

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

84 SEP 12 AM 11:11

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
TEXAS UTILITIES ELECTRIC)	Docket Nos. 50-445/2
COMPANY, <u>et al.</u>)	50-446/2
)	
(Comanche Peak Steam Electric)	(Intimidation)
Station, Units 1 and 2))	

NRC STAFF PROPOSED FINDINGS OF
FACT ON ALLEGATIONS OF INTIMIDATION,
THREATENING AND HARASSMENT OF
QUALITY CONTROL INSPECTORS AND OTHER
QUALITY ASSURANCE PERSONNEL AT
THE COMANCHE PEAK STEAM ELECTRIC STATION

Geary S. Mizuno
Richard G. Bachman
Gregory A. Berry
Counsel for NRC Staff

September 4, 1984

8409130167 840904
PDR ADOCK 05000445
G PDR

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND	1-6
III. FINDINGS OF FACT	7-127
A. MANAGEMENT COMMITMENT TO QA	7-18
B. LINDA BARNES	18
C. DENNIS CULTON	19
D. WILLIAM DUNHAM	19-27
E. MEDDIE GREGORY (WITNESS B)	28-34
F. ROBERT HAMILTON'S AND JOE KROLAK'S TERMINATION	34-41
G. FRANK HAWKINS	41-46
H. ROBERT MESSERLY	47-48
I. STANLEY MILES	48-50
J. SUE ANN NEUMEYER	51-83
K. LESTER SMITH	83
L. DARLENE STINER	83-105
M. HENRY STINER	106-113
N. ROBERT TAYLOR	113-115
O. T-SHIRT INCIDENT	116-127
P. WITNESS F	(Transmitted Separately)

OFFICE OF SECRETARY
ROBERT M. STINEBAUGH

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
TEXAS UTILITIES ELECTRIC)	Docket Nos. 50-445/2
COMPANY, <u>et al.</u>)	50-446/2
(Comanche Peak Steam Electric)	(Intimidation)
Station, Units 1 and 2))	

NRC STAFF PROPOSED FINDINGS OF
FACT ON ALLEGATIONS OF INTIMIDATION,
THREATENING AND HARASSMENT OF
QUALITY CONTROL INSPECTORS AND OTHER
QUALITY ASSURANCE PERSONNEL AT
THE COMANCHE PEAK STEAM ELECTRIC STATION

I. INTRODUCTION

These findings of fact address the issues relating to allegations of intimidation, threatening and harassment of Quality Control ("QC") inspectors and other Quality Assurance ("QA") personnel at the Comanche Peak Steam Electric Station ("CPSES"), located in Somervell County, Texas. A separate panel of Atomic Safety and Licensing Board ("Board") has been established to preside over the CPSES operating license application proceeding on all allegations of intimidation and harassment. 49 Fed. Reg. 13613 (Thursday, April 5, 1984).

II. BACKGROUND

The parties are currently litigating Contention 5, which is the only contention remaining in the proceeding. Contention 5 alleges:

The Applicants' failure to adhere to the quality assurance/quality control provisions required by the construction permits for

Comanche Peak, Units 1 and 2, and the requirements of Appendix B of 10 CFR Part 50, and the construction practices employed, specifically in regard to concrete work; mortar blocks; steel; fracture toughness testing; expansion joints; placement of the reactor vessel for Unit 2; welding; inspection and testing; materials used; craft labor qualifications and working conditions (as they may affect QA/QC and training and organization of QA/QC personnel, have raised substantial questions as to the adequacy of the construction of the facility. As a result, the Commission cannot make the findings required by 10 CFR § 50.47(a) necessary for issuance of an operating license for Comanche Peak.

The Board has determined that in order to resolve Contention 5, it must address and resolve CASE's allegations of intimidation and harassment. See Memorandum and Order (Procedure Concerning Quality Assurance) (October 25, 1983); Memorandum and Order (Additional Scheduling Order) (January 3, 1984); Memorandum (Clarification of Open Issues) (March 15, 1984).

Following the filing by Applicants and CASE of their proposed schedules and procedures for litigating the allegations of intimidation,^{1/} and oral arguments by all parties at a prehearing conferences,^{2/} the Board directed that CASE file by June 25, 1984 (subsequently changed to June 27, 1984) a list of all witnesses that CASE intended to call, together with a summary of the specific incidents of intimidation that the witnesses were expected to testify to. The Board also adopted a schedule calling for depositions to begin on July 2 and ending on September 2, 1984 with hearings to commence

^{1/} See Applicants' Proposed Schedule for Litigation of Remaining Issues and Filing of Proposed Findings (May 18, 1984); CASE's Proposed Schedule and Procedures for Resolution of Harassment and Intimidation Issued (June 1, 1984); Applicants' Response to CASE's Proposed Schedule and Procedures Regarding Intimidation Issue (June 11, 1984)

^{2/} June 14, 1984 (Tr. 13,868-14,000).

three weeks later on September 24, 1984. (Tr. 14,044). The Board held a second prehearing conference by telephone on June 28, 1984 (Tr. B, 598B-679B), wherein the Board directed that seven simultaneous daily depositions be conducted over two weeks commencing July 9, 1984, and that Applicants rebuttal be presented on the week commencing July 30, 1984. A date of August 20, 1984, was set for the filing of proposed findings, and a hearing on intimidation was scheduled to commence on August 27, 1984. (Tr. 13,655B-656B).

On June 27, 1984, CASE submitted a list of witnesses that it wished to depose. Letter from Billie Garde, Trial Lawyers for Public Justice, to Leonard Belter (June 27, 1984). A telephonic prehearing conference was held on July 2, 1984 during which, inter alia, both Applicants and Staff argued that CASE's submittal regarding the identification of witnesses and issues to be covered in the depositions was inadequate. (July 2, 1984, Tr. 13,698-13,786). While the Board stated its disappointment that CASE's submittal did not comply with the Board's expectation that CASE provide a summary of the specific incidents about which each witness would testify in sufficient detail to assist Applicants and Staff in preparing for the depositions, (Tr. 13,686), the Board determined to have the deposition commence July 9, 1984 as previously scheduled rather than the alternative of reordering the case, proceeding with discovery and conducting a more traditional hearing at a later date. (Tr. 13,787-88). The Board considered that the principal purpose of the depositions to be taken commencing July 9, 1984 was evidentiary in nature. In that regard, the Board stated the depositions were a substitute for

the oral testimony, or at least a portion of the oral testimony, that would be taken at a hearing. As such, the Board ordered that the depositions be taken for the Board. (Tr. 13,790-92).

To aid the Board in assessing the evidence to be developed on intimidation and harassment, the Board requested the Applicants to file a written brief on the appropriate standard to be used in adjudging the evidence on intimidation. The other parties were afforded the opportunity to comment on the Applicants' proposed standard, and to provide their own views on the standard which should be applied in adjudicating the intimidation issue. All parties filed written briefs setting forth their proposed standard.^{3/} After oral argument at the June 14, 1984 prehearing conference,^{4/} the Board provided the following guidance to the parties, viz.:

The burden of going forward rests on CASE. It must show that management was aware of incidents or actions that might have been interpreted by workers as a discouragement to the proper reporting of deficiencies in the QC program. At that point the burden shifts and Applicant must show that it has responded reasonably to the information available to it in light of the requirements of Appendix B.

(Tr. 13,939). The Board reiterated during the July 2, 1984 telephone conference call that its June 14, 1984 guidance would be the appropriate guidance for the conduct of the evidentiary depositions. (Tr. 13,738-39).

^{3/} Applicants' Proposed Standard for Litigating Allegations of Intimidation (May 8, 1984); CASE's Proposed Standard for Litigating Allegations of Intimidation (June 12, 1984); NRC Staff's Proposed Standard for Litigating Allegations of Intimidation (June 12, 1984).

^{4/} Tr. 13,876-13939.

The Board also stated (Tr. 13,738-40) that the intimidation and harassment of craft personnel would not be admissible at this time in the proceeding, consistent with its earlier ruling at the June 14, 1983 prehearing conference. (Tr. 13,919-22).

The Board and parties are aware that the NRC Office of Investigation ("OI") have been conducting a number of investigations relating to intimidation and harassment at CPSES; some of those investigations have been completed and have been furnished to the Board and parties.^{5/} The Staff has also informed the Board and parties that a Technical Review Team ("TRT") under the direction of Mr. Thomas Ippolito (who has been assigned by NRC Executive Director for operations to head the NRC Task Force on CPSES) is currently engaged in a wide-ranging inspection effort at the CPSES site. (See, e.g., Tr. 13,605-06; 14,070-71). Most recently at the August 27, 1984 prehearing conference, the Staff advised the Board and parties that Mr. Ippolito has retained consultants to review the record on intimidation. (Tr. 14,072-73). Finally, the Staff informed the Board and parties in the spring of 1984 that Brookhaven National Laboratories has been retained by the NRC to investigate technical concerns relating to protective coatings at CPSES. All of these Staff efforts may result in significant information on the issue of intimidation and harassment at CPSES. Clearly, the OI reports are relevant to the issue. The Staff's technical review teams' ongoing efforts, which

^{5/} OI Investigating Reports 4-83-001 (August 24, 1983) 4-83-013 (November 3, 1983) 4-84-006 (March 7, 1984)

are principally focused on a technical review of the plant but also focused in part upon similar allegations raised in the evidentiary depositions on intimidation, will not be completed until early October, 1984. Accordingly, the Staff's proposed findings summarize the evidence generated to date on intimidation, but do not come to any conclusions. The Staff's overall assessment on this issue will be made once the Staff has completed its inquiry into the allegations on intimidation and the related technical concerns. The Board has requested the Staff's representation as to the importance of the information being developed by the Staff with regard to the adequacy of the record on the intimidation issue (Tr. 14,094, 14,101-102).

III. FINDINGS OF FACT

III.A. MANAGEMENT COMMITMENT TO QA

III.A.1. Applicants state that throughout the life of the CPSES project, they have placed a high priority on building a safe nuclear power plant and ensuring that quality assurance personnel not be harassed or intimidated. This commitment extends from the Applicants' senior management down through the on-site personnel. (See, e.g., Tr. 48,525 (Brittain); Tr. 48,006; 48,033; 48,042-43; (Spence); Tr. 60,073 (Clements); Tr. 46,132-136 (Fikar); Tr. 40,536-40 (Tolson); Tr. 35,588-89 (Chapman)).

III.A.2. In the course of preparing its application for a construction permit for CPSES, Perry G. Brittain, currently Chairman of the Board and Chief Executive Officer of the parent Texas Utilities Company, but then president of Texas Utilities Services, Inc. ("TUSI"), stated that he realized that "quality in general was a vital issue." Tr. 48,515 (Brittain). Consequently, Mr. Brittain directed that Applicants' quality assurance program be designed to ensure that the independence of the Quality Control/Quality Assurance ("QA/QC") Department not be compromised (in fact or appearance) by being placed in a position subordinate to those directly responsible for constructing the plant. Tr. 48,517. This was achieved by having the QA/QC Department report directly to the Mr. Brittain, the president of the company. Tr. 48,516.

III.A.3. This relationship continued in effect until about the middle part of 1976, when Mr. Brittain was elected Executive Vice President of the Texas Utilities Company and President of three of the company's subsidiaries.

Tr. 48,517. Because of this "substantial broadening" of responsibilities, Mr. Brittain concluded that it was no longer feasible for him to devote the time and attention necessary to QA/QC at CPSES. Id. Oversight responsibility therefore was delegated to the Executive Vice President and General Manager of TUGCO, who at that time was Robert Gary. (Tr. 48,517, 48,526). Mr. Brittain stated that the decision was made to have QA/QC report to TUGCO, the system's operating company, rather than TUSI, its engineering and construction subsidiary, in order to maintain the QA/QC Department's "independence of perspective" and to keep it insulated from cost and scheduling considerations. Id.

III.A.4. Although TUGCO later assumed construction responsibility for CPSES, see Tr. 48,016 (Spence), Applicants assert that the separation of the construction and quality assurance functions was preserved. CPSES construction personnel currently report to Louis Fikar, the Executive Vice-President of Texas Utilities Services Construction, see Tr. 40,010-12 (Fikar), while jurisdiction over the QA/QC programs is lodged in TUGCO's Vice-President (Nuclear), Billy Ray Clements. (Clements, Tr. 40,014-016). Both Mr. Fikar and Mr. Clements report to Michael D. Spence, the president of TUGCO. (Spence, Tr. 40,064; Clements, Tr. 40,014; Fikar, Tr. 46,013).

III.A.5. According to Mr. Brittain, Applicants' longstanding commitment to quality assurance encompasses the right of quality control inspectors to be free from fear, intimidation, or harassment, (Brittain Tr. 48,519), and its policy in this regard "is well known throughout the management organization." Id. This view is shared by other members of TUGCO's senior management team. (See Spence, Tr. 48,042); Clements, Tr. 60,073; Chapman, Tr. 35,588-589; Tolson, Tr. 40,536-40).

III.A.6. Applicants' witnesses testified that Applicants have undertaken various initiatives over the years to ensure that QC inspectors are not discouraged from reporting non-conforming conditions or otherwise hampered in discharging their assigned duties. For example, in 1979, Ronald D. Tolson, Quality Assurance Site Manager, at that time the ranking QA officer at CPSES, commissioned a Management Review Board ("MRB") to conduct a survey of the CPSES quality assurance work force to determine whether there was a "morale problem or potential morale problem" at CPSES. (Tolson, Tr. 40,511-512). The survey was commissioned in response to indications Mr. Tolson had received from some of his subordinates that "there was some unrest among the people." (Tolson, Tr. 40,511). The purpose of the MRB was "to have a group of people that are not part of the supervisory chain sit and calmly extract, from the minds of the [QC inspectors], information" that would enable Mr. Tolson to understand and respond to their concerns. (Tr. 40,512). MRB members interviewed approximately 150-200 QC inspectors in order to determine their attitudes on a wide range of subject including compensation, working conditions, and their relations with supervisory and craft personnel. As a survey of a given QC discipline, (e.g., electrical, painting) was completed, typed summaries were prepared by the MRB and submitted to Mr. Tolson and David Chapman, TUGCO QA manager. See e.g., Purdy Ex. 42-2.^{6/} After reviewing

^{6/} The process of conducting the MRB survey interviews, and how the interview summaries (Purdy Exhibit 42-2) were prepared is described in greater detail in the joint deposition of Debra Anderson, Susan Spencer, and Albert Boren (July 31, 1984), Tr. 72,500 et seq.

these summaries and consulting with his staff members and Mr. Chapman, Mr. Tolson would formulate a "plan of attack" to address "the significant issues raised in the survey." Tr. 40,578 (Tolson).

III.A.7. In the course of its survey, the MRE learned and reported to Messrs. Tolson and Chapman that on one occasion, a craftsman grabbed a female quality control inspector by the collar in an effort to discourage her from reporting a non-conforming conditions. (See Chapman, Tr. 35,616-35; Spencer, Tr. 62,509-510). After this incident was brought to his attention, Mr. Chapman, TUGCO's senior quality assurance officer, paid a visit to CPSES to meet personally with the quality control inspector. (Tr. 35,616). After speaking with the quality inspector, Mr. Chapman told her that he was determined to see that the offending craftsman was discharged. (Tr. 35,617). According to Mr. Chapman, the inspector asked him not to have the person fired. Id. The inspector said the craftsman recognized that he was wrong to react the way he had and she was sure he would not ever mistreat her again. Id. Mr. Chapman said that he told her he was determined to see that the craftsman was put "out the gate," id., unless the inspector "could convince [him] that that shouldn't happen." Id. Mr. Chapman said the inspector again "insisted at length that she didn't want [the craftsman] to lose his job," id., that nothing like that had happened before or since, and that she would be satisfied "if somebody would just get with him and fix him and tell him to treat her like he does anybody else." (Tr. 35,618). Mr. Chapman acceded to her request because the incident was not widely known around the site, and only on condition that relations between the inspector and the craftsman were harmonious when he returned for a follow-up visit a few weeks later.

Id. The offending craftsman was counseled by his supervisors to treat the inspector with respect and warned that "if he ever so much as look[ed] cross-eyed at [her] again" he was "going out the gate," (i.e., terminated). (Tr. 35,619).

III.A.8. Mr. Chapman stated that had the incident been known widely among the CPSES workforce, the craftsman would have been terminated no matter how impassioned the inspector's protest because to do otherwise could create the mistaken impression that harassment or intimidation of quality control personnel was not viewed by the company as a as a serious offense. (Chapman, Tr. 35,618). Since the only person aware of the incident was the inspector's friend, Tr. 35,618, Mr. Chapman was satisfied that knowledge of the incident would not become widespread. (See Tr. 35,618).

III.A.9. Additional evidence provided by Applicants' as to management's commitment toward a strong and effective quality assurance program is illustrated by testimony concerning another survey of the non-ASME quality assurance workforce administered during the middle part of 1983 under the direction of C. Thomas Brandt, non-ASME Site Quality Assurance Supervisor ("Brandt Survey"), (Brandt, Tr. 45,095-107). Unlike the Management Review Board's survey which utilized personal interviews, the Brandt Survey was in the form of a written questionnaire. This approach had the advantage of affording respondents the opportunity to voice anonymously any concerns, questions, or complaints they had about working conditions, procedures, supervisors, or any other subject of interest to them. (Tr. 45,096).

III.A.10. Construction personnel ("craft") were apprised regularly of the importance management placed upon a strong quality assurance program. (See, e.g., Callicutt, Tr. 38,063); Liford, Tr. 38,149-153). Mr. Callicutt,

General Superintendent for Mechanical/Piping, and Mr. Liford, Mr. Callicutt's Assistant General Superintendent, each stated that craft was advised in the course of regularly scheduled superintendent's meetings by Doug Frankum, CPSES Project Manager, that the company would not tolerate harassment or intimidation of quality assurance inspectors by craft personnel. (Callicutt, Tr. 38,063; Liford, Tr. 38,150). According to Messrs. Liford and Callicutt, all of the superintendents (approximately 20-25) were required to attend superintendents meetings, (Liford, Tr. 38,150), and it was their responsibility to ensure that the craftspersons under their command understood that harassment or intimidation was grounds for termination. (See Liford, Tr. 38,150).

