in several places and patched with heat shrink tubing instead of being replaced.

In at least two instances wires or cables were too short by only a matter of inches for proper termination. These were pulled very tightly and terminated. They were pulled tight enough that there is the possibility of their being pulled from their lugs. One of these is in the Spreader Room; another is in a Motor Control Center in the Circulating Water System.

"Cad welding" or thermal welding of the grounding conductors on the cable trays was done after many cables had already been pulled through them. I could not inspect for damage, but the only protection used on the cables was an asbestos blanket that protected only the cables in the immediate vicinity of the weld.

I am necessarily vague on which particular cabinet or panel or even system to which I refer due to time elapsed and the large number of systems on which I worked. With reference materials the location of these faults could be much more closely identified as could others not mentioned specifically herein.

Signed this 14TH day of June 1982 at El Reno, Oklahoma


Michael Chandler

AFFIDAVIT OF ROY KEITH COMBS

My name is Roy Keith Combs. I reside at 1020 Plaza Drive, Granbury, Texas 76048.

I hired on at Comanche Peak in December 1979, as a structural welder. I worked two years in pipe hangers, then was transferred to the pipe welding department. I am certified in plate, carbon plate, stainless steel plate, stainless steel pipe, carbon pipe, gas tungsten arc welding, shielded metal arc welding.

I have been shown a copy of NRC Form 3 (6-82), Notice to Employees, on which it is stated that "copies of this notice must be posted in a sufficient number of places in every establishment where activities licensed by the NRC are conducted, to permit employees to observe a copy on the way to or from their place of employment." I have never seen a copy of this Notice at Comanche Peak, to the best of my recollection. I will look closely when I return to work tomorrow to be sure I did not overlook it.

I was contacted by the Nuclear Regulatory Commission regarding allegations made by Henry and Darlene Stiner, by investigator Donald Driskill. He contacted me at work. They called me in out of the field to talk to the NRC investigator. I was told by my immediate supervisor, Thad Turner, to report to Charlie Scruggs' office, the Assistant Project Manager for Brown & Root. I was just told to go down the hall to his office and sit and wait in the NRC waiting room, in the Administrative Building. It was located so that all the superintendents knew that I was there, and that I would be talking to the NRC. I was by myself at that time, and saw Al Marcot (not sure of spelling) come out of the NRC office. When I came out of the NRC office, Isaiah Pickett and William Lamb were waiting to go in. All three of them are welders.

When I went into the room, Donald Driskill was there. No one else was there. There was a tape recorder on the desk, and he recorded the meeting. He told me that Henry Stiner had made some allegations and said that I knew about some

RKC

things that were not by procedure at the plant. He wanted to know if I had ever plugged any base plate holes or done any illegal welding out there. I told him yes. He asked me if there was anything that I did that might cause serious damage to the plant or the people around it. I told him no. I felt that I didn't know that much about the stress of welds, that I'm a welder, not an engineer. I felt that I wasn't really qualified to say whether it would damage the health and safety of the plant or the people.

He asked me about whether or not rod cans were plugged in like they should be. I told him that I had seen negligence and improper rod control, and that I had seen them unplugged longer than they are supposed to be.

He asked me about whether or not I knew anything about illegal plug welds in base plates. I told him that I did know about a hole being drilled in the wrong place and their having to fill it in and redo it, using illegal weld filler material and without QC being informed, and then making the hole again in the same area. I told him about other instances in the north cable spread room (Unit #2), the 796 yard tunnel of Safeguards #1. In the Safeguard #1 yard tunnel there was improperly installed tube steel. The angles of the tube steel were cut wrong which by procedure would have left too much gap between the tube steel and the base plate.

He asked me about non-Q material being used for Q material on pipe hangers and supports. I told him that each crew had their own symbols and they were able to stamp whatever numbers they wanted to on the material.

After I talked to the NRC investigator, my General Foreman, Paul Collon (not sure of spelling), and Tiad Turner, my immediate foreman, began treating me differently from what they had before. For instance, Paul Collon made a comment later to the foreman of a group I had been loaned out to that same day

RKC

to "watch this guy -- he's probably a stoolie." I worked for him for the remainder of that week, then was loaned out to somebody else to work on hard welds that were hard to get to or something they had been putting off. It wouldn't be considered a good job -- it was the sh-- detail. I also had to weld limited access welds. It seems like they saved up a lot of them for me to do, in the hottest part or the coldest part of the building. It seemed to me that I was being punished for talking to the NRC. This kind of thing's been going on ever since I talked to the NRC. I've been to the doctor for nerve medicine because of all this. It's affected my home life. I've had problems between me and my wife because of it.

Last week I told them I've had enough of it. It's got to stop. My foreman fixed me up with a transfer back to the pipe hanger department where I was before. I don't know what it's going to be like when I go back to the pipe hanger department tomorrow. They're having problems right now in the pipe hanger department and I feel that they need me as a competent welder. But they want welders that will conform to what they say.

I had just come back from my vacation when I was contacted again by NRC investigator Driskill by phone. This was over a year ago to the best of my recollection. He telephoned me at home. He said if the judge subpoenas my name in court that he would have to probably tell him my name. I told him I didn't care, and I told him the reason I didn't care was because of what had been going on at work. I told him I thought I was being harrassed because I had talked to him. He said he was sorry. He told me if he was me, he would remain confidential. He didn't say why, but I assumed he meant to keep from being blacklisted.

RKC

I have not been contacted by the NRC since I talked to Mr. Driskill by phone over a year ago.

I know of other problems in construction at the plant both in regard to hangers and the piping which could be significant safety factors. Until last night, I didn't know there was any kind of protection for whistleblowers. Now that I do know, I want to be protected and to be able to bring these problems to someone's attention so they will see that they are corrected without my being fired because of it. I've tried to tell my immediate supervisor, Thad Turner, and he told me to just forget about it, that this line had to be completed by this evening or possibly we'd all be looking for a job.

I have read the above statement, which was prepared under my direction, and it is true and correct to the best of my knowledge and belief.

Roy Keith Combs
Roy Keith Combs

Date: 1/9/83

Juanita Ellis
Witness

Barbara W. Boltz
Witness

STATE OF TEXAS

On this, the 9th day of January, 1983, personally appeared Roy Keith Combs, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes therein expressed.

Subscribed and sworn before me on the 9th day of January, 1983.

Paul J. Marcus
Notary Public in and for the State of Texas

My Commission Expires: 12/31/84

AFFIDAVIT OF ROY KEITH COMBS

My name is Roy Keith Combs. I reside at 1020 Plaza Drive, Granbury, Texas 76048.

This is a supplementary statement in addition to my other statement of this same date.

There is a defect in a piece of ^{10" per RKC.} 12" pipe. A piece of a consumable insert is hanging inside of the pipe. It has supposedly been bought off, but there is no possible way it could have passed RT (radiographic test) or X-ray. It should be very smooth inside, and the insert should have been melted and consumed and none should be left hanging down inside. The proper procedures could not have been followed. If it has been finished out (which it has), the documentation was falsified. I'm not sure whether it is a Class 1, 2, or 3, but I know it is Q (safety-related). I can supply the location.

There are other problems at the plant of which I have personal knowledge, and if I am allowed to testify in the operating license hearings for Comanche Peak, I will discuss them further in my testimony.

Roy Keith Combs
Roy Keith Combs

Date: 1/9/83

Juanita Ellis
Witness

Barbara U. Poltz
Witness

40 CENTS

Troubled Project Construction Halt At Nuclear Plant Raises Unsettling Questions One Is How Facility in Ohio Got So Near Completion With So Many Problems Drugs & Alcohol on the Job?