III.A.11. In the fall of 1983, Applicants stated that they became aware of a need for a stronger expression of the Applicants' policy against harassment and intimidation of quality assurance in the wake of the publicity generated by the Charles Atchison proceeding. (See Clements, Tr. 40,029; Spence, Tr. 48,044). Accordingly, Applicants adopted an "8-point program" to reaffirm its position quality assurance, including its policy against on harassment and intimidation. (See Clements, Tr. 40,029).

III.A.12. Billy Ray Clements, TUGCO Vice-President (Nuclear), and the company official with ultimate responsibility for QA matters, oversaw the development and implementation of the 8-point program. (Clements, Tr. 48,033). Mr. Clements was assisted in developing the 8-point program by Lisa Bielfeldt, David Pendleton, Gil Keely, David Chapman, Ray Yockey and Ronald Tolson. (Clements, Tr. 40,034).

III.A.13. The eight steps taken by Applicants to reaffirm its commitment an to an effective QA program included: (i) creating an audiovisual

slide presentation entitled "Quality: It's Your Job", (Clements, Tr. 60,004; Ex. 1); (ii) convening all of Brown & Root's foreman assigned to CPSES for a showing of the audiovisual, Tr. 60,008; (iii) meetings with quality assurance personnel to impress upon them TUGCO's view that they had the responsibility, as well as the authority, to report non-conforming conditions at CPSES, Tr. 60,009; (iv) installing of a toll-free 24 hour "Hotline" to which any person could report anonymously problems or concerns of any kind at CPSES, (Tr. 60,010, Clements Ex. 2); (v) notifying employees personally by means of a letter from TUGCO President Michael D. Spence inserted in their paychecks reminding them of their right to report problems at CPSES, (Tr. 60,015); (vi) posting signs throughout the facility advertising the hotline telephone number and emphasizing the company's commitment to quality, (Tr. 60,016); (vii) referral to the CPSES Ombudsman any problems or concerns raised by an employee in the course of his exit interview, (Tr. 60,017); and (viii) holding in-house training seminars for CPSES quality assurance management to apprise them of their duties and responsibilities under the federal labor and atomic energy laws. (Tr. 60,017).

III.A.14. The audiovisual slide presentation was prepared by an outside firm specializing in communication working closely with two TUGCO engineers, Lisa Bielfeldt and David Pendleton. (Clements, Tr. 60,027-28). The dominant theme of the presentation, which is approximately 12 minutes in length, is to impress upon the viewer the idea that each CPSES employee, QA/QC as well as craft, has an important role to play in building a safe plant of the highest quality. (See Clements Ex. 1). A significant portion of the presentation deals with quality assurance and quality control. For example, the craft viewers are told that QC inspectors "are doing their

job, just as you [craftspersons] are doing yours. Both construction and inspection are absolutely necessary to the completion of a quality plant. Cooperation between the crafts and quality assurance is expected. Harassment or "bullying" between craftsmen and inspectors will not be tolerated by management." (Clements Ex. 1 at 4). At another point, QC viewers are advised that if you "find something you think is wrong, the way to report it can be found in your procedures," and failing that to "use the hotline to call TUGCO management" or "contact the NRC." (Id. at 5). QA personnel are reminded that they "may report any concern [they] may have without fear of retribution." (Id.).

III.A.15. The slide presentation was first shown to a gathering of all of Brown & Root's foremen (between 50-65) assigned to the CPSES facility. (Clements, Tr. 60,008). Mr. Clements, and the foremen, also in attendance at that meeting was Brown & Root's construction manager and one of its vice-presidents. (Id.). Before the audiovisual was shown to the foremen, Mr. Clements addressed the assembly and made clear to the foremen that the views expressed in the slide presentation represented the views of TUGCO and Brown & Root management. (Id. at 60,008-009). Mr. Clements also told the foremen that the audiovisual was going to be seen by "everyone at the plant site" and that he expected them to send their employees to the viewing "in the proper frame of mind to see the audiovisual and to show that they [construction management] were backing this program." (Tr. 60,008).

III.A.16. In addition to the Brown & Root foreman and craftpersons, the audiovisual was shown to the entire QA workforce. (Clements, Tr. 60,008). The audiovisual presentation was shown in connection with a

series of meetings convened by QA management for the express purpose of emphasizing to QC inspectors that it was their right and responsibility to make known problems at CPSES to Brown & Root, TUGCO, the NRC, or each of them. (Tr. 60,009-10).

III.A.17. Another measure taken by the Applicant to demonstrate its commitment to quality was the establishment on October 4, 1983, of a toll-free 24-hour Quality hotline telephone number. (Clements, Tr. 60,010). The hotline was established "to encourage the reporting of quality concerns and the timely investigation and resolution of those concerns." (Clements Ex. 2 at 1). Mr. J. S. Farrington, President of Texas Utilities Company, stated in his order establishing the hotline program that "[t]he Hot Line Program has an important role in corporate efforts to reemphasize the importance of quality in construction, inspection, testing, and operations of CPSES and to enhance our implementation of the Corporate Quality Assurance Program." (Clements Ex. 2 at 2).

III.A.18. The hotline was placed in the office of the Director of Corporate Security to provide "the desired independence from the nuclear organization." (Id. at 1). The Director of Corporate Security was charged with the responsibility for (1) establishing a procedure for receiving calls from concerned persons; (ii) documenting all allegations and, if appropriate, conducting an investigation; (iii) maintaining records regarding the disposition of each allegation received; (iv) notifying TUGCO's Vice President (Nuclear), Mr. Clements, of the allegations received, the status of on-going investigations, and the final disposition of each investigation. (Id.). In the event that the Vice-President (Nuclear) is the subject of an allegation, the Director of Corporate Security is to report

to his superior, TUGCO's Executive Vice-President. (Id.). The Director of Corporate Security was authorized to obtain the necessary technical assistance to support any investigation of a hotline complaint. (Id.).

III.A.19. Persons availing themselves of the hotline are not required to reveal their identities. (See Spence Exs. 3-4; Clements, Tr. 60,066). If they do so, however, the Director of Corporate Security will notify them after the investigation is completed and inform them of his findings and the actions taken in response to their concern. (Clements, Tr. 60,066).

III.A.20. The hotline program is promoted widely at CPSES. For example, in October 1983, and again in May 1984, a letter from TUGCO president Michael D. Spence was enclosed in the pay envelopes of all CPSES personnel. (See Spence Ex. 4; Spence Ex. 5; Clements, Tr. 60,016; Spence, Tr. 48,056). In these notes, each employee was informed by Mr. Spence that "quality concerns are important" to TUGCO (Spence Ex. 4 at 2), and that TUGCO "want[s] to know if you have any concerns about CPSES's quality or ability to operate safely." (Id.). Employees were encouraged to express their concerns by calling the Quality Hotline or writing the Director of Corporate Security. (Id.). Mr. Spence also assured employees that their concerns would be "received without action taken against you for reporting them." (Id.). The Hot Line Program also is prominently displayed on large posters and "road banners" throughout the plant. (Clements, Tr. 60,016-017).

III.A.21. In conjunction with the measures discussed above, Applicants also adopted a policy of referring to the CPSES Ombudsman any concern or problems expressed by any employee during the course of an exit interview. (Clements, Tr. 60,017). The CPSES Ombudsman is Boyce Grier, a former

Director of the Nuclear Regulatory Commission's Region I office, and a person with considerable experience in the construction, inspection, and regulation of nuclear power facilities. (See Tr. 45,507; Grier Ex. 42-1). The office of CPSES Ombudsman was established by Applicants as part of the effort to provide quality assurance inspectors an additional independent path to express their concerns" to someone experienced in quality inspection, but independent of QA management. (Spence, Tr. 48,060). In addition to concerns and problems expressed in exit interviews, Mr. Grier investigates concerns brought to him directly by QC inspectors, or referred to him by QA management. (Grier, Tr. 45,512-513; Clements, Tr. 40,078). Upon completing his investigation, Mr. Grier submits his findings to Antonio Vega, Quality Assurance Site Manager, a written report containing his findings and recommendations. (Grier, Tr. 45,517). To date, Applicants have never disregarded or failed to implement any of Mr. Grier's recommendations. (Grier, Tr. 45,613).

III.A.22. Applicants acknowledge that the "8-point" program is not designed or intended to be applied in specific cases of alleged harassment or intimidation but rather "to give better visibility" to the QA program in place at CPSES. (Clements, Tr. 60,072). Applicants assert, nonetheless, that employees at CPSES are well aware that Applicants will not tolerate harassment, intimidation, or threats on the part of any employee. Applicants' policy in this regard is stated in a December 20, 1983 memorandum from Michael D. Spence to all persons employed at CPSES:

All personnel assigned to the Comanche Peak Project, whether employed by the Texas Utilities System or contractors, are expected to conduct their activities in a professional manner. Accordingly, acts of intimidation, harassment or threats on the part of

construction, Quality Assurance/Quality Control or any other functional organization personnel, will not be tolerated. Personnel engaging in acts of intimidation, harassment or threats shall be subject to disciplinary action including termination. The appropriate level of disciplinary action will be determined on an individual case basis.

(Spence Ex. 2).

III.B. LINDA BARNES

III.B.1. Ms. Barnes testified about three incidents of alleged harassment and intimidation. (Barnes at 59,004). The three incidents were: (1) the "Stanford incident" (Id. at 59,005);^{7/} (2) the "disk incident" (Id. at 59,012).^{8/} and (3) the "procedures incident" (Id. at 59,017).^{9/}

^{7/} Ms. Barnes' testimony concerning the "Stanford incident" is subsumed in the Staff's findings on Ms. Sue Ann Neumeyer and will not be dealt with here.

^{8/} It was the Staff's understanding that Meddie Gregory would testify as the primary witness on the disk incident, and that Ms. Barnes' testimony would be in the nature of corroboration. See, e.g., CASE's statement on the scope of Linda Barnes' testimony, attached to CASE's June 27, 1984 letter to Leonard Belter. However, Ms. Gregory did not testify about the disk incident during her depositions on July 17 and July 31, 1984. In fact, at the close of the July 17, 1984 evidentiary deposition, counsel for Intervenors stated quite clearly that he had finished presenting Intervenors' direct case as far as Ms. Gregory was concerned, and did not intend to offer her affidavits into evidence. Gregory, Tr. 54,588. Accordingly, the Staff concludes that CASE has abandoned this issue.

^{9/} Testimony on this incident, involving QA/QC procedures, was withdrawn by Intervenors during the deposition. (Id. at 59,079). The parties stipulated that the matter was no longer an issue in this proceeding. (Id.).

III.C. DENNIS CULTON

III.C.1. Mr. Culton was an electrical helper and draftsman at CPSES. (D. Culton, Tr. 58,523). The gist of Mr. Culton's complaint was that he was intimidated by the NRC in an interview with Messrs. Robert Stewart, Dan Tomlinson, and Richard Herr. In particular, Mr. Culton believes that the NRC had a "Gestapo attitude" (Tr. 58,514-22; 58,537-51), and that Mr. Stewart was not sincerely interested in the information that Mr. Culton could provide. (D. Culton, Tr. 58,519-22; 58,526-30; 58,557-61; 58,566-77).

III.C.2. Following the Board's review of: (1) Mr. Culton's July 25, 1984 deposition, (2) an informal transcript of the NRC interview of him, and (3) a tape recording of the NRC interview, the Board concluded that Mr. Culton could not reasonably have been intimidated or harassed by the NRC, and that the Staff acted reasonably by trying to obtain detailed information on Mr. Culton's concerns during the interview.

III.D.1. WILLIAM A. DUNHAM

III.D.1. William A. Dunham, a former employee of Brown & Root, Inc., was the Lead QC Inspector in the protective coatings backfit inspection program at CPSES.^{10/}

^{10/} Mr. Dunham brought an action before the United States Department of Labor ("DOL") against Brown & Root, claiming he was terminated after raising concerns with higher level supervisors and the Nuclear Regulatory Commission ("NRC") that QC Inspectors were being harassed and intimidated to accept nonconformances and that his termination was a

III.D.2. Mr. Dunham had been employed by Brown & Root since April 18, 1979 and was assigned to Comanche Peak from November 1981 until August 26, 1983, the date of his termination. (DOL Tr., at 26-28 (Dunham)).

Mr. Dunham explained that coatings are protective paints applied to concrete and steel surfaces for decontamination purposes in a nuclear power plant and are safety-related since they remain in place in the event of a major nuclear accident. (DOL Tr. at 32-37 (Dunham)). Mr. Dunham was a QC inspector in protective coatings upon arrival at Comanche Peak and was promoted to Lead Inspector of backfit coatings in January 1983. (DOL Tr., at 43 (Dunham)). As lead inspector, Dunham was the first line supervisor of the QC inspectors. He assigned the inspections to the inspectors, received documentation of inspection results, and listened to any complaints raised by these inspectors. (DOL Tr., at 55 (Dunham)).

III.D.3. In January 1983, the QC inspectors under Dunham's supervision came to him and complained of harassment, threats and intimidation by

10/ (FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

result of a conspiracy by management and supervisors at the Comanche Peak site. The respondent, Brown & Root, claimed Mr. Dunham was terminated for insubordination and his disruptive and unprofessional conduct in meetings where changes in specifications of protective coatings were being discussed by engineering, craft, inspectors and supervisors at the Comanche Peak site. The hearing concerning this matter was held in Fort Worth, Texas, in the Bankruptcy Courtroom, United States Courthouse, before the Honorable Robert Feldman, Administrative Law Judge, on February 13 and 14, 1984.

The parties agreed informally that, inter alia, Mr. Dunham's DCL testimony would constitute his testimony in this proceeding. However, the parties have not yet agreed upon a stipulation embodying that informal agreement.

Mr. Harry Williams,^{11/} who was Mr. Dunham's direct supervisor. (DOL Tr., at 44, 51 (Dunham)). Specifically, these QC inspectors claimed that Mr. Williams intimidated them into overlooking defects and accepting substandard work, and that Williams opposed all rejections of unsatisfactory work, especially in areas designated by construction as needing immediate approval. Mr. Dunham said he went to Mr. Williams and expressed his concern about the harassment, but when Williams took no action, he filed a complaint with the NRC in January 1983. (DOL Tr., at 44-46, 54 (Dunham)). As a result of Dunham's complaint, the NRC conducted an investigation from January-August 1983.^{12/} (DOL Tr., at 47 (Dunham)).

III.D.4. Mr. Dunham testified that he approached Brown & Root management about the harassment issue in July 1983. He went to see Mr. Gordon Purdy to explain what was going on, and to seek a transfer in an attempt to get away from Mr. Williams and to get into a less troubled organization. (DOL Tr., at 55-56 (Dunham)). Dunham claims that he asked Purdy that his name be kept confidential, but about an hour and a half after their meeting Mr. Williams came to Dunham and told him that Mr. Ron Tolson wanted to see him immediately. Mr. Dunham went to see Mr. Tolson. Also at that meeting were Mr. Purdy and Mr. Brandt,^{13/} who was Mr. Williams' direct

^{11/} Mr. Williams was an employee of Gibbs and Hill at that time.

^{12/} The NRC's investigation of Mr. Dunham's complaint is set forth in the NRC Office of Investigation ("OI") Report 4-83-001 (August 24, 1983). Copies of this Report, in redacted form, have been provided to the Board and parties. In addition, an unredacted version was provided to the Board.

^{13/} Dunham stated that he had not gone to Brandt earlier because he was afraid to go to Brandt directly, since he felt that Brandt had fired Charles Atchison for reporting quality problems. (DOL Tr., pp. 57-58).

supervisor and who worked for Ebasco Services, the prime contractor at Comanche Peak. Dunham testified that during this meeting, they discussed his concerns with intimidation and harassment by Harry Williams. Messrs. Tolson, Brandt and Purdy told Dunham they would look into the problems. Dunham indicated that subsequent to this meeting there was no change in the level of complaints from other inspectors about harassment, threats and intimidation and that as the construction got "tighter", these threats increased. (DOL Tr., at 57-58 (Dunham)).

III.D.5. Dunham described another meeting he had with Tolson and other management officials concerning a QC inspector, Mr. Walter Elliot. According to Dunham, the purpose of this meeting was to decide if Mr. Elliot should be fired for writing nonconformance reports (NCRs). Dunham felt it was through his efforts that Elliot was not discharged. In August 1983, there was another meeting where management announced a new phase of construction to the supervisors and craft and told them to forget about difficulties in the past. Subsequent to that meeting, Dunham met with Curly Krisher, a quality engineer supervisor and asked if this meant an end to the harassment, threats and intimidation, citing some examples. Mr. Dunham stated that Tom Miller, another QC inspector, heard his name mentioned, joined in the conversation and also voiced his complaint to Mr. Krisher. (DOL Tr., at 66-69 (Dunham)).