By JOHN R. EMBERTILLER

Staff Reporter of THE WALL STREET JOURNAL

CINCINNATI—By its owner's reckoning, the William H. Zimmer nuclear plant, located about 28 miles from this city, is 97% completed. The fate of the remaining 3% is unclear.

Last month, based on a variety of structural and paper-work irregularities at the project, the federal Nuclear Regulatory Commission ordered a halt to construction of those parts of the plant deemed necessary for safe operation and shutdown. Cincinnati Gas & Electric Co., which is heading a group of utilities building the \$1.7 billion, 840,000-kilowatt facility, had been predicting the plant would be ready to load fuel in the third quarter of 1982. Now the utility is re-assessing this prediction, although a spokesman says: "We are absolutely certain the plant will be built and operated."

James Keppler, the head of the NRC's regional inspection office near Chicago, doesn't have that absolute certainty. Mr. Keppler, whose office oversees the Zimmer plant, says there is a slim possibility the plant has too many deficiencies ever to be licensed—which would be a first in nuclear history. And though he adds that the more likely course is that the plant will eventually be allowed to operate, he goes on to say: "It's impossible to give a date estimate (of completion time) until you have identified all the problems."

A \$200,000 Fine

The problems, according to the NRC and others, are manifold: Construction records are missing or have been doctored; thousands of welds on the plant are believed to be deficient; the quality of steel and other material is suspect. Added to that, safety inspectors have testified to being threatened and harassed trying to do their jobs.

In November 1981, the NRC levied a \$200,000 fine against Cincinnati Gas & Electric, the largest fine ever imposed in connection with a nuclear-construction project. A year later came the halt to all safety-related construction. And a federal grand jury is probing possible criminal violations by some of those involved in building the plant.

But the full story of Zimmer (named after a former president of Cincinnati Gas) goes beyond the tale of one troubled project and raises broad, unsettling questions about the nation's nuclear-power program. One question is how officials for the utility and the NRC could have allowed a plant with so many problems to get so near completion. Another is whether the Zimmer experience is being duplicated at the 60 other nuclear plants being built around the U.S. "It makes one wonder how many other Zimmer's might be lurking out there," says Democratic Rep. Morris K. Udall of Arizona, who has held hearings on Zimmer.

Special Investigation

Similar, if less severe, cases are known. In late 1979, following months of pressure from local citizens, groups and the media, the NRC conducted a special investigation of the South Texas nuclear-power plant being built by Houston Lighting & Power Co. and others; the commission found problems ranging from inadequate construction practices to safety inspectors being threatened with physical harm by construction workers. As a result, the NRC fined Houston Lighting \$100,000, and construction was stopped for several months (but has since resumed).

Then, late last year, the NRC actually gave permission to Pacific Gas & Electric Co. to start operating its Diablo Canyon nuclear plant at Avila Beach, Calif.—only to retract that go-ahead when PG&E engineers discovered that in analyzing the plant's ability to withstand an earthquake, the utility had mistakenly used construction data from a companion plant being built at the site. Pending resolution of that problem, the plant remains closed.

There is also the possibility that some operating plants may have undetected defects because federal safety regulators lied about inspecting them. (See story on page 2B.)

The safety of nuclear plants received intense publicity following the 1979 accident at the Three Mile Island nuclear facility in Pennsylvania. Though the worst accident in the history of commercial nuclear power was caused by equipment failures and operator mistakes rather than construction deficiencies, it was also due in large part to the failure of officials in the government and nuclear industry to identify and effectively deal with similar problems that had occurred earlier at other nuclear facilities.

Inspection Teams

In the wake of Three Mile Island, and spurred partly by the experience at Zimmer, the NRC has started an office of investigations to probe allegations of safety-rule violations at nuclear plants and has set up teams of inspectors to make periodic visits to sites. The agency has also begun holding seminars for top utility officials to impress upon them the need to build plants properly.

But nuclear critics aren't impressed, arguing that the public safety remains dangerously at the mercy of the companies building the plants. And until next month, NRC officials agree with that argument. They concede that the commission has the resources to sample only a small part of the actual work done at a nuclear site. "We rely on the utility and the contractors to do the job right," says the NRC's Mr. Keppler.

In the case of Zimmer, the NRC feels that its trust was abused. "From a quality-assurance standpoint, this is the worst plant

Please Turn to Page 2B, Column 1

CASE ATTACHMENT 7 - Page 1

(NOTE: The copy which CASE received of this article already had portions underlined.)

"A Troubled Project. Construction Halt at Nuclear Plant In Ohio Is Raising a Host of Troublesome Questions

Continued From First Page

I've ever seen," says Victor Gilinsky, one of the agency's five ruling commissioners.

For its part, Cincinnati Gas & Electric strongly defends its conduct and the quality of the Zimmer plant. A spokesman for the utility admits that there are "paper-work deficiencies" in the construction records and that some repairs are needed, but he adds: "Basically, we think the plant construction is safe and sound." (Cincinnati Gas & Electric owns 40% of Zimmer; a unit of Columbus, Ohio-based American Electric Power Co. has a 28.5% interest in the facility, and Dayton Power & Light Co. owns the rest.)

Whatever the merits of the respective arguments, the fact is that the NRC was getting warning signals since the mid-1970s about problems at Zimmer. However, those signals—ranging from complaints by plant workers to some of the commission's own routine inspection reports—went largely unheeded until one Thomas Applegate appeared on the scene.

The 31-year-old Mr. Applegate is an unlikely figure for the role he has been playing in the Zimmer affair. A private detective with no nuclear background, he first came to Zimmer in November 1979 in the course of investigating a domestic squabble; the husband of the couple involved happened to work at the plant.

During the domestic probe, Mr. Applegate uncovered evidence of timecard cheating by Zimmer workers. He brought that to the attention of utility officials, who were sufficiently impressed to hire him as an investigator at the construction site in December 1979. A month later, he was let go. The utility says his work was finished. Mr. Applegate insists he was fired because he was exposing construction problems at the plant.

Being dropped didn't daunt Mr. Applegate. In early 1980, on his own, he called the NRC in Washington with his charges, which included theft of materials and defective welding at Zimmer. He talked several times to staff officials, he says, but didn't think they were showing enough interest. He then placed another call to the agency, demanded to speak with the top man and was connected with John Ahearne, the acting NRC chairman. "Twenty-four hours later . . . two NRC investigators were at my front door," he recalls.

But the detective was soon to be disappointed. The NRC investigation resulted in only one, relatively minor, citation. "They just superficially treated my allegations," he asserts. "I've spent more time looking for a lost dog." (In hindsight, Nunzio Palladino, the NRC's current chairman, agrees that the commission's initial probe of Mr. Applegate's charges should have been more comprehensive.)

So Mr. Applegate went to the press and managed to generate a few stories, including a lengthy piece in the Chicago Sun-Times. And in May 1980, he contacted the Government Accountability Project, a Washington, D.C.-based private group that works to protect whistle blowers, mostly in the government. Though the private detective was a private citizen, GAP took the case.

Enter Thomas Devine, GAP's legal director. In the 31-year-old Mr. Devine, Mr. Applegate found someone willing and able to probe into matters at Zimmer. (In choosing a career, Mr. Devine says, "I had to decide whether to be a lawyer or an investigative reporter. So I became an investigative lawyer.") Mr. Devine and his colleagues at GAP talked to every source suggested by Mr. Applegate and followed every lead provided by the private detective and then developed new sources and leads of their own.