III.D.6. Following Mr. Dunham's conversation with Krisher, there was an informal meeting, on August 24, 1983, attended by supervisors and QC inspectors, where two corrosion engineers presented changes in the specifications of the coatings program which were to be implemented in the near future and received comments and questions concerning them. Mr. Dunham

testified that he raised some concerns as to his job functions as a QC Coatings inspector, and regarding the harassment and intimidation. (DOL Tr., at 70-75 (Dunham)). He admitted to raising his voice, not because he was upset, but only to be heard above the noise at the meeting which was informal. (DOL Tr., at 179 (Dunham)). Walter T. Elliott, Jr. and Noah Jerry Artrip, two other QC inspectors, testified that they were at the August 24, 1983 meeting, and testified that Dunham did not dominate the meeting, was not rude or obnoxious, and did not appear unprofessional or set a bad example as a QC inspector by his conduct. (DOL Tr., at 230, 238-39 (Elliott, Artrip)). Mr. Elliott also testified that he received pressure from Harry Williams in July 1983 to stop causing problems by writing nonconformances. He was also called into Tolson's office where he tried to explain his reasons behind writing NCRs. Elliott testified that he attempted to explain that certain conditions could not be reported on unsatisfactory inspection reports because they were violations of hold points. He indicated that the coatings were not backfitted when construction applied additional coatings and applied them without QC inspection of ongoing work. Since there was no repair procedure for coatings being applied without backfit inspections, Elliott concluded that the condition had to be reported as an NCR. (DOL Tr., at 234-35 (Elliott)). According to Elliott, he was rudely interrupted by Tolson and profanely admonished for writing NCRs instead of unsatisfactory inspection reports, and testified that he was not sure of his job status when he left Tolson's office. (DOL Tr., at 222-226 (Elliott)).

III.D.7. On August 26, 1983, Dunham was informed by Evert Mouser, the Lead Inspector of the Ongoing Section of the Coatings Department, to be in

Purdy's office for a 4:30 p.m. meeting. At this meeting, Purdy gave Dunham a letter which Dunham feels was highly derogatory to the quantity and quality of his own work, suggested that he was disruptive to an already sensitive organization, that he was rude and obnoxious during the August 24, 1983 meeting, and that he dominated the meeting to the extent that other QC inspectors were not able to ask questions. It also said that any further demonstrations of a negative attitude would be cause for immediate termination and that on several previous occasions he had expressed a lack of confidence in QA/QC management. When Dunham refused to sign the letter and asked to be walked to the gate, Dunham testified that Purdy became upset, left the room and phoned someone. After this occurred, Dunham indicated he went to his office to collect his personal belongings and then went to the Time Office to pick up his final check as he had been terminated in about 15 minutes. (DOL Tr., at 76-79 (Dunham)).

III.D.8. Mr. Dunham stated that he felt he was terminated for bringing QC problems to light, including harassment and intimidation, and because he went to the NRC with his complaint. Dunham believes management knew that he had gone to the NRC. (DOL Tr., at 138-140, 142-144 (Dunham)).

III.D.9. In responding to these allegations, Brown & Root claimed that Dunham had embarrassed both the client and its consultants by his disruptive conduct at the August 24th meeting, that he repeatedly asked to be terminated in the counseling session two days later in Purdy's office, and because of his negative attitude about QC management and supervision. (See DOL Tr., at 330-332 (Mouser)). Brown & Root presented Messrs. Mouser, Krisher, Purdy and Brandt as witnesses who testified that Mr. Dunham was disruptive at the August 24th meeting and prevented the meeting from

accomplishing its intended purpose. (See DOL Tr., 327-333, 377-380, 424 (Mouser, Krisher, Purdy)). Applicants also established in cross-examination that Dunham was convicted for second degree burglary in 1973, served a one-year prison term in the Oklahoma State Reformatory, and was released in February 1974. Dunham also admitted that he was arrested in 1978 for breaking and entering and received a six-month suspended sentence. (DOL Tr., at 106-111 (Dunham)).

III.D.10. During the evidentiary depositions in this proceeding, Applicants presented further testimony on circumstances surrounding Mr. Dunham's termination: Deposition of Gordon Raymond Purdy; July 10, 1984 (41,000-272); ("Purdy"); Deposition of C. Thomas Brandt; July 11, 1984 (45,000-238); ("Brandt"); Deposition of Myron G. "Curly" Krisher (37,000-138); July 9, 1984; ("Krisher").

III.D.11. Krisher, QC supervisor of the reactor building at CPSES, testified that his first knowledge of Dunham was at a meeting called by project management on August 18, 1983 to discuss upcoming changes in the protective coatings program. (Krisher at 37,011). Krisher was representing Tolson at the meeting. (Id.). After that meeting, Dunham told Krisher that protective coatings applicators, their foremen and/or supervisors were threatening, harassing or intimidating the inspectors. (Id. at 37,021). Krisher stated that Dunham would not mention specific examples when asked to provide specific information. (Id. at 37,024). According to Krisher, if Dunham had given him specifics he would have taken it to Brandt and Tolson after doing a preliminary investigation. (Id. at 37,027-028).

III.D.12. On August 24, 1983, Krisher attended a meeting called by Brandt to have two engineers, who were employed by EBASCO and who were involved in the review of the coatings program, meet with the inspectors relative to upcoming changes in the program. (Id. at 37,044-045; Brandt at 45,196). Krisher testified that Dunham attended the meeting and made fun of the changes, stating that the problems with the program were the result of inexperienced applicators. (Krisher at 37,050). He also stated that Dunham dominated the entire conversation, and interrupted every statement made by either of the two engineers. (Id.). According to Krisher, with only two exceptions, Dunham interrupted all other inspectors, "took command of the situation and became the focal point at which the information had to pass through or around in order for anyone else to participate." (Id. at 37,053).

III.D.13. Krisher reported back to Brandt that Dunham had been disruptive and there was a problem with his attitude and behavior towards the changes. (Krisher at 37,054-055; Brandt at 45,197). The matter was then discussed among Krisher, Brandt and Purdy. (Krisher at 37,057; Purdy at 41,248). Purdy was there because although Brown & Root employees are not under his direct functional control, he is responsible for them for disciplinary actions. (Purdy at 41,247). According to these gentlemen, a decision was made to counsel Dunham on his behavior at the meeting and Krisher was instructed to prepare a Brown & Root counseling form.^{14/} (Brandt at 45,198; Purdy at 41,249-250; Krisher at 37,057, 37,059-060).

^{14/} The counseling form prepared by Krisher and signed by Purdy was identified as Purdy Exhibit 42-6. The Staff moves that this exhibit be received into the record.

III.D.14. On August 26, 1983, Dunham was called into Purdy's office for the counseling session at about 4:30 p.m. (Purdy at 41,251-252). Also present at the session were Krisher and Everett Mouser. (Krisher at 37,062; Purdy at 41,252). According to Purdy and Krisher, Purdy handed Dunham the counseling form and indicated to Dunham they would also discuss it. Dunham threw the form back at Purdy after a couple of seconds and made some remarks, including "I'm not going to change." (Purdy at 41,252; Krisher at 37,062). After that, Dunham became very agitated, despite Purdy's attempts to calm him down. (Purdy at 41,252-253; Krisher at 37,063). Following these exchanges, Purdy terminated Dunham. (Purdy at 41,253; Krisher at 37,064). Purdy identified Purdy Exhibit 42-7 as Dunham's termination form, which Purdy had filled out and signed.^{15/} (Purdy at 41,253).

III.D.15. On cross-examination, Purdy testified that were it not for Dunham's words and actions at the counseling session, Purdy would have retained him. (Purdy at 41,259). Purdy also testified he considered Dunham's statement, "I'm not going to change," in context with the statements on the counseling form, and concluded that Dunham meant, "he just wasn't going to change his attitude or the way he presented himself." (Purdy at 41,252).

^{15/} The Staff moves that Purdy Exhibit 42-7 be received into the record.

III.E. MEDDIE GREGORY

III.E.1. Meddie Gregory testified about several events which occurred while she was employed at CPSES, which she alleges give rise to inferences that workers were discouraged by management to do their jobs properly and that undue pressure was placed on the workers. Ms. Gregory's testimony is contained in the depositions of Meddie Gregory taken on July 17, 1984 (Tr. 54,500-559) and July 31, 1984 (Tr. 54,559-718); ("Gregory").^{16/}

III.E.2. To address Ms. Gregory's allegations, Applicants filed the "Prefiled Testimony of Gregory Bennetzen;" August 16 and 18, 1984 (pp. 1-20); ("Bennetzen"); and the "Prefiled Testimony of Gordon Purdy;" August 16, 1984 (41,273-390); ("Purdy").

III.E.3. Ms. Gregory testified that she held five positions at CPSES from May, 1982 to July, 1984, all in the Quality Assurance (QA) area. (Gregory at 54,506-590; 54,563-578). From September 1983 until her termination on July 13, 1984 Gregory worked as a transmittal clerk in the QES Review Group where she handled the paper flow for the piping packages, interfacing between the Authorized Nuclear Inspection Agency ("ANI") and the QES group. (Id. at 54,508-509; 54,578). She also transmitted all the packages to the permanent plant record vault when everything was signed off. (Id. at 54,509).

^{16/} Intervenor CASE did not offer Ms. Gregory's affidavits into evidence; however, Applicants so moved for the limited purpose of showing Mrs. Gregory's inconsistent statements. (Tr. 54,717). Intervenor did not oppose their limited introduction. (Id.). The Staff does not object to admission of these affidavits for the limited purpose of showing Ms. Gregory's inconsistent statements.

Pressures to Increase Number of ISO Packages Reviewed

III.E.4. Ms. Gregory testified that sometime in late May 1984, Mr. Gregory Bennetzen, ASME QA/QC N-5 supervisor, told the N-5 group, which included the QES review and the N-5 status group, that "he wanted numbers." (Gregory at 54,521, 54,618). Bennetzen also told the group that if they didn't get the numbers they would bring "job shoppers" in and replace the present people. (Id. at 54,521). According to Gregory, what Bennetzen meant by "numbers" was that he had to have a certain number of ISO's (isometric drawings)^{17/} completed to ANI and in the vault and turned over to the client (TUGCO) within a time frame; Bennetzen was pushing for forty ISO's a week. (Id. at 54,521-522). Gregory testified that Mr. Bennetzen held meetings as much as four times a week, "hammering on the fact" that they needed more ISO's completed (Gregory at 54,523). Gregory could not remember the number of ISO's remaining to be reviewed in May, 1984, but could only remember that they were 75 percent completed. (Id. at 54,619). At the time of Gregory's termination, she was told there were 136 ISO's left by means of a running tally kept on a board. (Id. at 54,534).

III.E.5. Mr. Bennetzen is responsible for supervising the N-5 reviewers and coordinating the final ASME documentation review and preparation of the N-5 Code Date Reports for Unit 1 and systems common to both units. (Bennetzen at 4). When installation of a piping system is complete, the

^{17/} Gregory described an ISO as one number, a certain section of piping listed on an ISO drawing, which contains all the welds, piping, equipment and hangers; it can contain a number of packages. (Id. at 54,522).

documents come to his review group for Brown & Root QA final review. (Id.). His group reviews packages of documents to make sure all hold points have been signed and all required documents are included. (Id.). After satisfactory review by Bennetzen's group, the packages go to ANI. (Id.). After ANI's review and approval, the packages are transferred back to Bennetzen's group and then transmitted to the permanent plant records vault. (Id.). His group also prepares the N-5 Code Data Report, which covers an entire system shown on an ISO and goes through several reviews. (Id. at 6). When acceptable it is transmitted to ANI for review and approval, then Brown & Root turns the system over to TUGCO. (Id.).

III.E.6. Mr. Bennetzen testified that Ms. Gregory was more or less a clerical employee, responsible for logging, filing and transmitting documents for the Brown & Root QA group. She never prepared a single N-5 Code Data Report while under Bennetzen's supervision. (Bennetzen at 12).

III.E.7. According to Mr. Bennetzen, he never stated to the document review group that they would be replaced with "job shoppers." (Bennetzen at 7). He did, on one occasion, tell his N-5 personnel that TUGCO was concerned with the amount of N-5's being completed and Brown & Root management had asked if he needed additional help, such as job shoppers. (Id.). Mr. Bennetzen thought this was a bad idea and expressed that opinion to his personnel, telling them there was no intention of adding job shoppers to the group. (Id.). Mr. Bennetzen had discussed this with Mr. Purdy. (Id.). Mr. Purdy confirmed Mr. Bennetzen's testimony concerning the job shoppers and has testified that he never seriously considered adding job shoppers to Mr. Bennetzen's group. (Purdy at 41,330-331).

III.E.8. With respect to the "40 ISO's per week", Mr. Bennetzen testified that he had discussed with Mr. Purdy the number of N-5 Code Data Reports which were left to do and, with the personnel on hand, a reasonable time for completion. (Bennetzen, p. 13). Both Mr. Bennetzen and Mr. Purdy testified that the 40 ISO's a week was a goal originated by Mr. Purdy and was not a schedule commitment. (Purdy at 41,323; Bennetzen, p. 13).

III.E.9. Mr. Purdy testified that he initially explained the goal to the document review group and emphasized that whatever they achieved had to be right, whether it was 40 or not. (Purdy at 41,327). Mr. Bennetzen testified that he also explained this goal to the N-5 personnel by telling them he and Mr. Purdy had calculated a completion date for Unit 1 N-5's, that there were so many ISO's to certify, and that the goal was 40 ISO N-5's a week. (Bennetzen, p. 14). On several occasions the group was not able to meet the 40 per week goal. (Id; Purdy at 41,325). No action was ever taken against the group or an individual for failure to meet the goal. (Bennetzen, pp. 15-16; Purdy at 41,325).

III.E.10. According to Ms. Gregory, Bennetzen initiated six methods to speed up the process, but she also testified that she presently did not problem with any of the six methods. (Gregory, fol. 54,640 (from discovery deposition of July 17, 1984, pp. 131-143)).

Bennetzen Remark on Loyalty to the Company

III.E.11. Ms. Gregory testified that she recalls Mr. Bennetzen announcing to the group, "Those that are not loyal to the company will stay and those who are not will hit the gate." (Gregory at 54,526).

III.E.12. Mr. Bennetzen recalls making a remark one day about loyalty to the company. (Bennetzen, pp. 9-10). He made the remark in response to a question by Linda Barnes, who questioned his choice of an employee for a particular position. (Id. at 10). As part of his response to Mr. Barnes' question, he stated that the person was a very loyal employee, he was there every day, never late and in Mr. Bennetzen's group they definitely needed more employees like him. (Id. at 10). Mr. Bennetzen had just come from a meeting with two of his personnel who had turned in their resignations without giving him notice. (Id. at 10-11).

Packages Without QES Review Sheets

III.E.13. Sometime in late June or early July, 1984, Ms. Gregory testified about an incident involving Mr. Bennetzen and a document reviewer named Bill Darby. (Id. at 54,527). According to Ms. Gregory, she had gotten packages back from ANI which had been signed off and one of them did not have a QES review cover sheet. (Id.). She could not put the documentation in the vault without that cover sheet, so she took the package to Bill Darby and told him she needed a cover sheet. (Id.). Mr. Darby told Ms. Gregory that he would have to have the isometric drawing to review it by and told her to bring the drawing to him. (Id.). Mr. Bennetzen, who was standing nearby, said, "You do not need to review that document. Sign it." Mr. Darby then prepared a second review sheet. (Id. at 54,641). It is Gregory's belief that, according to procedures, it must be one's own personal QES review of the traveler; it must be reviewed and signed by a QES reviewer and certified that he signed in

accordance with the governing procedures, CP-QAP 18.2. (Id. at 54,527-528). ANI does not sign the QES review sheet; ANI had signed the traveler, which was the second sheet in the package which Ms. Gregory brought to Mr. Darby. (Id. at 54,643-644).

III.E.14. Mr. Purdy also testified that he was familiar with Ms. Gregory's allegation concerning the QES review sheet. (Purdy at 41,315-316). The "QES review sheet" is used as an index to the package, is not identified by the QA program as a quality document, and is actually a management aid to determine expeditiously what has been reviewed by both quality engineering and the ANI. (Purdy at 41,316). The ANI will not accept the documentation without a QES review sheet, because it is his indication that QA has looked at the package first. (Purdy at 41,317). Mr. Purdy's explanation of the probable scenario that the review sheet was lost after ANI review is based on the fact that, as Ms. Gregory has testified, the ANI had already signed off on the traveler. (Purdy at 41,321). The ANI does not accept packages without prior QA review. (Id.). Therefore, Mr. Bennetzen's direction to Mr. Darby to fill out a new QES review sheet was proper; in fact, had Gregory written an NCR on the review sheet, Mr. Purdy would have voided it as not a non-conforming condition. (Purdy at 41,317-318, 41,322). Mr. Purdy could see why someone might perceive a "cosmetic" problem based on the statement on the review sheet concerning compliance with QA procedure, but there is no technical or programmatic problem. (Id. at 41,221).

Qualified People Terminated in a Reduction of Force

III.E.15. Ms. Gregory also testified concerning the ROF (reduction of force), which occurred on July 13, 1984, and expressed her opinion that the more qualified people were laid off. (Gregory at 54,535-538). The basis for her opinion was that the ones who had been reviewing the longest, who had actually been producing, were the more qualified ones; the people retained had only been doing QES review for a very short time. (Id. at 54,536). Upon cross-examination, Ms. Gregory testified that she did not know the criteria used to identify the group which was retained. (Id. at 54, 657).

III.E.16. With respect to the lay-offs which occurred in July, 1984, Mr. Purdy testified that there is a written ROF policy at Comanche Peak, which was developed in late 1983 and is intended to be objective, rather than subjective. (Purdy at 41,337-338). Mr. Purdy testified at great length as to the implementation of that policy, a two step process, and how it was applied during the July, 1984 ROF. (Id. at 41,338-353). Mr. Purdy also identified and described as Purdy Exhibits 10, 11 and 12, the forms used in the actual selection process used in that ROF and how the criteria were applied. (Id. at 41,348, 41,351, 41,352).