When the GAP investigators felt they had enough evidence of an inadequate investigation by the NRC, they went to the special counsel of the Merit Systems Protection Board, a federal agency empowered to help whistle-blowing government employees. The counsel, impressed with the evidence, pushed the NRC for a response to GAP's charges.

The NRC's response was to start new investigations of Zimmer. One by the commission's internal auditors reviewed the NRC's initial probe of Mr. Applegate's charges. Another looked at the quality of Zimmer's construction.

The latter probe resulted in the \$200,000 fine and a two-inch-thick report that found violations of 12 of 18 basic safety criteria for building a nuclear plant. The report also included affidavits from workers who testified to alcohol and drug use by workers at Zimmer. Two plant guards testified to observing a bookmaking operation and gun raffles being run at the site.

"Violation of Our Rules"

The spokesman for Cincinnati Gas & Electric says the utility paid the NRC fine "to avoid endless hearing" on an appeal and not because it agreed with all the findings. He says further that alleged incidents involving alcohol, guns, drugs or bookmaking would be "in violation of our rules."

The probe by NRC's internal auditors agreed with Mr. Applegate that the initial NRC investigation of his charges was superficial. For example, the detective had said that deficient welds had been accepted for use; he went on to cite three such welds. The NRC investigating team said that charge couldn't be substantiated. But the NRC's internal auditors found that the commission's investigators had missed the fact that one of the cited welds had been replaced after Mr. Applegate made his allega-

tion.

Though obviously pleased with parts of the NRC reports, GAP fiercely disagreed with some major conclusions. GAP argued that new building at Zimmer shouldn't go ahead until all the problems in the existing work had been identified. And the group asserted that given the utility's past failures to follow construction rules at Zimmer, independent engineers should be brought in to help fix the plant's problems.

In support of its position, GAP in August filed to the NRC 120 pages of further contentions about problems at Zimmer and supported those contentions with another group of documents numbering some 3,000 pages. What's more, by this time, other agencies and individuals were looking into matters at Zimmer. The Justice Department, for example, began investigating possible criminal violations at the plant. And in June, Sen. Udall held his first hearing on the situation at Zimmer.

Construction Halt

In November, the five NRC commissioners, by a 3-2 vote, ordered construction at Zimmer halted immediately, pending efforts to explore fully the growing list of problems at the plant.

Earlier this year, GAP filed requests under the Freedom of Information Act seeking supporting documents and draft reports released to the NRC's investigations of Zimmer. GAP's Mr. Devine says the requests were partly prompted by suspicions that parts of the reports had been watered down and that other sections had been deleted entirely.

In response to those requests, the NRC told GAP that the commission's files didn't contain any drafts of the auditors' report on the initial Applegate investigation. But sources say that statement, though perhaps technically correct, wasn't really true. As one NRC investigator involved in the report told Congressman Udall, he had had draft copies of the report in his office file but was ordered to remove them after GAP filed its request. GAP recently filed suit against the NRC in a Washington federal court seeking a determination of whether NRC employees acted illegally in handling the requests.

The response to GAP's information requests caused heated debate within the NRC, sources say. Some NRC officials argued that while the agency could fight public disclosure of certain documents, it was obligated under the law, at the very least, to identify all the documents it had. "What happened was a cover-up," asserts one NRC official.

James Cummings, the head of the NRC's internal-audit office, says that because of pending litigation he can't fully respond to the charges of a cover-up. But he does say: "If you know all the facts, it isn't fair to paint us as being less than honest."

Documents Create Doubts About Veracity Of Safety Reports on Some Nuclear Plants

By a WALL STREET JOURNAL Staff Reporter

A number of nuclear-power plants operating in the U.S. may have undiscovered defects because of falsified federal safety-inspection reports.

Documents obtained under the Freedom of Information Act from the federal Nuclear Regulatory Commission indicate that in the early 1970s federal inspection reports were written for inspections that weren't ever made on nuclear-power plants under construction. Such reports are an integral part of the process for determining whether a plant is built safely enough to operate.

The documents also show that despite evidence of falsified reports, NRC officials made little effort to determine whether unsafe plants had been allowed to operate.

Since 1975, the NRC has had an internal watchdog known as the Office of Inspector and Auditor. Among other tasks, the OIA investigates charges of misconduct on the part of NRC officials. But officials inside the NRC and other government officials contend the office lacks independence and isn't tough enough in pursuit of possible wrongdoing. For example, a 1981 report by the General Accounting Office, an arm of Congress, said the OIA regularly submits draft reports to people being investigated and sometimes changes the reports as a result of their comments.

The GAO also contended the OIA has prematurely terminated some investigations and recommended that Congress consider creating an inspector general's office for the NRC.

In responding to the GAO report, the NRC disputed many of its findings and said

the GAO failed to make a "convincing case" of the need for an inspector general.

The GAO report didn't touch on the matter of falsified inspection reports, which were the subject of an OIA investigation in 1977. In that year, according to the Freedom of Information Act documents, an NRC inspector charged he had discovered faked inspection reports several years earlier while working as inspector for the Atomic Energy Commission, which was succeeded by the NRC in 1975.

Besides reports being written for inspections never made, this inspector claimed that valid inspection reports had been altered by senior NRC officials with the possible result of hiding construction deficiencies. The inspector also asserted that colleagues were temporarily suspended from inspecting plants if they tried too vigorously to do their jobs.

In releasing the documents on this matter, the NRC blotted out the name of the inspector making the charges. Almost all other names were similarly expunged. However, what identification there was, along with interviews with NRC sources, indicate the charges involved federal inspection activities in the southeastern U.S.

The NRC inspector refused to give OIA investigators specific evidence to back up his charges. He said he had given such specifics to Atomic Energy Commission officials four years earlier and felt his career had suffered for the effort.

Documents show the OIA investigators talked to officials involved in the 1973 investigation. Those officials confirmed the finding of transgressions serious enough to prompt the transfer of a number of AEC employees. But the OIA investigators found that all the records of the AEC investigation had been destroyed.

In a report, OIA investigator Lawrence J. Strickler concluded that available evidence tended to support the inspector's charges. Following that report, however, the NRC stopped its probe. Senior NRC staff officials decided against sending a report on the matter to their bosses, the five NRC commissioners, on the ground there wasn't anything the commissioners could do.

James Cummings, the head of the OIA since 1978 and therefore not involved in either the 1973 or 1977 probes, says he hasn't reopened the investigation partly because he doesn't believe any falsification really occurred. "I've never seen people in this agency make out phony inspection reports," he says. But he adds that if anybody did make out such reports, it would be a "very, very serious situation."

Dallas Times Herald

Saturday, January 1, 1983

25 Cents

Whistle blowers accuse NRC of hostility

By JACK BOOTH
Staff Writer

Comanche Peak workers say informants aren't protected

When quality control inspector Earlene Stiner contacted the U.S. Nuclear Regulatory Commission about allegedly faulty welding at the Comanche Peak nuclear plant, she was assured her identity would be kept secret.

It didn't work out that way. Arriving home with several co-work-

ers, she found a car in her driveway with NRC markings, and the following day an NRC investigator gave her a cheery hello in front of other employees.

Later, two co-workers threatened to beat her up, a supervisor accused her of stealing documents, her office was moved four times in two days,

and she was abruptly informed she could no longer ride the company bus, because there was no insurance for pregnant women, according to her testimony at Comanche Peak licensing hearings last September.