III.F. ROBERT HAMILTON AND JOE KROLAK

III.F.1. Mr. Hamilton was a Quality Control Supervisor employed by Brown and Root at CPSES. (CASE Exhibit 653, p. 1). Mr. Krolak was a protective coatings QC inspector under the immediate supervision of Mr. Hamilton. (Deposition of Joe Krolak (July 13, 1984) ("J. Krolak"),

Tr. 52,503-05, 52,530; CASE Ex. 653, p. 7). Mr. Hamilton previously testified regarding his termination for failing to perform an inspection on the containment rotating platform rail (CASE Exhibit 653, pp. 7-11), and the Board issued several decisions which concluded that Mr. Hamilton had been improperly terminated. Proposed Initial Decision (July 29, 1983), p. 22; Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues) (September 23, 1983), pp. 17-20; Memorandum and Order (Reconsideration of Order of September 23, 1983) (October 25, 1983), pp. 5-8. In particular, the Board found that Applicants had not pre-sented sufficient evidence on whether or not a night shift QC inspector was asked to make the inspection on the polar crane rail, why another QC inspector was not asked to perform the inspection, and whether there could have been a reasonable basis^{18/} for Mr. Hamilton

^{18/} The Board's decisions on the matter have been somewhat unclear in discussing this subject. At p. 19 of its September 23, 1983 Memorandum and Order, the Board states, "...the legal conclusion about the safety of the area does not negate the existence of legitimate fears" (emphasis added). This suggests that the Board is distinguishing between a regulatory (OSHA) standard of safety, and a somewhat more lenient standard of "legitimate" safety concern. However, in its October 23, 1983 Memorandum and Order, the Board refers to "real fears" of Mr. Hamilton regarding the safety of the rail. This may be at odds with the Board's earlier-expressed "legitimate fear" standard, since a "real fear" may not be a "legitimate" one. The Staff urges the Board to adopt a "reasonable person" (i.e., "legitimate fear") standard for determining whether or not Messrs. Hamilton and Krolak were justified in refusing to perform the inspection on the polar crane rail. The Staff urges adoption of this standard because Messrs. Hamilton's and Krolak's testimony makes clear that they used the objective standard themselves in explaining why they refused to do the inspection (i.e., Hamilton and Krolak refer to the oil and grease on the rail, the slack in the safety cable, the width of the rail, etc., all of which are objective criteria in determining safety.

to refuse to do the inspection.^{19/} Applicants have now moved to reopen the record on Mr. Hamilton's termination. In support of their motion, Applicants make an offer of proof of the testimony they would present by Samuel T. Hoggard, (August 1, 1984; August 17, 1984), Houston Floyd Gunn, (August 1, 1984), James N. Scarbrough and David Ethridge (August 1, 1984; August 19, 1984 (Scarbrough only)), and Neill A. Britton (August 18, 1984). The proposed testimony of these gentlemen differs considerably from that of Messrs. Hamilton and Krolak in certain key respects.

III.F.2. Messrs. Hamilton and Krolak testified that they were improperly terminated on March 9, 1982 for refusing to do an inspection from the rotating platform rail in the Unit 2 containment. (CASE Exhibit 653, pp. 7-11; J. Krolak, Tr. 52,531-39). Mr. Hamilton testified that a Paint Department Foreman named Neil Scarborough (sic) requested an inspection of the liner plate on the rotating platform rail on March 9, 1982, and Mr. Krolak was sent to perform the inspection. According to Mr. Hamilton, Mr. Krolak returned, saying he was afraid to make an inspection because there was only a 5/8 inch cable "to tie off to", with a 3 foot slack in the cable. (CASE Exhibit 653, p. 7). Mr. Hamilton claims he personally climbed up to inspect the condition of the platform rail, and concluded it was unsafe, based upon (1) the height of the rail to the floor (105 feet); (a) the 2 1/2 feet width of the rail, with "nothing on either side", (3) the existence of a 1/2 inch thick safety cable with approximately 3 feet of

^{19/} Since Messrs. Hamilton and Krolak both testified about this incident, their allegations on this incident will be addressed together.

slack, which would allow a person to fall 8 feet. (CASE Exhibit 653, pp. 7-8).

III.F.3. Messrs. Scarbrough and Ethridge (paint foreman, and spray painter, respectively, at the time of Messrs. Hamilton's and Krolak's termination), would testify that they requested a paint inspection on the Unit 2 liner plate at the level of the rotating platform rail (Tr. 74,508-11). Contrary to the testimony of Messrs. Hamilton and Krolak that they climbed to the platform rail, neither Mr. Scarbrough nor Mr. Ethridge saw Messrs. Hamilton and Krolak climb up to the rail. (Tr. 74,513-14). Messrs. Scarbrough, Ethridge and Britton all described the means of access to the platform rail as a series of ladders totaling 95 feet increase in elevation; it would be unlikely that Messrs. Scarbrough or Ethridge would fail to see Messrs. Hamilton or Krolak if they in fact had climbed to the rotating platform rail. (Tr. 74,511-14; Britton Exhibit 1, Figure 1).^{20/}

III.F.4. Mr. Hamilton went to his supervisor, Harry Williams, and told him that none of his crew (Hamilton, Krolak, and Sherman Shelton) would perform the inspection, unless a scaffold was erected. According to Mr. Hamilton, a scaffold had been built for the rotating platform rail in Unit 1 containment. (CASE Exhibit 653, pp. 8, 10). However, Messrs. Scarbrough and Ethridge would testify that not only was there scaffolding on the platform rail where the inspection was required, but that the painters themselves could not apply paint to the liner without the use of scaffolding. (Tr. 74,509-10).

^{20/} The Staff does not object to the admission of Britton Exhibit 1.

III.F.5. Mr. Hamilton testified that Mr. Williams and Neill Britton told him that the Safety Department had been called, that they performed an inspection, and concluded the area was safe. (CASE Exhibit 653, p. 8). Mr. Hamilton claims that Mr. Britton then told Messrs. Hamilton, Krolak and Shelton to perform the inspection, or that they would be fired. Since they refused, they were terminated. However, Mr. Hamilton said that Houston Gunn, a member of his crew assigned to a shack, was not asked to perform the inspection; and that the night shift QC inspectors were also not asked to perform the inspection. (CASE Exhibit 653, p. 10).

III.F.6. Mr. Britton, who had assumed the position of QC supervisor for both ongoing and backfit protective coatings inspection programs the day before Messrs. Hamilton, Krolak and Shelton were terminated,^{21/} would testify that he received a phone call from the painting department, telling Britton that QC inspectors would not perform an inspection on the platform rail because they thought it to be unsafe. Mr. Britton then called Mr. Sam Hoggard, who is the Project Senior Safety Supervisor (S. Hoggard, Tr. 74,004), to inquire about the safety of the rail. Mr. Hoggard responded that it was safe; his answer was based upon his previous obser-

^{21/} Mr. Britton testified that sometime prior to March 8, 1982, there was a backfit protective coatings QC inspection program, and an ongoing protective coatings QC inspection program, and that he had been responsible for the backfit program (Messrs. Hamilton, Krolak and Shelton were assigned to the ongoing inspection program). Britton, Tr. 7-9. On March 8, 1982, the two programs were consolidated and Mr. Britton became responsible for supervising both programs. Therefore, it is unclear whether any negative inference may reasonably be drawn from the fact that Messrs. Hamilton and Krolak had been assigned a new supervisor a day before their dismissal. Compare Memorandum and Order (October 23, 1983), p. 7.

vations of the platform rail, that other inspectors had been working in the area, and that there had been no complaints or injuries on the rail up to that time. (N. Britton, pp. 12, 16-18; S. Hoggard, Tr. 74,010). Moreover, Mr. Hoggard personally inspected the rail.^{22/} S. Hoggard, Tr. 74,011; Ethridge, Tr. 74,524-25.

III.F.7. Mr. Britton then reported to Mr. Harry Williams, his supervisor, about the phone calls with the Paint Department, and with Mr. Hoggard. Mr. Williams directed Mr. Britton to talk with Mr. Hamilton. According to Mr. Britton, he spoke with Messrs. Hamilton, Krolak and Shelton at the QC coatings shack, asking them to make the inspection, since he had spoken with the Safety Department and they had assured him that there were no unsafe working conditions at the inspection area. Mr. Hamilton refused; Mr. Britton explained it was a serious matter to not perform the inspection, to which Hamilton responded, "They're bluffing". (Britton, pp. 17-19).

III.F.8. Mr. Britton returned to Mr. Williams and reported his conversation with Messrs. Hamilton, Krolak and Shelton. Mr. Williams then went to speak with Thomas Brandt. Mr. Williams returned, and indicated that Mr. Brandt asked Mike Foote and himself to personally inspect the rail. (N. Britton, Tr. 19). Mr. Britton, Mr. Williams and Mike Foote made the inspection, and found no debris, oil, or grease on the rail,

^{22/} Mr. Hoggard's deposition testimony reflects that he made two inspections of the rail, one on the day that Messrs. Hamilton, Krolak and Shelton were terminated, the second the day after. See Tr. 74,010-14. Unfortunately, Mr. Hoggard did not testify what he saw during his first inspection.

and the safety line taut. (N. Britton, Tr. 19-20; Britton Exhibit 1; D. Ethridge, Tr. 74,526).

III.F.9. Sometime later the same day Britton was directed to bring Messrs. Hamilton, Krolak and Shelton to Mr. Brandt's office. Before going to see Brandt, Britton asked the three QC inspectors to reconsider their decision, since failure to perform the inspection was a serious problem. Messrs. Hamilton, Krolak and Shelter responded that it was all a "bluff." (N. Britton, p. 23).

III.F.10. The three QC inspectors met with Messrs. Britton, Purdy, Brandt and Williams in Mr. Brandt's office. Mr. Brandt told the three QC inspectors that the Safety Department said there was no safety problem, that Messrs. Williams and Britton had also inspected the platform rail and concluded it was safe, and asked Messrs. Hamilton, Krolak and Shelton to perform the inspection. Mr. Purdy also joined in Brandt's request. (N. Britton, p. 24). Messrs. Hamilton, Krolak and Shelton refused, and they were terminated by Messrs. Brandt and Purdy. (Id.).

III.F.11. The Board raised a concern that Applicants' policy of terminating individuals for failing to do tasks was not consistently applied, since Mr. Hamilton claimed that: (1) a man in the paint shop refused to walk the rail, but was not terminated (CASE Exhibit 653, p. 26), and (2) a person on the night shift refused to walk the rail, but was also not terminated (CASE Exhibit 653, p. 26). (See Memorandum and Order (October 25, 1983), pp. 5-6. Applicants presented an offer of proof that Mr. Houston Gunn, a protective coatings QC inspector assigned to the paint fab shop, was not asked to perform the inspection, because his supervisors knew that he had acrophobia, and in any case his assignment

did not involve performing field inspections. (N. Britton, pp. 25-26; H. Gunn, Tr. 75,004-008). Applicants also presented an offer of proof that the two night shift inspectors assigned to the ongoing inspection program, William Dunham and Joe Fazi, performed the inspection that Messrs. Hamilton, Krolak and Shelton refused to do the night of March 9, 1982. (N. Britton, p. 25).

III.F.12. The Board has suggested that a negative inference should be drawn from the failure of Applicants to explain why it did not ask one of the day-shift workers to perform the inspection. Memorandum and Order (October 25, 1983), p. 6. The offer of proof presented by Applicants addresses the Board's point by showing that Messrs. Hamilton, Krolak, Shelton and Gunn were the only ongoing QC inspectors on the day shift; that none of the six backfit QC inspectors were asked to perform the liner plate inspection because they were assigned to the backfit program; and that not all of the backfit QC inspectors were qualified to conduct ongoing (as opposed to backfit) protective coating inspections. (N. Britton, pp. 9, 25-27).

III.G. FRANK HAWKINS

III.G.1. Mr. Hawkins is currently a Quality Assurance Section Chief in Region III Office of the NRC. Prior to his appointment to that position in approximately March 1984, Mr. Hawkins was a Reactor Inspector for Region III. Deposition of Frank Hawkins (July 18, 1984) ("F. Hawkins") (F. Hawkins at 56,006).

III.G.2. In November of 1983, Region III assigned Mr. Hawkins to assist Region IV in identifying, assessing and resolving technical allegations

which had been made regarding the quality of protective coatings at CPSES. (F. Hawkins at 56,009, 56,012, 56,019-20; 56,022; 56,093-95; 56,098). In carrying out his assignment, Mr. Hawkins reviewed a written statement provided to Region IV by Cory Allen, and Office of Investigations ("OI") Report 4-83-001. (F. Hawkins at 56,010-012).

III.G.3. As a result of his review of Cory Allen's statement, Hawkins concluded that it would be fruitful to interview Allen. (F. Hawkins at 56,012-013). Mr. Hawkins and Claude Johnson of Region IV interviewed Mr. Allen in Houston, Texas on November 21, 1983. During that interview (which was transcribed), Allen identified other persons who would have additional information for Hawkins. (F. Hawkins at 56,014-15; 56,037). Several of these individuals were interviewed by Hawkins, and Mr. William Dunham's name was mentioned several times. Accordingly, Hawkins and Mr. Vince Lettieri of Brookhaven National Laboratory ("Brookhaven") interviewed Mr. Dunham in Bay City, Texas on March 3, 1984. This interview was also transcribed. (Id. at 56,014-15, 56,039). Messrs. Hawkins and Johnson also held a transcribed interview with Mr. Joe Lipinsky of the O. B. Cannon Company in Chicago on January 4, 1984.^{23/} (Id. at 56,038).

23/ The Staff moves that the testimony of Mr. Hawkins regarding his interview with Mr. Lipinsky, viz. Tr. 56,078-084, 56,088-090, be stricken from the record. Mr. Lipinsky has not been called as a witness in the intimidation portion of this proceeding. The "Lipinsky memorandum" is also not in evidence, in part because there was no proper sponsor of the memorandum at the evidentiary depositions on intimidation. Accordingly, Mr. Lipinsky's memorandum, and the reasons for his change in position on the technical matters discussed in his memorandum, are not issues in this portion of this proceeding.

III.G.4. Based on the information that Hawkins obtained from Cory Allen, as well as other ongoing discussions with QC and engineering personnel at the site, Hawkins concluded that he could not complete his assigned scope of work by the Region IV deadline of April 15, 1984. (F. Hawkins at 56,021; 56,070-71, 56,095-96). Accordingly, after discussing the matter with his supervisors in Region III, Hawkins and Region III proposed on December 20, 1983 that Brookhaven be retained to take over Hawkins' work. (Id. at 56,021; 56,096-97). On January 6, 1984, Brookhaven was retained by the NRC. (Id. at 56,035). Hawkins was informally assigned to be the contract administrator for the Brookhaven contract, and to act as an advisor to Brookhaven. (Id. at 56,021-22; 56,038, 56,097). On March 3, 1984, Brookhaven assumed full responsibility for the special inspection on protective coatings, and Mr. Hawkins' involvement in the special inspection became very limited.^{24/} (Id. at 56,039; 56,097).

III.G.5. During the period from January 6 through March 3, 1984, Mr. Hawkins participated in two joint inspections with Brookhaven at the CPSES site (January 30-31, 1984 and February 21-March 2, 1984), and conducted the interview with William Dunham. Mr. Hawkins did not submit a

^{24/} Mr. Hawkins testified that his day-to-day involvement with Brookhaven ceased after March 3, 1984, and from that time forward he had a five to ten minute conversation with Vince Lettieri every two to three weeks. F. Hawkins, Tr. 56,025-26. Mr. Hawkins received, and continues to receive, information copies of draft reports produced by Brookhaven. Id., Tr. 56,030.

report at the end of his day-to-day involvement with the Brookhaven effort. (F. Hawkins at 56,025).

III.G.6. Mr. Hawkins' assignment during his involvement from November 1983 through March 1984 was to obtain information on technical allegations relating to protective coatings. Accordingly, his interviews were not geared to identifying allegations of harassment and intimidation. (F. Hawkins at 56,098; 56,109-110). As it happened, no one told Mr. Hawkins on-site that they had been harassed or intimidated.^{25/} (F. Hawkins at 56,104-05; see also 56,108-110). If Mr. Hawkins had come across such allegations, he would have forwarded the allegations to OI. (Id. at 56,098; 56,109-110).

III.G.7. Mr. Hawkins provided Brookhaven with the transcripts of his interviews with Cory Allen, Joe Lipinsky, and William Dunham. He also provided them with OI Report 4-83-001 (Hawkins did not participate in preparing the OI Report). (F. Hawkins at 56,042-44). In addition, Mr. Hawkins understands that a December 13, 1983 letter from John Collins, Region IV to Applicants regarding William Dunham was also provided to Brookhaven. (Id. at 56,042-44). Mr. Hawkins believes that this information was the basis for Brookhaven's list of 60 allegations on protective coatings, (Hawkins Exhibit 2). Mr. Hawkins did not participate in the development of the 60 allegations contained in Hawkins Exhibit 2, with the exception of the first 17 allegations. (Id. at 56,040-41; 56,063). According to Mr. Hawkins, based upon a brief perusal of the exhibit, the first 17

^{25/} The Staff does not regard the hearsay objection as applying to the normal inspection and investigative actions it undertakes in carrying out its regulatory responsibilities.

allegations were developed by Brookhaven based upon Hawkins' interview with Cory Allen. The 17 allegations were submitted by Brookhaven to Mr. Hawkins and to Mr. Doyle Hunnicutt of Region IV for their review. According to Mr. Hawkins, their review was for the purpose of determining whether Brookhaven's format and approach to the allegations were acceptable to the NRC. (Id. at 56,063-64). The remaining 43 allegations were developed without Mr. Hawkins' input, and he did not review them in detail. (Id. at 56,041, 56,063-64). Indeed, Mr. Hawkins had not seen the cover letter to Hawkins Exhibit 2.^{26/}

^{26/} On the basis of Mr. Hawkins' testimony, the Staff opposes the admission of Hawkins Exhibit 2. Mr. Hawkins testified he did not develop the 60 allegations contained in the attached document, and had not reviewed any of the allegations except for the first 17. The cover letter was never seen by Mr. Hawkins prior to the deposition. Accordingly, Mr. Hawkins is not the proper sponsor for this exhibit. The Staff also objects to the introduction of Hawkins Exhibit 2 in the intimidation portion of this proceeding on the grounds of relevancy. As Mr. Hawkins testified, the first 17 allegations were based upon his interview with Cory Allen. Mr. Allen did not appear as a witness for Intervenor CASE in the intimidation depositions. Accordingly, Mr. Allen's concerns, insofar as they may relate to the 17 allegations, are currently not an issue in this proceeding. However, the Board has indicated that it wishes to call Mr. Allen as a Board witness. The Staff will reserve its right to withdraw its objection on admission with regard to that portion of the Brookhaven Report dealing with Mr. Allen's allegations, until his testimony is concluded. As for the remaining 43 allegations, there has been no showing by CASE, either through direct or cross-examination, that there is any connection between the intimidation allegations of Mr. Dunham and the remaining 43 allegations. Staff agrees with CASE that the technical allegations which underlie an alleged incident of intimidation may have to be addressed, in order to resolve the intimidation issue. However, CASE's problem is that they have not established any evidentiary foundation on intimidation of protective coating QC inspectors (with the possible exception of Mr. Dunham), nor have they identified the nexus between an allegation of intimidation made on the record, and any of the 60 allegations in Hawkins Exhibit 2. Until the underlying intimidation allegation is established on the record, and a connection with one or more of the 43 allegations listed in Hawkins Exhibit 2 is identified, the Exhibit is irrelevant and should not be admitted into evidence.