Then she said she found that much of what she told the NRC investigators was garbled or left out

of their report, which concluded there was no merit to her charges.

That, according to Mrs. Stiner, is what happens when a nuclear plant "whistle blower" — employees complaining about construction defects — goes to the NRC.

A controversy has developed over whether the NRC is receptive to

claims about construction deficiencies at Comanche Peak, 80 miles southwest of Dallas, and whether the agency makes any effort to prevent retaliation against those who come forward.

The series of hearings at which Mrs. Stiner testified is expected to resume by March, as the procedure

for licensing of the plant reaches its final stages. A number of whistle blowers have testified during the four weeks of hearings so far.

The issue of the NRC's attitude toward whistle blowers took on a new dimension in November when construction problems prompted the NRC to order a halt to safety-related work at the William H. Zimmer nuclear plant near Cincinnati, Ohio.

See PROTECT on Page 15

NRC accused of hostility to whistle blowers

PROTECT — From Page One

Critics say the NRC should not have allowed a plant with so many problems to get within 97 percent of completion, and they question whether similar problems have gone undetected by the NRC at the other 60 plants under construction in United States, including Comanche Peak.

The NRC has admitted that it initially did a superficial investigation of a whistle blower's complaints at the Zimmer plant.

But NRC and utility officials insist the NRC's investigations at Comanche Peak have been extensive.

"If you look at the man-hours of the investigations involved, and all the details they describe in their reports, I think it has to be obvious that the investigations are thorough," said Dick Ramsey, a spokesman for Texas Utilities Services Inc.

NRC officials in Arlington say the their task is more difficult because they have only one inspector in residence at each plant, and only a handful of investigators to handle a 13-state region.

However, more than a dozen witnesses at the Comanche Peak hearings said one of the NRC's biggest problems is a negative attitude toward whistle blowers.

A local public interest group that has been participating in the licensing hearings, the Citizens Association for Sound Energy, charged that the NRC's Arlington office has been so hostile to whistle blowers that workers no longer see any point in talking to federal officials.

The problem is not isolated to the Arlington office, said Louis Clark, the executive director of the Government Accountability Project, a Washington, D. C.-based private group set up to protect whistle blowers.

"The NRC is notoriously bad about how they deal with the people who come to them with information," said Clark, whose group was considered instrumental in bringing attention to the problems of the Cincinnati plant.

Some recent events have reinforced the opinion of critics who question the thoroughness of the NRC investigations of whistle blower complaints at Comanche Peak.



Controversy has developed over whether the NRC is receptive to claims about construction deficiencies at Comanche Peak, and whether the agency makes any effort to prevent retaliation against those who come forward.

For example, NRC investigators testified at the hearings they were unable to determine conclusively whether the April 12 firing of former Comanche Peak inspector Charles A. Atchison was in retaliation for reports he filed about welding defects at the plant. But a subsequent U.S. Department of Labor found that the welding reports, and not company dissatisfaction with Atchison's performance, were the cause of the firing.

NRC investigator Donald D. Driskill said of Atchison, "I believe that he's basically an honest person. I don't know that he is always totally informed with regard to the matters he discusses."

In another development, the NRC, after initially finding little merit to Atchison's allegations about welding defects, was forced to reverse its stand in November when a painter at Comanche Peak accidentally found such defects.

After the painter made his discovery, the NRC, in an unusual move, rewrote an earlier investigative report. The changes made it clear that the first NRC investigation had not been as thorough as the first report indicated.

In August, Marshall E. Miller, the chairman of the U.S. Atomic Safety and Licensing Board, which is hearing the Comanche Peak case, accused NRC staff members of arrogance and called their inconclusive investigation of the Atchison case a "big exercise in futility."

He threatened them with contempt sanctions if they failed to turn over uncensored reports of their investigation so the board could draw its own conclusions about the firing. The NRC has blacked out names and crucial details in its investigative transcripts to protect the anonymity of witnesses.

"You've not been cooperative," Miller said. "You have not been candid in your presentation." The NRC staff is appealing his order. A hearing is scheduled for Jan. 19.

Miller also chastised the NRC staff in September for attempting to rebut the testimony of Jack Doyle, a former Comanche Peak engineer, before they had studied Doyle's testimony and that of another engineer, Mark Walsh.

Doyle complained that 5,000 pipe supports at the plant were faulty and could cost \$1.5 billion to repair. The supports, designed to keep steam and coolant pipes from rupturing and causing a meltdown of the reactor core, will not undergo final stress analysis by the utility until late next year. The NRC staff members said they believed the supports would pass the test, and said any that didn't would be fixed by the utility.

"If that philosophy were to prevail, we wouldn't need any evidentiary hearings, would we?" said Miller, who ordered the NRC to submit a report on the Doyle allegations. "The staff would just say, 'Everything is OK, or if it isn't, we'll review it and take care of it.' So why do we have a hearing?" The staff's report has not been completed.

According to CASE, the public interest group, the NRC's handling of the Atchison case sent a chilling message to other workers who were thinking of coming forward to the NRC — that the NRC was not interested in protecting them from company retaliation.

An NRC spokesman declined comment on that allegation, noting that issue is being considered by the licensing board. But an Aug. 27 affidavit by two NRC investigators in the Arlington office gave credence to the reports about the workers' uneasiness.

"It appears to be a common belief among them that their simple cooperation with NRC investigators may be interpreted as an act of disloyalty by their employers," wrote the investigators, Driskill and Richard K. Kerr.

CASE President Juanita Ellis, who has presented 13 witnesses in the four weeks of licensing hearings, said almost a dozen other witnesses decided not to testify.

"Those who have gone to the NRC have in many cases lived to regret it," she said. "The treatment whistle blowers have received from the NRC has been appalling, and the impact on them and their families is staggering. This gets back to the people at the plant. Many potential whistle blowers simply are not ready to put their future and present jobs on the line."

Both Mrs. Ellis and Clark, the head of the national whistle blowers group, say NRC investigators often display a hostile attitude that discourages potential witnesses.

"I think the immediate response of the NRC appears to be, 'Why are you here? Do you have a grudge against the company?'" Mrs. Ellis said.

During a tape-recorded interview on Nov. 8 attended by Mrs. Ellis, a young draftsman told three NRC investigators that electrical cables may have been improperly spliced at the plant. He also said that he and other draftsmen were forced to use guesswork to decide where to put pipe supports, when that work should have been done by engineers.

In the tape, the NRC staff members repeatedly assured the draftsman, Dennis Culton, that the plant's "checks and balances" system of quality control would take care of any problem that might exist. When Culton could not pinpoint the exact locations of the electrical cables and pipe supports, the investigators said he was asking them to find "the proverbial needle in the haystack."

Culton left in frustration and later sent a statement to the licensing board explaining why he decided not to pursue the matter. "I think the NRC representatives tried to make me feel like I came from a little Podunk dirt town and treated me as such," he said. "They tried to say things and make me say things that were not true. As far as I'm concerned, we were badgered."

In a tape-recorded meeting in November between Mrs. Ellis and Robert Taylor, the resident NRC inspector at the plant, Taylor said Culton was wrong in feeling unqualified to do the pipe support work. "I think my wife could have done

the job very nicely, and she's not a draftsman," Taylor says on the tape.

In the meeting with Mrs. Ellis, NRC officials told her the witnesses frequently can't pinpoint which of the 27,000 electrical cables they believe were improperly spliced or which of the 34,000 pipe supports were defective.

"Without the specific information of where it's at and helping us locate it, we're really at a loss to be able to expend the type of manpower to go and look at all of the cable or all of the hangers to try and locate something like that," NRC investigator Jim Gagliardo said on the tape.

Clark, however, says there is an obvious reason why the witnesses often can not be precise — they are still employed at their plant and do not have access to schematic drawings that could help them pinpoint a particular weld out of the thousands they may have worked on, he said.

The NRC's demand for specifics, Clark

charged, is often a way to avoid looking at overall problems, as when witnesses claim that hundreds or thousands of welds are defective.

In the case of the Zimmer plant, the NRC in 1980 narrowed a whistle blower's widesweeping charges down to just three allegedly faulty welds. When the NRC said the weld charges couldn't be substantiated, the whistle blower turned to Clark's group for help.

That group, after finding evidence the NRC investigation was inadequate, persuaded the Merit Systems Protection Board, a federal agency established to help government whistle blowers, to prod the NRC into reopening its investigation.

The NRC's second investigation found violations of 12 of the 18 basic safety criteria at the plant, including defects in about 70 percent of the welding. The NRC then halted construction, and NRC officials say they don't know whether the plant ever will be granted a license.

Cover-up at Comanche Peak is charged

By ERIC HARRISON
Star-Telegram Writer

A former foreman at the Comanche Peak nuclear power plant has charged that officials are conducting a "cover-up" to hide hazards that he and others brought to their attention, but a safety official for the plant says the former employee is not qualified to judge potential hazards.

The former foreman, Arvill Dillingham Jr., said Thursday in an interview that procedural violations at the plant could cost millions of dollars to repair and, if not correct-

ed, could mean the potential for a nuclear disaster.

But Antonio Vega, TUGCO's quality assurance supervisor, said in an interview the violations do not pose a hazard.

Vega said Dillingham is not qualified to judge potential hazards in the condition of concrete walls.

"He's not a structural engineer," Vega said. "He's not knowledgeable in engineering technology or in concrete."

DILLINGHAM WAS laid off in October, weeks after his charges prompted an investigation by

Brown & Root Construction Inc., the contractor building the plant for Texas Utilities. The company investigation failed to substantiate any of Dillingham's charges.

However, a second investigation, conducted by Texas Utilities Generating Co., one of three sister companies that form Texas Utilities, substantiated two of the charges.

Dillingham's most significant charges — made in a sworn statement signed Dec. 18 — involved two alleged safety violations that he said could result in a meltdown of the nuclear core if not corrected.

He said he did not take his charges

to the Nuclear Regulatory Commission because he does not trust the federal agency to conduct an impartial investigation.

Opponents of nuclear energy have questioned the commission's impartiality in hearings before the federal Atomic Safety and Licensing Appeal Board.

LAST MONTH, a former welding inspector at the plant, who charged that he was fired in reprisal for testifying before the NRC, was ordered reinstated with back pay by a Department of Labor administrative law judge.

The inspector, Charles Atchison, was fired three separate times from construction jobs at two different nuclear plants after testifying at regulatory hearings about faulty welds at Comanche Peak, which is under construction near Glen Rose.

Juanita Ellis, president of the Citizens Association for Sound Energy, said at least a dozen nuclear plant employees backed out of testifying before the NRC because they feared similar reprisals.

Dillingham charged that rejected aggregate material was mixed with the concrete forming the base for the nuclear reactor.

He said the improperly poured base could shift under the weight of the 700-ton reactor, causing the pipe that supplies cooling water to the reactor to break.

Larry Witt, a former Brown & Root front-end loader operator, told company investigators last August that a superior ordered him to use the rejected aggregate material. Investigators talked to two other men who worked in the area who said they knew nothing of the incident. Witt's supervisor at the time is now dead.

Please see Cover-up on Page 13

Cover-up at Comanche Peak is charged

Continued from Page 13

A COMPANY REPORT on the investigation said tests on the concrete failed to show any impurities.

Dillingham said the concrete was never tested. Witt could not be reached for comment.

One of Dillingham's allegations that was never investigated involved the construction of underwater lamps in the pool surrounding the reactor. Dillingham charged that his superintendent prevented him from cleaning drill shavings from the lampposts. The supervisor, Dillingham said, was in too much of a hurry.

Dillingham said the shavings, which remain inside the hollow lampposts, could become dislodged

reactor head is being removed for refueling.

"The shavings can be washed inside the reactor, which can jam the fuel cells and could even fuse the control rods," Dillingham said in his statement.

IF THE METAL particles fused to the rods, they could prevent the rods from being replaced properly and could cause a meltdown, he said.

Vega — who said he would need more information before discussing the allegation — dismissed Dillingham's claims that any of the alleged violations pose a threat.

Dillingham also charged that holes were drilled through the

taining walls without the required authorization. The drilling weakened the walls, Dillingham said.

Danny Grisso, who said he witnessed the holes being drilled, cooperated in the company's August investigation. In an interview Thursday, he said he is satisfied now that proper paperwork was done and proper authorization was given.

Vega denied Dillingham's accusation that Vega warned him not to contact the press with his charges. He said Dillingham called him in December and asked if he could help get his job back. He said Dillingham threatened to make the charges public if he was not put back to work.

Vega, who said his job is con-

didn't have the authority to put Dillingham back to work. "But even if I did, I wouldn't let him blackmail us," he said.

VEGA SAID Dillingham lost his job because employees are being laid off as work at the plant slows down.

Dillingham, however, questions the timing of his layoff. He said that in August, when he returned to work after meeting with Brown & Root officials in Houston, he was stripped of his work crew.

After working a new assignment for several weeks, he called Vega and then W.M. Rice, group vice president of the Brown & Root Power Division, Dillingham said. He said he

WESTWARD

CONTENTS

The Atchafalaya basin

Louisiana's Atchafalaya basin contains some of the country's most beautiful scenery in its swamplands and bayou country. But it's in danger, both from nature and from man. The Mississippi River, always seeking the easiest course, threatens it from one side. Oil interests, and man in general, threaten from another. On the cover, Daniel Singleton, whose family lives on Avoca Island.

By Mary Barrineau

Cover by Barron Ludlum



12

Blowing the whistle

Chuck Atchison is a whistle blower, a former quality control inspector at Comanche Peak who was fired after he reported safety violations. His former employers say he is a liar, but the Nuclear Regulatory Commission has substantiated his charges.

By Mary Barrineau



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Blowing the Whistle

By Mary Barrineau

CHUCK ATCHISON'S FRIEND REMEMBERS WELL THE TIME HE tried to interest Atchison in seeing *The China Syndrome*, a Jane Fonda movie about an accident at a nuclear power plant.

Atchison had just signed on as a quality-control worker at the Comanche Peak nuclear-power plant under construction near Glen Rose. He'd worked at manufacturing plants before, but this was his first exposure to the nuclear industry. He was full of enthusiasm for what he felt was the energy source of the future.

He was scornful of the movie's point of view, but after much prodding, he agreed to see it. "Afterwards, he still took the side of the nuclear industry. He said that kind of thing could never happen. He said what happened in the movie was just a fluke and that it wasn't very realistic," says the friend, Bobby Hobbs.

It was like Chuck Atchison to take on new projects with unrestrained ardor. A big, affable fellow with a thatch of curly gray hair and a fondness for Western clothes and country music, Atchison had taken a similar approach to previous jobs and a succession of hobbies — underwater photography, scuba diving, motorcycle racing, karate. "If he sees something he wants to do, he'll keep at it until he does it. He isn't discouraged easily," says Hobbs.