III.G.8. The information which Mr. Hawkins generated and submitted to Brookhaven for their review and evaluation was the partial basis for an Interim Report that was transmitted by Brookhaven to the NRC on April 25, 1984 (Hawkins Exhibit 1). (F. Hawkins at 56,034-35). Mr. Hawkins read the conclusions in detail, but made only a cursory review of the bulk of the Interim Report. While Mr. Hawkins was given a copy of the draft Interim Report, it was for information only, and not for the purpose of review and comment.^{27/} (F. Hawkins at 56,030; 56,039-040).

^{27/} The Staff objects to admission of Hawkins Exhibit 1, and 1A. (Hawkins Exhibit 1A is the Staff's Board Notification transmitting the Brookhaven Interim Report, Hawkins Exhibit 1, to the Board). Mr. Hawkins testified that he read only a draft version of the Interim Report. Moreover, he stated that he did not read in detail the text of the Interim Report, but merely the conclusions portion of the Report. Mr. Hawkins also testified that the draft Interim Report was not sent to him for his review and comment, but only for his information. The Staff also notes that by the time this Interim Report was released, Mr. Hawkins no longer had any day-to-day interaction with Brookhaven. For those reasons, Mr. Hawkins is not the proper sponsor of Hawkins Exhibit 1. (Intervenors have not moved Hawkins Exhibit 1A into evidence). The Staff also opposes admission of Hawkins Exhibit 1 on the ground of lack of relevance. As enunciated by CASE's counsel, (Tr. 56,049; 56,051-52) Hawkins Exhibit 1 is being introduced to show "the substantial nature of the complaints of the witnesses who have been concerned about intimidation or harassment on the job" (Tr. 56,049), in anticipation of possible Applicants and Staff arguments that "the harassment and intimidation of [the witnesses]... would be permissible if the complaint being raised by the person was groundless." (Tr. 56,051). While the Staff does not argue with the logic of CASE's theory of relevance, the evidentiary foundation needed to advance that theory has not been established. The record does not yet include allegations by QC inspectors or other QA personnel that they were harassed, threatened or intimidated from properly performing their duties in the area of protective coatings, with the exception of Mr. Dunham. Intervenors have not made any proffer linking an allegation by Mr. Dunham to a technical concern discussed in the Brookhaven Interim Report. Therefore, the evidentiary foundation for showing the relevance of Hawkins Exhibit 1 does not exist, and the Exhibit should not be admitted into evidence. Finally, the Staff objects to admission of this Exhibit on the grounds that it is not the best evidence on the Staff's evaluation of protective coatings at CPSES. The Exhibit is an Interim Report; Brookhaven is still continuing its effort. The Board should not rely upon the preliminary findings of Brookhaven, but should instead await, if necessary to a full and complete record on intimidation, the release of Brookhaven's final report.

III.H. ROBERT MESSERLY

III.H.1. Mr. Messerly was employed at CPSES beginning in 1978 as a fitter and a cable tray support foreman. Deposition of Robert Messerly (July 12, 1984) ("R. Messerly") (R. Messerly at 50,005). Mr. Messerly testified to one occurrence of intimidation of a QC inspector.^{28/}

III.H.2. Sometime in 1979 at elevation 810 of the auxiliary building, Mr. Messerly saw Mike Robinson, a general foreman for cable tray supports, yelling and shouting obscenities at a QC inspector^{29/} for "red-tagging"^{30/} too many cable tray supports, and therefore slowing down Mr. Robinson's production. (R. Messerly at 50,007-08, 50,011). According to Mr. Messerly, Robinson grabbed the QC inspector, shook him, and put his fist in front of the man's face. (Id. at 50,007-008). The QC person was short and stocky, while Robinson was cover six feet tall and weighed approximately 230 pounds. The incident ended when the QC inspector walked away and said he going to speak with his supervisors. (Id. at 50,009).

^{28/} CASE appears to have withdrawn an apparent allegation that Mr. Doug Frankum (currently Project Manager at CPSES) harassed, intimidated and blacklisted Mr. Messerly. See Tr. 50,059-60. Mr. Messerly did not testify to any threats made by Mr. Frankum, and none of Mr. Messerly's affidavits or statements describe that incident. See also Tr. 50,005-56.

^{29/} Mr. Messerly cannot recall the date or month that this incident occurred, or the name of the QC inspector. Tr. 50,020-21.

^{30/} According to Mr. Messerly, red-tagging is the placement of QC hold tags on non-conforming supports, so-named because the hold tags are red. Tr. 50,007.

III.H.3. Mr. Messerly believes that the QC inspector was correct in placing a hold tag on the particular support which led to the dispute, since Mr. Messerly had to correct the deficiencies on the support and reinstall it. (R. Messerly at 50,001-12). Mr. Messerly also noticed that following this incident, he never saw that particular QC inspector again, and it seemed to him that there were significantly fewer hold tags on cable tray supports, which increased production. (Id. at 50,012, 50,014-17). However, Mr. Messerly and his crew did not change their manner of installing cable tray supports. (Id. at 50,018).

III.H.4. This incident of intimidation was not previously identified by Mr. Messerly in an affidavits which CASE submitted (Messerly Exhibit 4), in a telephone conversation with NRC investigators from the Office of Investigation ("OI") (Messerly Exhibit 2), or in a sworn statement given to OI (Messerly Exhibit 3). (See Id. at 50,024-057).

III.I. STANLEY G. MILES

III.I.1. Mr. Miles is an ironworker who worked at CPSES from 1977 to 1982. Mr. Miles testified about on occurrence which he feels represents on instance of intimidation of a QC inspector.^{31/} Deposition of Stanley G. Miles (July 12, 1984) ("S. Miles").

^{31/} Mr. Miles also testified about Charles Atchison, and his belief that QC inspectors who were sent to inspect Mr. Miles's work after Mr. Atchison's termination "didn't know what may were doing." Tr. 50,604-05. The Staff regards this testimony as irrelevant to the issue of Applicants' intimidation of QC inspectors at CPSES, and moves that Mr. Miles' testimony from Tr. 50,604/9-25 through 50,605/1-21, be stricken from the record.

III.I.2. According to Mr. Miles, early in 1982 he was in the North Valve Room waiting to do some welding. While he was waiting, some personnel from Chicago Bridge and Iron ("CB&I") began "arc-gouging" in the room, which resulted in a large amount of "carbon particles and dust particles." (S. Miles at 50,605-06). The arc-gouging continued while some welders and pipefitters were simultaneously doing a "stainless pack weld" in the room. (Id. at 50,606).

III.I.3. A QC inspector entered the room and asked Mr. Miles what was occurring, to which Mr. Miles responded that CB&I were arc-gouging a plate out. The QC inspector (whose name Mr. Miles cannot recall, (see S. Miles at 50,611, 50,619) told Miles, "I will stop this," and quickly left. Some time later^{32/} the QC inspector returned, but did not stop the arc-gouging, and allowed the stainless pack welding to continue. (Id. at 50,607, 50,625).

III.I.4. Mr. Miles believes that the dust level should have been controlled, and that concrete chipping and grinding stopped while the welding was being done, in order to prevent contamination of the weld, as required by QC procedures at CPSES. (S. Miles at 50,607-08; 50,620).

III.I.5. In cross-examination, Mr. Miles admitted that no-one else in the North Valve Room talked with, shouted, or yelled at the QC inspector, that Mr. Miles didn't know where the QC inspector went or who he talked

^{32/} Mr. Miles originally testified that the QC inspector was gone "a few minutes", Tr. 50,607, but in cross-examination he stated that the time was between 20 to 30 minutes, Tr. 50,619.

to when he left the room, and that he didn't know if the QC inspector may have consulted the written QC or construction procedures during his absence. (S. Miles at 50,625-26). Miles also admitted that he did not know what, if any, procedure was violated, nor had he read any procedure indicating that welding while there was dust or smoke was prohibited. (Id. at 50,619, 50,626).

III.I.6. Mr. Miles testified that he did not identify this incident in his deposition of July 2, 1982, his testimony before the Board, his supplemental testimony, an unsigned affidavit submitted in a November 28, 1983 CASE pleading, or in a January 22, 1984 hard-written statement, even though he had been asked several times in his testimony or written statements whether he had any other concerns not already identified. (S. Miles at 50,611-18).

III.I.7. Mr. Miles never personally observed or heard any QC inspectors, or any other person working for the QA/QC Department, being told to violate applicable procedures, guidelines, or instructions. Nor has he heard any QC inspectors or other QA/QC personnel being threatened with some adverse action for doing his or her job correctly. (S. Miles at 50,608).

III.J. SUE ANN NEUMEYER

NCR with Inaccurate Dates

III.J.1. Sue Ann Neumeyer testified about a Nonconformance Report (NCR) which she wrote, and the actions taken regarding that NCR.^{33/} From

33/ The witnesses and their testimony which deal in whole or in part with the alleged incident are as follows:

Deposition of Sue Ann Neumeyer; August 1, 1984 (Tr. 59,500-683) and August 2, 1984 (Tr. 59,694-825); ("Neumeyer")

Deposition of Linda Barnes; July 28, 1984 (Tr. 59,000-246); ("Barnes")

Deposition of Dwight M. Woodyard; July 24, 1984 (Tr. 56,500-605); ("Woodyard")

Deposition of Jack Ray Stanford; July 25, 1984 (Tr. 57,500-587); ("Stanford")

Deposition of John T. Blixt, Jr.; July 25, 1984 (Tr. 57,000-076); ("Blixt")

Deposition of Robert Siever; July 25, 1984 (Tr. 58,000-139); ("Siever")

Deposition of Gordon Raymond Purdy; July 10, 1984 (Tr. 41,000-272); ("Purdy")

Prefiled Testimony of Robert Marshall Duncan; August 15, 1984 (pp. 1-17); ("Duncan")

Prefiled Testimony of Richard W. Simpson; August 15, 1984 (pp. 1-38); ("Simpson")

Prefiled Testimony of Danny Ray Wright; August 16, 1984 (pp. 1-9); ("Wright")

Prefiled Testimony of Ronald D. McBee; August 16, 1984 (pp. 1-24); ("McBee")

Prefiled Testimony of Alan Dale Justice; August 16, 1984 (pp. 1-20); ("Justice")

Prefiled Testimony of James Edward Zwahr and Daniel Thomas Wilterding; August 15, 1984 (pp. 1-21); ("Zwahr" or "Wilterding")

Prefiled Testimony of James E. Brown; August 15, 1984 (pp. 1-21); ("Brown")

approximately November, 1983 and through the time of the incident, Ms. Neumeyer was working as a QC document reviewer in the Inprocess Documentation group. (Neumeyer at 59,540; Woodyard Exhibit 1). Ms. Neumeyer's supervisor at that time was Mr. Dwight Woodyard, a Brown & Root ASME QC/QA supervisor at CPSES. (Woodyard at 56,505-506; Woodyard Exhibit 1). Mr. Woodyard supervises twenty-two QC ASME mechanical inspectors on the day shift. (Woodyard at 56,508). Ms. Neumeyer's responsibilities as a document reviewer were essentially to ensure that everything had been signed off, that all hold points had been covered, that ANI had signed off their hold points, and that proper heat numbers were listed. (Neumeyer at 59,541).

III.J.2. At the time of the incident Ms. Neumeyer shared an office with, inter alia, Ms. Linda Barnes, who was training Ms. Neumeyer in her job. (Neumeyer at 59,541; Barnes at 59,149). Ms. Barnes' training function was to respond to questions Ms. Neumeyer might have if Ms. Neumeyer encountered a problem. (Barnes, at 59,149).

III.J.3. On or about January 24, 1984, during the course of her work reviewing documents, Ms. Neumeyer encountered a Weld Data Card (WDC) for Field Weld 40C from Drawing No. AF-1-SB-007 (Stanford Exhibit 1, Neumeyer Exhibit 3). (Neumeyer at 59,545). There are numbered operations listed for this weld, with "hold points" assigned to one or more of WT (weld technician), QC and ANI (authorized nuclear inspector). (Neumeyer Exhibit 3). Operation number 5, "Final VT" (i.e., visual test) and operation number 6, "Final PT" (i.e., penetrant test) had been signed off as "sat" (for satisfactory) by J. Stanford. (Neumeyer at 59,564). Both

operations had been originally dated 1/14/84, and both dates had been lined through with the 17th put in over the 14th. (Id.). Beneath each line-through is the date 1/17/84 and the initials "J.S." (Neumeyer Exhibit 3).

III.J.4. Ms. Neumeyer testified that she became concerned about the line-through on the WDC because she had nothing to tell her what the line-through was for. (Neumeyer at 59,564). She then looked through the package accompanying the WDC to find the visual and penetrant inspection sheets. (Neumeyer at 59,564-565). She was trying to find out why there had been a change in dates. (Id.). The inspection sheets were not in the package. (Id.; Neumeyer at 59,754). Neumeyer did, however, locate a Repair Process Sheet (RPS) for Field Weld 40C (Neumeyer Exhibit 9, Purdy Exhibit 42-3 (p. 3 of 9), et al.). (Neumeyer at 59,564). She noted that the hold points which were marked with an "X" on the RPS were WT or weld tech, and not QC, hold points. (Neumeyer at 59,565).

III.J.5. The RPS (Neumeyer Exhibit 9) is similar to the WDC in that hold points may be assigned for each operation to WT, QC and/or ANI.

III.J.6. Ms. Neumeyer testified that since the WT hold points on the RPS had been signed off on 1/16/84, this would be after the original dates of 1/14/84 (before the change to 1/17/84) for the final NDE (non-destructive examination; in this case the PT and the VT). (Neumeyer at 59,565-566).

III.J.7. It should be noted that the RPS in question (Neumeyer Exhibit 9) represents a repair to Field Weld 40C with work performed on 1/16/84 and a final VT with a WT hold point signed on 1/17/84. This RPS is discussed in more detail infra.

III.J.8. According to Ms. Neumeyer, if a repair is made to a weld after QC has made its "final" NDE inspections, new QC hold points need be established for another final QC inspection. (Neumeyer at 59,565-566).

III.J.9. Ms. Neumeyer showed the WDC package to Linda Barnes and expressed her concerns. (Neumeyer at 59,567; Barnes at 59,006). Ms. Neumeyer also showed Ms. Barnes as part of the package, a radiographic report (RT) (Neumeyer Exhibit 8, Purdy Exhibit 42-3 (P. 5 of 9)), marked "rejected," which was the basis for issuing the RPS to repair Field Weld 40C. (Neumeyer at 59,567-568).

III.J.10. Ms. Barnes testified that there were two things that bothered her about the WDC package: first, in regard to the changed dates, the words "signed in error" did not appear; second, there were no QC hold points on the RPS. (Barnes at 59,112-117). However, Ms. Barnes does not personally know if the lack of QC hold points is indeed a problem. (Barnes at 59,117).

III.J.11. According to Ms. Barnes, she told Ms. Neumeyer to talk to her supervisor, Dwight Woodyard. (Barnes at 59,006). Ms. Neumeyer recalls Ms. Barnes telling her to talk to Terry Metheny, lead man for Jack Stanford, the QC inspector who signed off on the WDC. (Neumeyer at 59,568-569). In

any event, Ms. Neumeyer went to see Mr. Metheny and showed him the WDC package. (Id.).^{34/}

III.J.12. According to Ms. Neumeyer, Mr. Stanford came into her office to see what she needed. (Neumeyer at 59,580). Ms. Neumeyer showed him the WDC package and asked him about the line-throughs on the dates of 1/14/84, which changed them to 1/17/84. (Id.). She asked him, "Did you forget to put 'signed in error' on this?" (Id.). Stanford then replied, "No, no, that's not what happened at all." (Id.). Ms. Neumeyer's testimony is that Mr. Stanford told her some craftsman had come to him with the card on the 17th for an inspection that he (Stanford) had done on the 14th, and the craftsman told him to line through the 14th and change it to the 17th. (Id.). Mr. Stanford told Ms. Neumeyer he was concerned about doing it, so he called his lead man twice; each time he was told to go ahead and sign the card, that it was okay because the RT did not count. (Id.). At that point, Mr. Stanford told Ms. Neumeyer, he put the lines through the dates and changed them to the 17th. (Neumeyer at 59,580-581).

III.J.13. Ms. Neumeyer testified that the conversation with Mr. Stanford caused her greater concern about the lined-through dates and

^{34/} Testimony from Ms. Neumeyer as to what Mr. Metheny said has been objected to by Applicant's counsel as hearsay. (Neumeyer at 59,570-571). Staff counsel joined the objection except for statements made by Mr. Metheny and upon which Ms. Neumeyer acted. (Neumeyer at 59,572). Since apparently Ms. Neumeyer contacted the QC Inspector, Jack Stanford, as a result of Mr. Metheny's statement, the Board should only allow the following: Ms. Neumeyer asked Metheny if he would ask Mr. Stanford if he forgotten to put "signed in error" on the WDC. Neumeyer at 59,578-579. Mr. Metheny told Ms. Neumeyer to "get with Jack" herself, which she did. (Neumeyer at 59,579).

the weld tech hold points. (Neumeyer at 59,792). Based on that conversation, Ms. Neumeyer then believed that weld engineering had issued the wrong hold points, that they realized what they had done, and that they "had gotten Jack (Stanford) to line through it and change the date so that what they did would be all right." (Neumeyer at 59,792-793). According to Ms. Neumeyer, "Jack didn't always understand things, and he just did what he was told to do." (Neumeyer at 59,793).

III.J.14. Linda Barnes, who testified she was in the office with Ms. Neumeyer at the time of this conversation, provides some corroboration to Ms. Neumeyer's testimony about the conversation. Ms. Barnes testified that she heard Ms. Neumeyer ask Stanford if he signed the WDC in error. (Barnes at 59,007). According to Ms. Barnes, Mr. Stanford said no, he did not; he completed all the inspections and Terry Metheny, his lead, told him "to do it that way" (quoting Barnes). (Id.). Ms. Neumeyer asked the same question "several times" and received the same answer. (Id.). The entire conversation lasted "three or four minutes, five minutes." Barnes at 59,054. Upon cross-examination by Applicant's counsel, Ms. Barnes stated she does not know what Mr. Stanford meant by the phrase "do it that way". (Barnes at 59,129-138). Ms. Barnes also testified that if Mr. Stanford had put the words "signed in error" on WDC, referring to the changed dates, those dates would not have raised any concern in her mind. (Barnes at 59,138).

III.J.15. After the conversation with Mr. Stanford, Ms. Neumeyer either took the WDC package to her supervisor Dwight Woodyard (Neumeyer at 59,581), or Mr. Woodyard came to Ms. Neumeyer's office (Barnes at 59,008), or both, in that order (Woodyard at 56,569, 56,584). In any event, Ms.

Neumeyer testified that she showed Mr. Woodyard what she had, and told him "what Jack had said". (Neumeyer at 59,581). Mr. Woodyard recalls that Ms. Neumeyer was concerned about the cross out and change of dates, and the fact that there was an NDE report missing from the package. (Woodyard at 56,569). Ms. Barnes testified they discussed the "inconsistencies on the Weld Data Card." (Barnes at 59,008). Mr. Woodyard states that, after discussing the discrepancies and the documents, Ms. Neumeyer and he agreed that the best way to get the documents corrected was for Ms. Neumeyer to write an NCR. (Woodyard at 56,570). This is consistent with the testimony of Ms. Neumeyer (59,582-582) and Ms. Barnes (59,008).

III.J.16. The NCR as originally written by Ms. Neumeyer was offered into evidence as Neumeyer Exhibit 11 (also identified as Stanford Exhibit 4). There are two subsequent versions of the NCR in the record, Neumeyer Exhibit 12 (Siever Exhibit 3); and Neumeyer Exhibit 13 (Purdy Exhibit 42-3, p. 1 of 9).

III.J.17. The narrative section of the NCR, as written by Neumeyer, states:

WDC #40851 for FW40C shows a final PT & VT signed originally 1/14/84. Because of an information RT reject, dated 1/15/85 S/N RT 30964, an "In Process Weld Repair" was issued by Weld Engineering with Weld Tech hold points. PT and VT hold points on WDC #40851 were signed by Q.C. Entrys [sic] on VT & PT were lined through, initialed and dated 1/17/84. Because it appears final NDE was signed at time of issuance of RPS 1/16/84 QC hold points needed to be established and reviewed by ANI.

III.J.18. The conversation Ms. Neumeyer had with Mr. Stanford is of particular importance. Ms. Neumeyer has testified that if Mr. Stanford had not signed off on the final QC NDE (i.e., the final visual and final pene-

trant tests) on the WDC, and a repair to Field Weld 40C was required, Weld Engineering could issue the RPS as an "in-process" repair with weld tech, not QC, hold points, since the weld still belongs to craft. (Neumeyer at 59,736, 59,740). However, if Mr. Stanford had signed off on the final QC NDE before the repair was made, the RPS should have been assigned QC hold points. (Neumeyer at 59,737). Ms. Neumeyer has agreed that the RPS (Neumeyer Exhibit 9) represents an in-process repair sheet, which is a repair sheet for craft. (Neumeyer at 59,743). Therefore it can have weld tech hold points.^{35/} (Id.). The issuance of an in-process repair sheet means that there are QC steps left undone and it would revert back to the WDC by referencing going back to the WDC at the bottom of the page. (Neumeyer at 59,744). The RPS in question purports to do this. (Id.).

III.J.19. Nevertheless, Ms. Neumeyer has testified that she believes Stanford told her that "he had signed it off on the 14th." (Neumeyer at 59,738). Given this statement by Mr. Stanford, Ms. Neumeyer testified she felt constrained to write the NCR; in fact, if she "had not had the conversation with Mr. Stanford, [she] would not have written the NCR." (Neumeyer at 59,796).

III.J.20. However, Ms. Neumeyer testified that she did not write the NCR against Mr. Stanford. (Neumeyer at 59,786). She wrote it against Weld Engineering and stated so in the NCR. (Id.). The NCR reflects Ms.

^{35/} The transcript has the word "cannot" instead of "can". The latter is correct.

Neumeyer's concern that Weld Engineering had told Mr. Stanford to do something wrong. (Neumeyer at 59,793). In fact, Ms. Neumeyer has testified that she told a Mr. Morris concerning the NCR, "You know I was just trying to cover for Jack." (Neumeyer at 59,590). She also expressed her belief that "Jack's a victim." (Neumeyer at 59,749).

III.J.21. Mr. Jack Stanford has also testified concerning this incident. Mr. Stanford recalls that Neumeyer called him down to her office and showed him the WDC. (Stanford at 57,518). She "just kind of asked [him] several questions about it." (Id.). He could not, at the time, remember any of the particulars about the WDC. (Id.). She asked him if he had performed a PT and a VT; he told her that he had. (Stanford at 57,519). He did not know what problem Neumeyer was having with the WDC. (Id.). Mr. Stanford did not testify to any statements made by him to Ms. Neumeyer concerning the change in dates.^{36/} (Id.).

III.J.22. Ms. Neumeyer testified that she saw the WDC for the first time when she was reviewing it. (Neumeyer at 59,739). She did not witness Mr. Stanford perform any of the inspections listed by his signature on the WDC. (Neumeyer at 59,740). She did not witness Mr. Stanford sign any of the hold points on the WDC. (Id.).

^{36/} It should be noted here that Mr. Stanford's deposition was taken on July 25, 1984, while Ms. Neumeyer's was taken on August 1 and 2, 1984. At the time of the Stanford deposition it was not at all apparent from the record that the alleged statements made by Mr. Stanford to Ms. Neumeyer, which purportedly led to Ms. Neumeyer's writing the NCR, were of significance.

III.J.23. Mr. Stanford has testified to his version of the chronology represented on the WDC. He had volunteered for a special job on Saturday, January 14, 1984. (Stanford at 57,514). QC inspectors were not working weekends at the time. (Id.). The WDC had an unsatisfactory listed for operation 2, "cleanliness" and craft wanted to get the item finished. (Id.). Mr. Stanford reverified the cleanliness, found it satisfactory, and signed it off as operation 2A. (Stanford at 57,514-515). He then remained with that particular crew of welders and fitters because he had no other work assigned. (Stanford at 57,515). A few hours later, the crew was ready for the hold points on operation 3, "fitup." (Id.). Mr. Stanford had previously notified ANI that there was a fitup in progress that day, and he got an ANI inspector. (Id.). Both Mr. Stanford and the ANI inspector verified that the fitup was good, and both signed off on their respective hold points. (Id.; Stanford Exhibit 1). At the same time he signed the fitup, he went ahead and did the next hold point, which was "preheat." (Id.; Stanford Exhibit 1). At this point, it was 3:30 p.m., and Mr. Stanford asked the welding crew how long it would be before they were ready for a final VT and PT. (Stanford at 57,516). Mr. Stanford was informed that it would take them twelve hours to complete the weld, i.e., until early Sunday morning. (Stanford at 57,516). After discussion with the welding crew, it was decided that there was no reason for Mr. Stanford to stay. (Id.). Thereupon, Mr. Stanford went home on the afternoon of January 14, 1983, without having done any more QC inspections. (Id.).

III.J.24. Mr. Stanford further testified that the next time he saw the WDC was on Tuesday, January 17, 1984. (Id.). He did not know why no work had been done on Monday, January 16, 1984. (Id.).

III.J.25. On Tuesday, January 17, 1984, according to Mr. Stanford, the welding crew signed up on his callboard for the final VT and PT inspections. (Stanford at 57,517). Mr. Stanford and another QC inspector, Robbie Duncan, who was then in training, performed these inspections. (Id.). Mr. Stanford performed the VT and observed Duncan perform the PT. (Id.). After climbing down from the scaffold, Stanford reviewed the WDC and proceeding to sign it off. (Id.). He then inadvertently wrote the same dates for the VT and the PT as the dates above, i.e., 1/14/84. (Id.). As soon as he had signed the WDC, he looked at it again and noticed that he had signed off on the same dates as the preceding inspections. (Id.). In Mr. Stanford's words, "I cussed myself out real good verbally." (Id.). Mr. Duncan asked Mr. Stanford why, and Mr. Stanford told him he had written down the wrong date. (Id.).

III.J.26. Mr. Stanford then crossed out the wrong date, initialled it, dated his initials "per procedure," and forgot about it. (Stanford at 57,517-518). Having finished the inspection, Mr. Stanford turned in his paper work and the WDC to the craft working on the weld. (Stanford at 57,518). Mr. Stanford did not see the WDC again until he was called into Sue Ann Neumeyer's office a few days later. (Id.; Stanford at 57,566).

III.J.27. After writing up the NCR, Ms. Neumeyer had another conversation with Mr. Stanford. (Neumeyer at 59,592). According to Mr. Neumeyer, Mr. Stanford came into her office and asked her why she had written him up. (Id.). This testimony is in conflict with Mr. Stanford's testimony that Ms. Neumeyer had called him down to her area and showed him an NCR she was writing. (Stanford at 57,520). Both witnesses agree that Ms. Neumeyer said she was writing the NCR against Weld Engineering.

(Neumeyer at 59,592; Stanford at 57,520). Ms. Neumeyer and Ms. Barnes testified that Mr. Stanford was upset at the time of this second meeting. (Neumeyer at 59,592; Barnes at 59,009). Ms. Neumeyer and Ms. Barnes also testified that Mr. Stanford denied what he had said during the initial conversation. (Neumeyer at 59,794; Barnes at 59,009).

III.J.28. Mr. Stanford's recollection of that meeting was that Ms. Neumeyer told him Weld Engineering had not added additional hold points. (Stanford at 57,520). Mr. Stanford does not remember saying anything to Ms. Neumeyer; he was still confused about the WDC because he could not see anything wrong with it and did not understand why additional hold points were needed. (Id.).

III.J.29. The next event in the progress of this incident was a meeting concerning Ms. Neumeyer's NCR. Mr. John Blixt, QE (Quality Engineering) Group Supervisor has the NCR Office under his direction. (Blixt at 57,048). He receives a printout on currently open NCR's, and if he notices one in the "quality house or arena," he attempts to expedite closing it. (Id.). Accordingly, upon noticing the NCR in question he discussed it with Mr. Robert Siever, the QC Group Supervisor. (Id.). Together they decided to have a meeting with the parties involved. (Id.; Siever at 58,068-069). Those present at the meeting were Sue Ann Neumeyer, Jack Stanford, Dwight Woodyard, Terry Metheny, Robert Siever and John T. (Ted) Blixt. (Woodyard at 56,571). With the exception of Mr. Metheny, all those present at the meeting have testified as to what occurred. With some exceptions, all the witnesses agree essentially on the events which took place. After Blixt and Siever explained the purpose of the meeting, which was to resolve why the NCR was initiated (Blixt at 57,050), Neumeyer explained why she had written

the NCR. (Blixt at 57,051; Neumeyer at 59,595-596). After discussion, Blixt and Siever apparently decided to void the NCR. (Blixt at 57,051; Siever at 58,070; Neumeyer at 59,596). Siever testified that at the time he first saw the NCR and the WDC package before the meeting, the actual VT and PT inspection reports were not in the package. (Siever at 58,067). At the meeting, Siever and Blixt asked Stanford if he had performed the tests. (Blixt at 57,069; Siever at 58,070). Stanford replied with words to the effect that he had signed the WDC, or he thought so. (Id.). According to Stanford, he could not at the time connect the WDC with the actual inspection events. (Stanford at 57,552).

III.J.30. All the witnesses except Stanford recall that at the end of the meeting Stanford was ordered to retrieve the actual VT and PT reports he had done on January 17, 1984. (Blixt at 57,052; 58,071; Neumeyer at 59,598; Woodyard at 56, 572). Stanford admits to being "confused" at the time (Stanford at 57,575), and went out and checked with the piping department foreman, Ron McBee, in order to jog his memory concerning the inspections. (Stanford at 57,553; 57,580). According to Stanford, the foreman remembered the WDC well because the welding crew had been working all night Saturday to weld it up. (Id.).

III.J.31. The main exceptions to the consensus recollection of the meeting involve the date of the meeting and precisely when the NCR was voided by Robert Siever. Neumeyer has testified that the meeting was held on January 27, 1984. (Neumeyer at 59,593). Woodyard's testimony is that it occurred on January 25, 1984. (Woodyard at 56,571; Woodyard Exhibit 5). The only significance to these dates appears to be whether Siever actually voided the NCR before he had the missing VT and PT reports in hand, since

Neumeyer testified that Siever voided the NCR at the meeting, and then asked Stanford to produce the PT and VT. (Neumeyer at 59,598). Siever, on the other hand, while he agrees that at the meeting a decision was made to void the NCR, and that Neumeyer did not have the PT and VT reports (Siever at 58,070, 58,075), remembers that he did not actually void the NCR at the first meeting. (Siever at 58,075-076).

III.J.32. According to Stanford, there was a second meeting that day with Siever. (Stanford 57,554). At that time, Siever told Stanford to get Duncan and send him to that meeting. (Id.). Siever confirms that he talked with Duncan about to corroborate that Duncan was with Stanford when the examinations were performed. (Siever at 58,078). Siever testified that after the first meeting he did receive copies of the VT and PT reports, which were dated January 17, 1984. (Siever at 58,077; Stanford Exhibits 2 and 3). Siever also testified that he had Metheny write down the sequence of events as related by Duncan and Stanford and had Duncan and Stanford sign it.^{37/} (Siever at 58,076-077). In addition, Siever later "asked around" to see if Duncan and Stanford were buddies in order to preclude in his own mind the possibility of a cover-up. (Siever at 58,078-58,079).

III.J.33. After reviewing the PT and VT reports and the signed statement of Stanford and Duncan, Siever told Stanford to asterisk the two lined-through dates on the WDC and add the words "dated in error," which

^{37/} This particular document was not made an exhibit during the evidentiary depositions.

was done. (Siever at 58,078). The date following the words "dated in error" on the WDC is "1/26/84," preceded by the initials "JS." Purdy Exhibit 42-3 (p.9 of 9). Subsequently, Siever voided the NCR and dated it "1/27/84." (Siever at 58,080, 58,082; Siever Exhibit 3). While Ms. Neumeyer recalls Mr. Siever voiding the NCR in the first meeting, which she also recalls being held on January 27, the discrepancies in dates are not significant. It is evident that a decision to void the NCR was made at the first meeting, albeit the action of voiding would await substantiating documentation.

III.J.34. There are two other points raised by Ms. Neumeyer in relation to this incident. After the NRC was voided, Neumeyer assembled the complete package associated with the WDC, added the WDC with Stanford's "dated in error" words, and renumbered the package from pages 1 of 8 through 8 of 8 to 1 of 9 through 9 of 9. (Neumeyer at 59,604-605; Purdy Exhibit 42-3; Neumeyer Exhibit 3). On the voided NCR (p. 1 of 9), she added the words "copy voided NCR, corrected WDC added", then crossed out "voided NCR", installed and dated it "1/27/84", to show she was "not happy" with the NCR being voided. (Neumeyer at 59,605). However, according to Woodyard and Siever, at the end of the meeting when it had been decided to void the NCR, Ms. Neumeyer indicated she was satisfied with the direction they were going in, with the outcome of the meeting. (Woodyard at 56,548; Siever at 58,074).

III.J.35. Subsequent to the voiding of the NCR, Ms. Neumeyer testified that Mr. Morris told her she had to "sign concurrence" on the NCR, which

she would not do. (Neumeyer at 59,606; 59,781). Upon cross-examination by Staff counsel, Ms. Neumeyer could not show where she would "concur" on the NCR. (Neumeyer at 59,781). In fact, she does not know of any place on the NCR where she could concur. (Neumeyer at 59,783). Mr. Blixt testified that when an NCR is voided, the individual who initiated the NCR is presented a copy of the NCR with an explanation as to the reasoning behind the voiding of it. (Blixt at 57,054). If the individual did not concur with the voiding, the individual could revise the NCR. (Id.). This involves rewriting the NCR, putting "rev 1" in the description block with a reason. (Blixt at 57,055). If it then could not be resolved, it could go as high as Gordon Purdy, the Brown & Root Site QA Manager. (Blixt at 57,056). There is nothing in the record to indicate Ms. Neumeyer did anything further with this NCR.