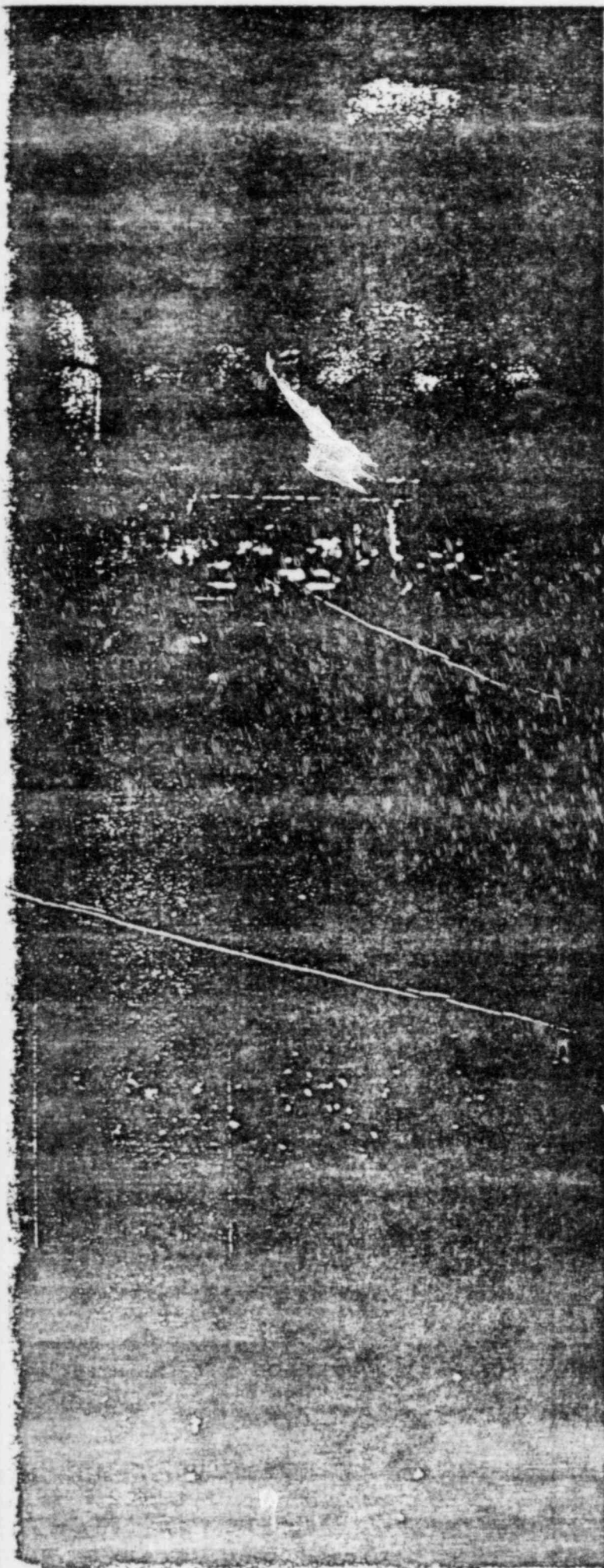
Soon after Atchison saw *The China Syndrome*, an accident at Three Mile Island proved the movie prescient. After the real-life disaster, in which radioactivity was released into the atmosphere, Atchison was somewhat more skeptical about the safety of nuclear power — or, as Hobbs puts it, "That kind of made Chuck think."

Now, nearly four years later, Atchison says he is still a proponent of nuclear energy. But he is no longer welcome to work in the industry.

He is an outcast, an inspector in exile, a certain kind of expatriate known as a whistle blower. He was fired last April 12, he says, for being overzealous in his quality-control inspections. He says his supervisors ignored reports he submitted on defects in pipe whip restraints, pieces of structural steel used







His employers say Chuck Atchison lies, but to many he's a hero

to restrict the movement of pipes in critical safety areas. When he pressed the issue, he was fired.

Atchison has since been fired by two contractors for a Louisiana power plant, and the U. S. Labor Department has ruled that each of the three terminations violated a federal law designed to keep employers from punishing workers who report alleged safety violations. The two Louisiana contractors fired him in retaliation for his testimony before the Atomic Safety and Licensing Board earlier this year, the Labor Department found. In fact, said Labor Department area director Thomas Killeen, it seemed more than coincidental that the first of those contractors, Thompkins-Beckwith, hired Atchison on the very day he was scheduled to testify. The circumstances, combined with personnel connections between the two plants, pointed to a conspiracy to prevent Atchison's appearance as a witness, Killeen said in a letter to Thompkins-Beckwith introduced into evidence at the hearings.

A federal hearing judge has upheld the Labor Department's ruling about the initial firing at Comanche Peak. In a sharply worded ruling, Ellin M. O'Shea, a Labor Department hearing judge, accused plant officials of making "unconvincing, unbelievable and irrational" charges in an attempt to discredit Atchison.

Citizens who are opposed to the licensing of Comanche Peak consider Atchison a hero. His former employers say he is incompetent and a liar.

Atchison is an unlikely hero for the anti-nuclear forces. The only organization he has ever belonged to was a rescue squad that specialized in pulling corpses out of lakes and rivers. The only political action he has ever taken was riding around the courthouse square in Weatherford as a boy with a "Jim Wright for Congress" sign on his bike. And that was to earn a Boy Scout merit badge that required participation in a political campaign.

Yet his closest friends say they aren't surprised that Atchison ran into trouble while working as an inspector at Comanche Peak.

"Anything he takes on, he goes at it," says Jim Rouse, who has known Atchison 13 years. "He's very straightforward. Whatever he sees, he says. He tries to excel in whatever he does. He might overdo it.

"I think that was a lot of his problem out at Comanche Peak. They figured they'd just get some guy to pass some

work. But Chuck thought if his job was to inspect things, he was going to inspect.

"Out at Comanche Peak they want people to go along with the system and Chuck is one who'll go along with what's right," he says.

NOT JUST ANYONE BECOMES A WHISTLE blower. People who have studied the personalities of those who report violations say they are often those on the fringe of their professions, those with less than perfect work records.

Chuck Atchison's flaw was a falsified educational record. When he went to work at Comanche Peak, he lied about his schooling. He said he had a college degree when he didn't, and later, when applying for a promotion, he used "white out" on a transcript from Tarrant County Junior College to change the words "no degree obtained" to "degree obtained."

The misrepresentation was not a factor in his firing, but it did damage his credibility during testimony about defects at the plant. Attorneys for the plant hit hard at the falsification, and spokesmen for the plant continue to use it to try to discredit Atchison.

"In the nuclear-quality-assurance organization, if there is one thing we have to have it is high ethical awareness. I can't afford to have someone working there whose ethics are even suspect," says Dave Chapman, manager of quality assurance for the consortium of power companies that owns the plant.

Atchison, 40, originally was hired in February 1979 as a documentation specialist to make sure paperwork for inspections was complete. He had no training in the nuclear industry. He learned as he worked. After about nine months, he was teaching other people how to do the job.

Nuclear inspectors at the plant heard about his teaching and before long he was administering tests and instructing other workers in site procedure. "I learned it myself and then taught it," says Atchison.

All of his evaluations praised Atchison for his verbal-communication skills, rating him above average in his work, although suggesting he needed improvement in his written-communication skills. Atchison's "primary strength is his verbal skills in presenting information to people in a concise and understandable manner. He also has the persistence to research a problem or task and complete all the detail work necessary to resolve an assignment," said supervisor J. R. Ainsworth in a Dec. 22, 1980, evaluation.