III.J.36. The second point raised by Ms. Neumeyer was elicited during cross-examination at the end of the second Neumeyer deposition session. Ms. Neumeyer was asked why she would doubt the authenticity of the VT and PT reports dated January 17, 1984, which formed the basis for Siever voiding the NCR. (Neumeyer at 59,807). According to Ms. Neumeyer, at the meeting Siever asked Stanford three times to go to his desk and find the documents, even though Stanford does not actually have a desk. (Id.). Thereupon, because Ms. Neumeyer "understood the game", she also told Stanford to "look for" the documentation. (Neumeyer at 59,808). Neumeyer also testified that the forms for the PT and VT reports are not controlled, that inspections can be post-dated, and that she has done so herself. (Id.).

III.J.37. Shortly after the events comprising the incident with the NCR, on February 8, 1984, Ms. Neumeyer submitted her resignation. (Neumeyer at 59,607).^{38/}

III.J.38. Mr. Robert Duncan, an ASME QC Inspector employed by Brown & Root at CPSES, recalled performing an inspection of Field Weld 40C on January 17, 1984. (Duncan at 8). At that time he was in training to become a certified Level II QC Inspector. (Id.). On the date mentioned, craft signed up on the QC call board for a final visual and PT inspection. (Id. at 9). Since Duncan needed more PT time" under a certified inspector,

38/ Intervenors have offered into evidence three documents connected with that resignation: Neumeyer's handwritten resignation dated 2/8/84, effective 2/17/84 (Neumeyer Exhibit 14, Woodyard Exhibit 1); "Question for Persons Leaving QA/QC", with a handwritten comment by Neumeyer (Neumeyer Exhibit 15, Woodyard Exhibit 2); "An open letter to CPSES Management and Brown & Root", signed by Neumeyer (Neumeyer Exhibit 16, Woodyard Exhibit 3). However, Counsel for Intervenors stated during the Neumeyer deposition:

MR. ROISMAN: Let me just state one more time: CASE is not alleging here as part of its direct case that the reason for Ms. Neumeyer's resignation was related to any of the events about which she has testified.

That is not part of the case; harassment, intimidation, the position we are stating here -- we are stating that on the record as clearly as we can -- that is not in any way related to the question of whether those events may or may not have been the cause of her resignation; but it is not part of the case that is being presented by the Intervenor here.

An examination of the documents reveals no specific references to the incidents alleged by Ms. Neumeyer. The Staff therefore objects to admission of these three documents.

he went on the inspection with Jack Stanford. (Id.). Duncan performed the PT himself on a ten-foot high scaffold, while Stanford had climbed down off the scaffold to fill out reports. (Id.). Duncan reported to Stanford that he had no indications from the test, and Stanford stated (from below) that that was good enough for him. (Id.). Stanford then told Duncan to "clean it up." (Id. at 10). While Duncan was cleaning up, he heard Stanford utter a curse and ask, "today's not the fourteenth, is it?" (Id.). Duncan replied that it was the seventeenth. (Id.). Duncan heard Stanford remark that Stanford had put the wrong dates down and had to change them. (Id.). Then the two of them "made out the paperwork, signed everything off and left." (Id.). Duncan has authenticated a document entitled "Non-Destructive Test Inspection Request" (Duncan Exhibit 5) for Field Weld 40C, which requests a final visual and "L.P." (liquid penetrant) test, and which he had signed on 1/17/84. (Id.). Duncan testified that his signature next to the date indicates beyond a doubt that he performed the inspection on the 17th. (Id. at 10-11).

III.J.39. Duncan also identified his initials on a document entitled "MT/PT Report" (Duncan Exhibit 6, Stanford Exhibit 3), which relates to Field Weld 40C. (Id. at 11). Duncan's initials appear just above Stanford's signature and were placed there on 1/17/84. (Id.).

III.J.40. After the inspection on the 17th, Duncan was approached by Stanford who wanted help to "jog his memory." (Id. at 12). According to Duncan, Stanford was being questioned about conflicting dates on a weld data card. (Id.). Mr. Duncan did not, at that time, recall the inspection,

so Stanford talked to the crafts people who did the work, McBee and Simpson. (Id. at 12-13). After speaking to McBee and Simpson, Stanford remembered the inspection, and after he talked to Duncan, Duncan also recalled the inspection. (Id. at 13). Stanford then asked Duncan to speak to Siever about the inspection. (Id.). Duncan spoke to Siever and Siever appeared satisfied. (Id. at 13-14). Finally, Duncan testified that the proper procedure for correcting an error on a QC reporting document is to cross out the error, enter the correct information, initial and date. (Id. at 14).

III.J.41. Richard Simpson, a pipe fitter employed by Brown & Root at CPSES, recalls working on Field Weld 40C in January, 1984. (Simpson at 5). Simpson's duties entail prepping and clearing pipe to make it ready for his welder and for QC inspection. (Id.). In January, 1984, Simpson's crew was replacing a valve in the Unit 1 auxiliary feedwater system. (Id. at 6). There were three welds associated with valve IAF 067, among them Field Weld 40C. (Id. at 6-7).

III.J.42. Mr. Simpson testified that on January 2, 1984 the old valve was cut out and he prepared the area for a QC inspection. (Id. at 8). The QC inspection for cleanliness was performed on January 3, 1984 by Laurel Yates and the result was unsatisfactory due to a minimum wall violation. (Id.; Simpson Exhibit 5). No further work was done on Field Weld 40C until January 14, 1984. (Id. at 12-13). At that time the STE (Startup Test Engineering) was pushing for the job to be finished and the crew had to stay until they were through with the job. (Id.). On Saturday, January 14, 1984 Simpson cleaned up the pipe and valve, since they needed to have QC sign off on cleanliness for Field Welds 39C and 40C. (Id. at

14). Simpson called for cleanliness QC inspections for both valves, which were performed by Stanford. (Id.). Simpson identified the WDC's for Field Welds 39C (Simpson Exhibit 14) and 40C (Simpson Exhibit 5) and 40C (Simpson Exhibit 5) which show satisfactory cleanliness inspections signed off by Stanford on 1/14/84. (Id. at 15).

III.J.43. Mr. Simpson and his welder, Jackie Ables, proceeded with the fitup of both welds and called for a QC inspection. (Id. at 16). Stanford performed the fitup and also the preheat inspections on both welds, then signed off on both WDC's as satisfactory. (Id.; See Simpson Exhibits 4 and 5).

III.J.44. After Stanford approved the fitup and preheat, Ables started welding "sometime around lunch." (Id. at 17). Simpson testified that it took Ables, with help from welder Danny Wright, approximately thirteen hours to complete the welds, and that Ables did not leave until 2:30 a.m. the following morning. (Id. at 17-18). Simpson identified the weld filler material log (WFML) for Field Weld 40C (Simpson Exhibit 7) and explained how the WFML showed welding by Ables and Wright on 40C on January 14, 1984. (Id. at 19, 21).

III.J.45. Mr. Simpson left work at 1:30 a.m. Sunday morning; Ables and Alan Justice, Simpson's general foreman, were still there, prepping for QC inspections. (Id. at 22). At the time Simpson left, there were no QC inspectors standing by, and Stanford had left sometime on the afternoon of the 14th. (Id.).

III.J.46. Referring to the WFML for Field Weld 40C (Simpson Exhibit 7), Simpson had identified a repair done on that weld. (Id. at 21). He testified that on Monday morning, January 16, 1984, he received an RT (radio-

graphic test) report which rejected 40C. (Id. at 24). Simpson and Ables began the repair on Field Weld 40C that afternoon using the RPS (Simpson Exhibit 9, Stanford Exhibit 5; Neumeyer Exhibit 9). (Id. at 24, 28). According to Simpson, there are no QC hold points on the RPS because it is an in-process repair. (Id. at 28). Simpson testified that a final VT had not been performed on Field Weld 40C at the time his group repaired the weld on the 16th nor had a final PT been performed prior to the repair. (Id. at 28-29). Repair work on Field Weld 40C was completed at approximately 7:30 p.m. on Monday, the 16th. (Id. at 29). Simpson learned on Tuesday morning that there had been a subsequent RT on 40C which was an "accept." (Id.). Since the weld was now ready for a final VT and PT, Simpson requested the inspections by putting his request on the QC call board. (Id. at 29-30). Simpson identified the document (Simpson Exhibit 10) dated 1/17/84 as the sheet he used to request a QC inspection. (Id. at 30). The final VT and PT were performed by Stanford, accompanied by Duncan. (Id.). Simpson also identified as Simpson Exhibit 13, a "Non-Destructive Test Inspection Request" which he had filled out and dated 1/17/84, and which had been previously identified by Duncan as Duncan Exhibit 5. (Id. at 33). Duncan testified that it would not have been possible to perform a final VT and PT on Field Weld 40C on January 14, 1984. (Id. at 34).

III.J.47. Ronald McBee, employed as a piping foreman by Brown & Root at CPSES, testified he recalled working on January 14, 1984. (McBee at 4-5). He was supervising the installation of six-inch auxiliary feed valves. (Id. at 5). He originally had Simpson as a pipe fitter and Ables as a welder, but later brought over another welder, Danny Wright. (Id. at 5-6).

He made a special request for a QC inspector that day to Alan Justice. (Id. at 6). That morning his crew prepared the pipe for QC inspection of cleanliness, fitup and preheat on Field Welds 39C and 40C. (Id. at 7). Stanford performed the QC inspections on those welds. (Id.). McBee's crew commenced welding after lunch on Saturday the 14th, and completed welding after midnight. (Id. at 8).

III.J.48. Alan Justice, piping general foreman employed by Brown & Root at CPSES, had assigned the valve replacement work to McBee. (Justice at 6). Shortly before 3:30 p.m. on January 14th, it became apparent to Justice that McBee's crew would not finish the job on the 14th. (Id. at 8-9). Justice got a conference together with McBee and Stanford, where it was decided that the QC inspections could not be done that day and Justice sent Stanford home at 3:30 p.m., the normal shift change. (Justice at 9; McBee at 8).

III.J.49. Around 1:30 a.m., Justice sent McBee, Simpson and Wright home, remaining with Ables to prep the pipe for QC inspections, particularly RT and PT. (Justice at 10-12; McBee at 8-9). McBee had previously prepared a "Request for RT" for Field Weld 40C dated 1/14/84 (McBee Exhibit 3), which he gave to Justice before leaving Sunday morning. (McBee at 11-12). Justice left the form at the RT trailer before he left at 2:30 a.m. (Justice at 13).

III.J.50. Mr. McBee received McBee Exhibit 3 back with the word "Rejected" stamped on it shortly after 6:30 a.m. on Monday, January 16th. (McBee at 12). At 7:00 a.m. he went to James Zwahr for an RPS on Field Weld 40C, which he received mid-morning from Welding Engineering. (Id. at 13).

III.J.51. James Zwahr, Weld Technician V, employed by Brown & Root at CPSES in the Welding Engineering department, testified that he prepared the RPS for Field Weld 40C (Zwahr Exhibit 1, Neumeyer Exhibit 9, Stanford Exhibit 5) on January 16, 1984. (Zwahr at 7). Zwahr testified that to prepare the RPS, he used the WDC for Field Weld 40C. (Id. at 9). In response to a question on how he knew he had the proper WDC in front of him, Zwahr testified that the WDC and RPS are printed forms, preprinted on opposite sides of the same sheet of paper (Emphasis by Board). (Id. at 9-10).

III.J.52. Zwahr testified that he specified in the RPS an "in-process repair cycle one," a repair that is done before the final NDE's have been signed off. (Id. at 10). He could see that on the WDC (Zwahr Exhibit 3) steps 5 and 6, the final NDE hold points for VT and PT, were blank and not signed off by QC. (Id.). The final step Zwahr put on the RPS was "return to step #5 on the WDC," which is placed directly above his signature on the RPS. (Id. at 11; Zwahr Exhibit 1). Zwahr testified that there is no way he would have written the RPS as he did if step #5 on the WDC had been signed off. (Id.). If steps 5 and 6 on the WDC had been signed off by QC, the RPS would have been specified as a "major weld repair, repair cycle one." (Id. at 12). In that case, Zwahr would have included QC hold points on the RPS. (Id.).

III.J.53. Zwahr identified Zwahr Exhibit 4 as Brown & Root's construction procedure CP-CPM 6.9D, section 3.19.1, which defines in-process repairs. (Id.). He also identified Zwahr Exhibit 5 as section 3.3 of CP-CPM 6.9G which provides the procedure for preparing an RPS. (Id. at

13). Both procedures were in effect when Zwahr prepared the RPS for Field Weld 40C. (Id.).

III.J.54. Daniel Wilterding, Weld Technician IV, employed by Brown & Root at CPSES in the Welding Engineering department, testified that he reviewed the RPS prepared by Zwahr. (Wilterding at 8). One of the items he reviewed was to make sure the final NDE had not been signed off. (Id.). He specifically checked to ensure the final VT and PT had not been signed. (Id. at 14). Finally, both Zwahr and Wilterding testified that they neither know Jack Stanford nor have they ever discussed the RPS or the WDC with any QC inspector. (Id. at 14-15).

III.J.55. After McBee received the RPS from Welding Engineering, his crew worked on repairing Field Weld 40C, completing the job the same day. (McBee at 13). McBee thereupon prepared, and Justice submitted, another RT request on January 16, 1984. (Id. at 14; Justice at 15; McBee Exhibit 4). Mr. McBee and Justice learned the second RT was accepted on Tuesday morning, January 17, 1984. (McBee at 17-18; Justice at 16). McBee then instructed his crew to request final PT and VT QC inspections on Field weld 40C as soon as possible. (McBee at 18). As noted supra, Simpson testified that he requested the inspections, which were performed by Stanford, accompanied by Duncan. (Simpson at 30).

III.J.56. Finally, Mr. James Brown, employed by Brown & Root at CPSES as Chief Timekeeper and Payroll Supervisor, testified as to the check-in and check-out times of various individuals involved in this incident. Based on business records of which he is the custodian, Brown testified that on Saturday, January 14, 1984: Stanford checked in at 7:00 a.m. and left at 3:30 p.m.; McBee checked in at 7:00 a.m. and left at 1:30 a.m. Sunday

morning, as did Simpson and Wright; Justice checked in at 7:00 a.m. and left at 2:30 a.m. Sunday morning, as did Ables. (Brown at 11-15). These times reflect the times testified to by the individuals.

Traveler Incident

III.J.57. Ms. Sue Ann Neumeyer claims she was improperly ordered to sign off on "travelers," documents related to liner plates in the spent fuel pool, which was not in accordance with procedures. According to Ms. Neumeyer, the incident occurred sometime in 1983, when she, John Blixt (QE Group Supervisor), Robert Siever (QC Group Supervisor) and Dwight Woodyard (QC/QA Supervisor) were all on the night shift. (Neumeyer at 59,516). According to Neumeyer, Siever told her they had a "special project" for her that night - approximately 142 travelers in the millwright shop which they needed her to sign off. (Id. at 59,516-517). Blixt and Woodyard accompanied her to the millwright shop and showed her the travelers to be signed. (Id. at 59,518). The travelers related to the stainless steel liner plates for the spent fuel pool and the transfer canal. (Id. at 59,526). Neumeyer estimated there were about 112 travelers. (Id.). With each traveler was a "chit," and Woodyard told her that the signatures on the chits covered her signing off on the travelers, that the inspectors who had signed the chits had not signed the travelers. (Id. at 59,518, 59,524-525).

III.J.58. Ms. Neumeyer could not understand why she was signing off hold points for something another inspector had done. (Id. at 59,524). It is Neumeyer's belief that if an inspector signed an inspection report, she cannot sign a missing hold point for the inspector. (Id. at 59,640).

Ms. Neumeyer was also concerned because chits are not official pieces of documentation, and that the hold points which she was to sign were for welds on the front of the liner, while the chits were for backing strips. (Id. at 59,642).

III.J.59. Ms. Neumeyer and a Billie Catness looked over the travelers and chits, then compared them to drawing or a blueprint of the liner plate on the wall of the millwright shop. (Id.). They concluded that the chits were for the fitup on the back of the liner plates where the backing strip is attached. (Id.). During cross-examination, counsel for Staff attempted to elicit from Ms. Neumeyer an explanation of how the drawing or blueprint showed discrepancies between the travelers and the chits. (Id. at 59,662-669).

III.J.60. At that point, Ms. Neumeyer requested from Blixt and Woodyard that they call Larry Wilkerson, since his signature appeared on some of the chits and he could tell them what the chits were actually for. (Id. at 59,527). Neumeyer did not feel that the chits represented the hold points on the traveler. (Id.). Woodyard told Neumeyer they would call Wilkerson, then left the shop. (Id. at 59,528).

III.J.61. Ms. Neumeyer then went to the QC trailer and talked to Ms. Meddie Gregory, telling Ms. Gregory that she was worried about "buying those off," that the chits did not correspond to the the hold points on the travelers, and that she couldn't understand why she was being asked to sign off hold points for inspections done years before. (Id.). While Neumeyer was in the room with Gregory, C. C. Randall was also there, and within five or ten minutes Woodyard and Blixt came in. (Id. at 59,528-529).

According to Neumeyer, she asked them if they had contacted Wilkerson, and Woodyard replied no, that they were not going to bother him. (Id. at 59,529). When asked why by Neumeyer, Woodyard allegedly stated that they had "to have these turned over to the non-ASME side first thing Monday morning. And they're all going to be signed off, if you have to stay here all three days." (Id.).