At the end of 1981, four months before he was fired, Atchison was promoted again, to field inspector. Now spokesmen for the power plant say that Atchison was probably given too much responsibility for his experience

and education. "Looking back on it, no, we shouldn't have let him do all that he did," says Chapman. However, Atchison seemed eager to improve his position, says Chapman. "Nobody's accusing him of not having ambition."

Atchison was an experienced teacher by the time he came to work at Comanche Peak. He had taught scuba diving as a member of a rescue squad in his home town of Weatherford, and says he personally recovered the bodies of 64 drowning victims during 15 years on the squad. "It got to the point where I developed extra-sensory perception in the water. Visibility in the lakes and rivers around here is zero. If I got in the location of the body, I could physically sense it."

Turnover in the rescue squad was

Shah to learn industrial skills. "I came within two weeks of being permanent in Iran. We were going to move there to help them set up a helicopter manufacturing plant in the mountains, but the revolution came first," says Atchison.

He spent a month in Culver City, Calif., working for Hughes Helicopter, but returned to Texas when he decided his standard of living would have to drop considerably because of high costs in California. "I had a daughter in the fifth grade who would have had to travel 90 miles to school. Houses started at \$95,000." His wife, Jeanne, and daughter, Jennifer, had stayed behind and before long, he came home. Almost immediately, he saw an ad for work at Comanche Peak and started to work.



high, he says, since many divers couldn't take pulling body after body out of the water. He trained new divers often to replace the ones who dropped out. Friends say Atchison had the perfect personality for teaching. "He's real easy going, down to earth. In all the years I been knowing him I've never seen him get mad. Oh, maybe occasionally at his wife. He's strong willed, but he's patient. He doesn't lose his temper," says Hobbs.

Atchison left Weatherford and his job at Bell Helicopter in 1971 and spent three and a half years in the Virgin Islands teaching scuba diving and operating a dive shop.

When he returned to the U.S., he went to work for Bell Operations Corporation, teaching bonding to 102 Iranian students who had been sent by the

Atchison says he doesn't know why he lied on his educational record. Certainly, the position for which he was applying didn't require a college degree. "At the time, it didn't seem to be that big a deal," he says. "I figure probably 50 to 75 percent of applicants for jobs anywhere aren't completely truthful on their application." When he applied for the promotion, he realized he had checked "college degree" on his original personnel record. "Then it was a matter of making the transcript match the original form," says Atchison. "Of course, now the lawyers are using it to try to discredit me."

There was conflicting testimony at the licensing hearings about whether Atchison's misrepresentation of his education enabled him to qualify for promotions he would not have other-

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wise obtained. Such promotions are based on a point system combining experience and education, plant supervisors testified. Experience required for each inspection job is a function of what educational degree a worker has obtained, they said. Charles Brandt, a quality assurance supervisor at the plant, said he doubted Atchison could have become a visual inspector without the associate degree he claimed to have.

However, the supervisors were unable to come up with the specific point system or number of points Atchison would have been lacking for the job.

According to the Government Accountability Project, which has defended scores of whistle blowers across the country, such a person tends to be different from his co-workers.

"For some reason or another, he decides to do something that is not the norm. Let's face it, blowing the whistle is a non-conforming action," says Lewis Clark, executive director of the project. "Whistle blowers are people who tend to have a stronger sense of conscience. It's like they draw the line sooner than others."

Whistle blowers do often have something in their backgrounds that the nuclear industry or government can use to try to discredit them, says Clark. "The advice we give to people who are considering such a move is that if there's anything in your background that is less than perfect, it will probably come out. You are going up against people and institutions which have a direct interest in destroying your reputation," he says.

At nuclear-power plants, whistle blowers tend to be pro-nuclear. "They are also usually apolitical and have fairly conservative values. They tend to try to work within the system to correct something before going outside, as opposed to leakers who anonymously report violations without getting personally involved. Whistle blowers become completely baffled by the system they once believed in. They can't believe the massive assault on themselves when they try to correct something they see wrong."

In Atchison's case, he says he was stunned when he was told he was being fired. "I didn't have the slightest idea it was coming until they did it," he says.

A report signed by quality-control manager Gordon Purdy on the day Atchison was fired said he was discharged for "lack of ability to perform assigned tasks and follow supervisory direction."

Purdy had been following written orders from his superiors issued the same day: "Subject employee has demonstrated a lack of ability in performing assigned task, in that he refuses to limit his scope of responsibility to pipe whip restraints and insists on getting

involved in other areas outside of scope. Consequently, his services are no longer required."

The Labor Department determined that Atchison was fired for filing several non-conformance reports on possible safety problems at the plant, and that making such reports was clearly within his responsibility even if it was not within his specific inspection area.

Atchison says that in early March 1982 he was criticized by officials of the Texas Utilities Generating Co., the group of power companies in charge of the plant's construction, for "over-inspecting and witch-hunting" when he reported defects in pipe whip restraints. Although he was only supposed to examine the area an inch on either side of the weld on the plate, he noticed a defect about 18 inches from the weld and reported it.

He soon received a copy of a report written March 13 by a superior at Brown & Root, the plant's construction subcontractor, which said that inspectors "should ascertain defects in an area . . . and not beyond"

The plate was subsequently installed in the reactor, says Atchison.

On March 23, he discovered five other pipe supports with similar welding problems, he says. Some had cracks and bubbles. Others had been welded from top to bottom, instead of bottom to top, which causes weaker welds, he says. He turned in a non-conformance report on the defects. "It was totally squashed at the time," says Atchison.

Then on April 12, hours before he was fired, he turned in a final non-compliance report. Attached to the report was a note in Atchison's handwriting that said, "Open to pow-wow on subject."

Atchison's bosses later charged that he was trying to use the non-conformance report (NCR) accompanied by the note as a tool to force a raise. Atchison "gave the impression that he was willing to disregard the NCR if possible consideration would be given to his salary increase."

This, according to Chapman, overshadowed all the questions his superiors had about Atchison's competence. "The fact that he was clearly trying to arbitrate a quality matter makes it clear we can't use him at a nuclear power plant. Those matters are not subject to negotiation," says Chapman.

Atchison denies he had anything of the kind in mind by writing the note. He frequently discussed non-conformance reports with his superiors and they sometimes disagreed with his findings. He simply indicated an openness to discuss the subject, he says.

In addition to questioning his honesty, Atchison's bosses have attacked his competence. In testimony at the licensing hearings, Brandt said Atchison seemed unable to properly visually evaluate welding. "He reported accept-

able indications as rejectable, and rejectable indications he did not report," said Brandt.

Chapman points out that Atchison's "above average" evaluations were all made before he became an inspector.

However, some of Atchison's supervisors testified they did not think he should have been fired. Randy Smith, his immediate supervisor, gave that opinion, as did his former supervisor, Richard Ice, quality-control inspector of mechanical equipment, who said he would have been willing to take Atchison back on in his section.

Now the Nuclear Regulatory Commission has substantiated Atchison's charges. A report by the commission says that its own investigators found weld defects of the type mentioned by Atchison.

Clyde E. Wisner, NRC public affairs director in Arlington, says the weld problems in pipe support restraints are a "significant item" that may indicate a "breakdown" of the plant's inspection procedure for parts received from two suppliers.

Officials at the plant deny that Atchison's allegations led to the discovery of the problem. Wisner says that although the specific pipe support restraint mentioned in the NRC report is not the same one discovered by Atchison, he did charge that many welds in similar restraints were defective.

In a report based on inspections at the plant Oct. 19-20, the NRC said "numerous" weld problems were found in a massive metal frame that supports a steam pipe connecting a generator to a turbine. The frame is considered a crucial component because it is supposed to keep the pipe from rupturing in the event of an earthquake or an accident that causes abnormal vibration. Wisner said the restraint, which has 10,000 feet of welds, is the same type as the one Atchison had cited.

Company officials said the weld defects were discovered after a painter noticed a cracked weld and reported it. The NRC report doesn't vindicate Atchison, they say, because the plant's components are so large that problems are bound to be evident somewhere. "It's like me saying there are going to be deaths on the highway this weekend," says Tony Vega, a supervisor for quality assurance for the consortium of utility companies that is building Comanche Peak.

However, Juanita Ellis, president of Citizens for Sound Energy, a public interest group that participated in the licensing hearings, says the report does substantiate Atchison's testimony.

"The company doesn't want to admit that any of the allegations made by our witnesses are what have led to the findings of these significant problems," she says.

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Continued from Page 9

THE EFFECT OF CHUCK ATCHISON'S testimony before the Atomic Safety and Licensing Board went far beyond the allegations he made about flaws in pipe welds that could pose safety hazards at the plant.

He broke ground for other important testimony that followed, says Ellis. "Many, many others came forward after Chuck did," says Juanita Ellis, president of the group. "He was the first. We were going into the hearing without any witnesses before he agreed to testify. He called on the Friday before the hearings started on Monday. We ended up calling nine witnesses."

If he had it all to do over knowing the consequences, Atchison says he probably wouldn't change his actions.

"I've just got my mind made up now," he says. "I'm going to see it all the way through. They've got this country boy mad now. I've run the full gamut of emotions since I got fired. But I've got to keep on with it because we're not just talking about me. We're also talking about the others, inspectors and other kinds of whistle blowers, who come behind. I understand there are many similar cases still in the system which haven't gotten to the point my cases have. I feel a responsibility for other inspectors."

Atchison says he can understand people making mistakes during the construction of the plant. "When you're building anything, whether it's a house, or aircraft or whatever, there's always something you have to pull out and do over again. What I can't understand is why at Comanche Peak they keep trying to hide it or pull the rug over it."

The plant's construction is way behind schedule and way over budget, and Atchison believes those are the reasons for the alleged cover-up. Doing things over to get them right would take more time and money, he says. Comanche Peak was scheduled to open in 1980 at a total cost of \$779 million. Now official projections set an opening date of 1984 for the first unit and 1985 for the second, at a cost of at least \$3.44 billion. Citizens for Sound Energy project the cost at \$5 billion.

The three companies that fired Atchison are appealing the Labor Department's rulings, which order in each case that he be reinstated and awarded back pay. A win for Atchison would probably mean a large financial settlement, but he says he probably will do little better than break even.

For now, the sacrifices are great. Atchison hopes he can hold on to his home in the Fort Worth suburb of Azle until after Christmas. Then, he will have to sell it and move into a trailer.

"It's the first house we've ever owned. We've only been in it for three years and we worked for nine years to earn the money to buy it."

He is working now in quality control at an Arlington manufacturing firm, but his salary is \$7 an hour, less than half what he could earn in the nuclear industry.

Atchison isn't the only one who sacrificed to testify before the commission. Darlene Stiner, who is pregnant and still works at the plant, has been shunned by her co-workers. When she tried to catch a workers' bus from Walnut Springs, a bus she had been riding for five years, the driver told her he had no insurance for pregnant women. Workers on the bus made obscene gestures and comments. Her husband, who was fired from his job as a welder at the plant, now drives her to work.

The Stiners had taken concerns about bad welding on pipe hanger supports to the Nuclear Regulatory Commission. The couple requested anonymity, but in the NRC's second meeting with the Stiners at their home in Walnut Springs, investigators drove up to their house in a clearly marked government car. Later, an NRC investigator made a point to single Darlene out and speak to her at the plant when she was with a group of workers.

Early last summer, after they went to the NRC, Darlene said she was badly beaten in the back yard of her mobile home. She did not see her attacker. She doesn't know who he was, and there is no evidence to link the attack with the plant. But Darlene says she had no known enemies before becoming a critic of the plant's construction operation.

Others who testified are finding it impossible to get jobs in the nuclear industry, says Ellis. "Everyone who testified has sacrificed something," she says.

Atchison was asked at the hearings to describe his reasons for testifying. "The primary reason is my concern for safety and the prospects of what's going to happen if the plant breaks down or has an accident — what's going to happen to the general area where I was born and have been raised all my life. What really ticks me off is that if it was just me, it wouldn't be a problem — but when it affects my family, then it makes me mad," he said.

"Especially when you've got a 14-year-old girl who wants to quit school or at least go to work part-time because of this. My wife has had to go to the doctor to get tranquilizers to calm her nerves because of all this. All because I was doing my job the way I thought it ought to be done and because of their rush to get that damn thing on line." □

Mary Barrineau is Westward staff writer.



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CASE

(CITIZENS ASSN. FOR SOUND ENERGY)

1426 S. Polk
Dallas, Texas 75224

214/946-9446

January 11, 1983

Docketing and Service Section
Office of the Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Sir:

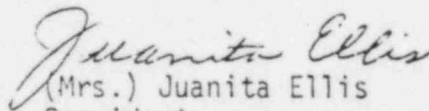
SUBJECT: Application of Texas Utilities
Generating Company, et al. for
an Operating License for
Comanche Peak Steam Electric
Station Units #1 and #2 (CPSES)

We are attaching the original signed Affidavits of Roy Keith Combs dated 1/9/83.

These were included as Attachments 5 and 6 to CASE's 1/11/83 Written Argument or Issues.

Respectfully submitted,

CASE (CITIZENS ASSOCIATION FOR SOUND ENERGY)


(Mrs.) Juanita Ellis
President

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

APPLICATION OF TEXAS UTILITIES
GENERATING COMPANY, ET AL. FOR
AN OPERATING LICENSE FOR
COMANCHE PEAK STEAM ELECTRIC
STATION UNITS #1 AND #2 (CPSES)

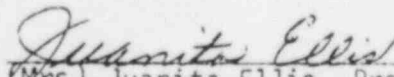
Docket Nos. 50-445
and 50-446

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of
CASE's Motion for Leave to File Response; and CASE's Written Argument on Issues

have been sent to the names listed below this 11th day of January, 1983
by: Express Mail where indicated by * and First Class Mail elsewhere.

- * Administrative Judge Marshall E. Miller
U. S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board
Washington, D. C. 20555
- * Alan S. Rosenthal, Esq., Chairman
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- * Dr. Kenneth A. McCollom, Dean
Division of Engineering, Architecture,
and Technology
Oklahoma State University
Stillwater, Oklahoma 74074
- * Dr. W. Reed Johnson, Member
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- * Dr. Richard Cole, Member
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- * Thomas S. Moore, Esq., Member
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- Nicholas S. Reynolds, Esq.
Debevoise & Liberman
1200 - 17th St., N. W.
Washington, D. C. 20036
- Atomic Safety and Licensing Appeal Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- Marjorie Ulman Rothschild, Esq.
Office of Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- Atomic Safety and Licensing Appeal Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- Docketing and Service Section
Office of the Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- * Ms. Lucinda Minton, Law Clerk
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
- David J. Preister, Esq.
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711
- Mr. John Collins, Region IV Administrator,
Arlington, TX



(Mrs) Juanita Ellis, President
CASE (Citizens Association for
Sound Energy)