III.J.62. Ms. Meddie Gregory, a former QC employee at CPSES, partially corroborates Ms. Neumeyer's testimony. Deposition of Meddie Gregory; July 17, 1984 (Tr. 54,500-559) and July 31, 1984 (Tr. 54,559-718); ("Gregory"). Gregory testified that she was standing near the front of the room talking to C. C. Randall when Neumeyer came in. (Gregory at 54,596). Gregory recalls that Woodyard called Neumeyer over to talk to her. (Id.). Prior to that, at the time Woodyard first entered, Gregory believes she, Neumeyer and Randall were talking. (Gregory at 54,599). Gregory does not recall anyone else being in the room. (Id. at 54,597). Woodyard and Neumeyer were approximately four or five feet away. (Id. at 54,601). As best as she could recall, Gregory testified she heard Woodyard say to Neumeyer, "You will sign them or you will spend the next three days here." (Id. at 54,617). At the time Gregory overheard this remark, she did not know to what documents Woodyard was referring to.^{39/} (Id. at 54,614).

^{39/} Counsel for Applicants has objected on the record (Gregory at 54,614-615) to any testimony on this issue beyond what Ms. Gregory actually saw and heard herself which relates to this incident, and moved to strike all testimony concerning anything Ms. Gregory was told by Neumeyer or Fred Evans as hearsay. The Staff supports Applicants motion, except for Ms. Gregory's testimony as to what Ms. Neumeyer said to her about this matter. See Gregory at 54,615-616.

III.J.63. Ms. Neumeyer further testified that after the statement by Woodyard, she went back to the millwright shop with Woodyard and Blixt. (Neumeyer at 59,529-530). Neumeyer commenced signing off the travelers by placing an asterisk next to her name and an asterisk at the bottom of the page to reference a "quality procedure", then attaching the chit and writing that she was signing "per the chit." (Id. at 59,530-531). Neumeyer worked on the travelers with Fred Evans until they finished at "almost quitting time" the next morning. (Id. at 59,532). Neumeyer does not know if Evans used the same method of signing off, i.e., the asterisk and comments. (Id. at 59,532-533).

III.J.64. Ms. Neumeyer testified that when she returned from three days off, she heard that there was talk about firing her for falsification of documentation. (Id. at 59,534). Jim Ragan, Ms. Neumeyer's night shift supervisor, called her in and asked what happened; Ms. Neumeyer told him her story. (Id. at 59,534-535). Other than the meeting with Mr. Ragan, no one in management ever talked to Ms. Neumeyer about the traveler incident again. (Id. at 59,536, 59,773-774).

III.J.65. Applicants' version of the events comprising the traveler incident differs from Intervenor's version at several salient points.^{40/}

^{40/} The Brown & Root supervisors named in Neumeyer's testimony, Woodyard, Blixt and Siever, were deposed a week before the Neumeyer deposition. During presentation of their direct case, Intervenor's failed to take the opportunity to have Ms. Neumeyer address or explain conflicting testimony between her version and that of Messrs. Woodyard, Blixt and Siever.

III.J.66. Mr. Blixt testified that prior to the night of the incident, he and C. C. Randall looked at the records of fabrication for the liner plates in the spent fuel pool. (Blixt at 57,015). Blixt and Randall were reviewing the completeness of the records, i.e., to see if the travelers were filled out in their entirety. (Id. at 57,018-019). Blixt could not recall the number of travelers looked at, but Randall and he worked together for three nights. (Id. at 57,019-020). Some of the travelers were incomplete - there were line entries where an inspector had not signed off a step on his final VT. (Id. at 57,020). Blixt did not think this was a problem because there was supporting documentation in the form of inspection chits. (Id. at 57,020-022).

III.J.67. A chit was a method of showing that an inspection had been witnessed by a QC inspector; they were not being used by the time Blixt arrived two years ago. (Id. at 57,023). In view of the missing signatures on the travelers, Randall and Blixt decided to go back and do a thorough review of the record, and if there was substantiating evidence that a hold point had been signed, to show a "late entry" on the traveler. (Id. at 57,030). According to Blixt, an asterisk would be made showing "late entry" and then it would be signed and dated by an inspector. (Id.).

III.J.68. In order to accomplish this task, Blixt asked Woodyard for an inspector; Woodyard provided Neumeyer. (Id. at 57,032). Woodyard's testimony apparently is that he has no recollection of Blixt's request. (Woodyard at 56,565). Woodyard also had no recollection of being with Blixt and Siever when Neumeyer was given her "special assignment." (Id. at 56,561). Siever's only recollection is that Blixt told him that Blixt

was doing some investigation on the traceability of weld material on the fuel pool liners. Siever at 58,052. Siever felt that since it was non-ASME, it was not his problem, and he did not want to be involved. (Id.).

III.J.69. Blixt testified that he explained to Neumeyer the objective of substantiating the travelers with the chits and showing it as a late entry; if there were any without supporting documentation, to write an NCR. (Blixt at 57,033). Neumeyer acknowledged her understanding of the task and did not raise any questions at the time. (Id.). Blixt does not recall Neumeyer ever voicing a concern about the chits not being about the liner plates, nor does he recall Neumeyer showing him a blueprint on the wall of the millwright shop. (Id. at 57,033-034). Blixt testified he does not recall Neumeyer suggesting he call Wilkerson, nor is he aware of anyone else explaining the assignment to Neumeyer. (Id. at 57,034). Blixt also testified that he did not tell Neumeyer the travelers had to be done by Monday morning; neither Siever nor Woodyard told her she had to sign the documents if it took all weekend. (Id. at 57,036). Woodyard also denies making that statement. (Woodyard at 56,566).

III.J.70. During his testimony, in response to a question concerning late entries, Siever stated that inspectors may sign for other inspectors if they "satisfy themselves" after reviewing available additional documentation. (Siever at 58,016). If an inspector is not satisfied, he or she should not sign it and the documentation would have to be reviewed on a management level. (Id.). Siever also testified that nobody has the authority to order any QC inspector to sign anything "as long as I'm supervisor in my job at Comanche Peak." (Id. at 58,017).

III.J.72. During the course of the Neumeyer deposition on August 1, 1984, Applicants produced a number of travelers signed by Ms. Neumeyer with accompanying chits which were used for cross-examination. (Id. at 59,645-676). These documents were marked for identification as Neumeyer Exhibits 17 through 27. (Id. at 59,644-670). Counsel for Intervenors argued that the documents were incomplete and qualified as surprise. (Id. at 59,676-677). The point was further argued before the Board during the telephone conference of August 2, 1984 (Tr. 38,690-726).

III.J.73. Based on representations by counsel for Applicants that as complete set as possible of the documents would be provided to Intervenors, the Board ruled that the Intervenors would have a fair opportunity for recross after the documents are available for study. (Tr. 38,724).

III.J.74. On August 28, 1984, Applicants delivered copies of the travelers to the Staff and Intervenors.

III.J.75. Mr. C. Thomas Brandt, employed by Ebasco at CPSES as Site Quality Assurance Supervisor, testified concerning this incident. Deposition of C. Thomas Brandt; August 16, 1984 (Tr. 45,239-355); ("Brandt"). Mr. Brandt testified that he is familiar with the spent fuel pool and its associated transfer canal. (Brandt at 45,314). He is also familiar with liner plates associated with the pool and canal. (Id. at 45,315).

III.J.76. The welding on the liner plates is a non-ASME function. (Brandt at 45,315). The welds are considered to be safety-related by the design engineer. (Id.). The welds on the liner plates are not structural welds; the purpose of welds between adjacent liner plates is to form a continuous liner to preclude the possibility of the irradiated water from seeping out of the liner into the concrete which surrounds the liner.

Essentially, the welds are designed simply to ensure that the spent fuel pool and the transfer canal hold water. (Id. at 45,315-316).

III.J.77. With regard to QC inspectors signing off on the liner plate travelers, Brandt testified that during the time of the fuel building turnover it was discovered that some of the Unit 2 liner plate travelers were incomplete, in that the fitup inspection hold point on the traveler itself was not signed and yet the weld was completed. (Brandt at 45,317). During the time frame in which the travelers were generated the inspections were performed by ASME QC inspectors. (Id.). At the time of the fuel building turnover, a box containing the travelers for the Unit 2 liner was brought to Brandt's office and it was explained to Brandt that since it was a non-ASME activity now and that his inspectors performed these inspections, that he should address the unsigned fitup hold points. (Id.). At that time, Brandt was the non-ASME QA/QC supervisor. (Id.).

III.J.78. Mr. Brandt told C. C. Randall to get with Blixt and Ragan since the inspections had been an ASME activity and ASME QC people should resolve the problem. (Brandt at 45,318). Eventually, the travelers were reviewed, where possible inspection chits were located for the missing inspections, the travelers were signed off noting that they were a late entry, the signature was based on the existence of an NDE chit for that inspection which had been signed by a certified inspector and the chit was attached to the traveler. (Id. at 45,318-319).

III.J.79. Mr. Brandt identified as Brandt Exhibits 18 and 19 an NCR and its first revision, which were written, according to Brandt, because there was a question as to whether the inspection chits were for the fitup of the weld between the seam caused by the fitup of the two plates,

or whether the inspection chits were for the fitup of the backing strip to the two plates. (Brandt at 45,320-321). Brandt testified that the NCR was dispositioned based solely on the satisfactory performance of vacuum box and hydrostatic tests, since these were nonstructural welds. (Id. at 45,321).

III.J.80. Finally, Mr. Brandt testified that he knew Ms. Neumeyer had signed off on a number of the travelers, and that she was performing a document review, and not an inspection, function. (Brandt at 45,324-325).

III.K. LESTER SMITH

III.K.1. Mr. Smith was employed as a journeyman fitter and foreman by Brown and Root at CPSES, for a total of four years. (Deposition of Lester Smith (July 12, 1984), ("L. Smith") (L. Smith at 49,505-509). He was not employed by the QA/QC organization at CPSES, and did not have any personal and direct knowledge of any instances of intimidation or harassment of QC inspectors at CPSES. (L. Smith at 49,510; 49,512; 49,514).

III.L. DARLENE STINER

III.L.1. Mrs. Stiner was employed by Brown and Root at the CPSES site for approximately 4-1/2 years, from August of 1977 to December 1982. She was first employed as a file clerk, then as a welder, and lastly as a mechanical QC inspector. Deposition of Darlene Stiner (July 13, 1984) ("D. Stiner") (D. Stiner at 52,004-005).

Polar Crane

III.L.2. Mrs. Stiner indicated that when she first began working with Harry Williams, she observed a hole in the polar crane rail. According to Mrs. Stiner, she saw a man dropping a welding lead line down, which "hooked under and hit the rail," causing a hole in the rail. Mrs. Stiner also states that the hole looked like a "large weave weld." (D. Stiner at 52,005; 52,080; 52,185; 52,188). Mrs. Stiner called Jim Reagan, a QC supervisor, who told her to write an NCR on the hole. In accordance with her procedures, Mrs. Stiner wrote the NCR^{41/} and placed hold tags on the polar crane operator's instrument panel. Although Mrs. Stiner described the problem as a hole in the polar crane veil, her NCR states that it is a problem with the polar crane bus box. (See, e.g., CASE Exhibit 6674; T. Brandt at 45,274-75).

III.L.3. When she placed the hold tags on the control panel, Mrs. Stiner testified that the crane operator expressed his concern to Mrs. Stiner that he could not operate the crane. He spoke to his general foreman, who in turn spoke to Mrs. Stiner. The general foreman told Mrs. Stiner there was nothing wrong with the polar crane. Mrs. Stiner directed the general foreman to speak with Harry Williams, her supervisor. According to Mrs. Stiner, the NCR was voided in a few hours. She was not told why the NCR had been voided, except that the crane rail was outside the QA program. (D. Stiner at 52,005-009, 52,080-83, 52,183-85, 52,188-90).

III.L.4. Mrs. Stiner feels intimidated because the crane operator's foreman disagreed with Mrs. Stiner's belief that the hole in the polar

^{41/} CASE Exhibit 667u; Brandt Exhibit 11 (Tr. 45,273).

crane rail was a nonconforming condition and by the foreman telling her that she should remove the hold tags.^{42/}

III.L.5. According to Mr. Brandt, the NCR which Mrs. Stiner wrote was properly dispositioned by voiding, since the bus box is not a safety-related item, is not within the scope of 10 C.F.R. Part 50, Appendix B, and therefore is outside the CPSES QA Program. (T. Brandt at 45,274; 45,275-76). Mr. Brandt also adds that Mr. Bob Scott, non-ASME QA Supervisor, voided the NCR, and was authorized to disposition NCRs. (T. Brandt at 45,275).

Weave Welding

III.L.6. While writing an NCR on a pipe support at the 790 elevation level in the auxiliary building, Mrs. Stiner states that she was intimidated by craft foremen, and by her immediate supervisor Harry Williams. (D. Stiner at 52,010-014).

III.L.7. According to Mrs. Stiner, she had identified a pipe support with unacceptable weave welds. Mrs. Stiner stated that George Willis, a QC superintendent, instructed her to have the hanger removed. She contracted the craft persons, who agreed to remove the hanger. Some period of time later, Mrs. Stiner returned to find that the hanger had not been removed, but that the offending weld faces had been ground down

^{42/} She did not indicate that she was intimidated by Harry Williams, or by the subsequent voiding of the NCR. (D. Stiner at 52,009; 52,082-83).

and repaired. In response, Mrs. Stiner put a hold tag on the hanger and wrote an NCR, in accordance with her inspection procedure. (D. Stiner at 52,010-11, 52,087, 52,090).

III.L.8. Mr. Don Fields, a foreman, told Mrs. Stiner that the craft had repaired the weld, and when Mrs. Stiner persisted in placing the hold tag, brought his supervisor, Forest Dendy, to review the situation. Mr. Dendy called Mr. Williams, and together with Mrs. Stiner discussed the condition of the hanger. Mr. Williams determined that Mrs. Stiner was correct. (Id., See also Tr. 52,093-94). Later (approximately 30 minutes, according to Mrs. Stiner), Mrs. Stiner was called into Mr. Williams' office and was told to sign off as acceptable on the NCR. After some discussion, Mrs. Stiner claims that Mr. Williams told her that if she didn't sign off as acceptable on the NCR, that she would be terminated. (D. Stiner at 52,011-12).

III.L.9. Mrs. Stiner indicated that she felt intimidated by the craftworkers because they lied to her about removing the pipe support, they "put pressure" on her to remove the hold tags, and when the craft complained to their supervisors about her NCR, when Mrs. Stiner feels they were wrong. (D. Stiner at 52,015, 52,087-90). Mrs. Stiner states that she also felt intimidated by Mr. Williams when he told Mrs. Stiner to sign off as acceptable on the NCR. (Id. at 52,015).

III.L.10. Mr. Brandt testified that Applicants searched their files for a NCR on this hanger, but could not find one. He also testified that Applicants had identified an inspection report ("IR") on this hanger

which Mr. Stiner had signed off on, and where she accepted the welds. (T. Brandt at 45,287).^{43/}

Diesel Generators

III.L.11. Mrs. Stiner claims that she was intimidated and harassed by Harry Williams when he assigned her to conduct inspections of welds on the diesel generator skids for CPSES, even after her protests that she was unqualified to conduct those inspections.

III.L.12. Mrs. Stiner was assigned by Mr. Williams to conduct inspections of welds on diesel generator skids which were fabricated by a vendor (unidentified in the record). Although Mrs. Stiner told Mr. Williams that she was not qualified to do those inspections, she claims that he said, "you'll just have to do the best you can." (D. Stiner at 52,017-18). According to Mrs. Stiner, she told Mr. Williams every day to reassign her, but he did not and reiterated that she would have to do the best that she could. (Id.).

III.L.13. In conducting her inspections, Mrs. Stiner apparently had problems understanding the drawings, and would have to constantly ask Mr. Williams about her inspections. According to Mrs. Stiner, Mr. Williams became irritated, and "slammed out of the office two or three times." (D. Stiner at 52,018-19). Later, he would ask her about the status of her inspections, and she would respond that she was having a problem with one or more items. Mrs. Stiner claims that Mr. Williams would then become

^{43/} See Applicants' Exhibit 180; Tr. 10,263-275.

upset to the point that she believed she was going to be fired. (Id. at 52,019-20).

III.L.14. Mrs. Stiner testified that despite the actions of Mr. Williams, she did inspect the welds (albeit not in the manner that she thought they should be inspected). (D. Stiner at 52,018-20).

III.L.15. In response to Mrs. Stiner's testimony, Mr. Brandt testified that based upon Mrs. Stiner's daily status reports, he concluded that she was having an abnormal amount of difficulty in doing her inspection of the skids, and asked Randy Smith if it was, in fact, the case. Mr. Smith acknowledged that Mrs. Stiner was having problems, and Brandt directed Mr. Williams to reassign Mrs. Stiner if she was having problems. (T. Brandt at 45,278-79). According to Brandt, Mr. Williams did do so shortly after his discussion with Brandt. (Id. at 45,279-80). Mrs. Stiner's work in the diesel generator skids was subsequently reinspected. (Id. at 54. 45,280).

Weld Symbols on Doors

III.L.16. Mrs. Stiner's next allegation of harassment or intimidation occurred sometime in October 1982 in the structural fabrication shop ("fab shop"). She contends that she was told by Thomas Brandt, her superior at the time, to improperly accept doors which had not been properly welded in accordance with the design drawings. (D. Stiner at 52,020-23).

III.L.17. Mrs. Stiner testified that in the course of inspecting some doors^{44/} which had been welded the fab shop, she determined that the "weld symbols were wrong," and placed hold tags on the doors. She states that she informed Randall Smith that the welds were wrong. The craftpersons, and in particular the welding foreman and the general foreman, apparently tried to explain their understanding of the meaning of the disputed weld symbol to Mrs. Stiner. (D. Stiner, at 52,020-21). In particular, the general foreman told Mrs. Stiner that the weld symbols designated run-off tabs, and not welds all around the item. (Id. at 52,058-59).

III.L.18. The craftpersons then attempted to contact Mr. Brandt, but were unable to, and spoke to Randall Smith, who agreed with Mrs. Stiner that the weld symbols were incorrect. The craftpersons eventually spoke with Mr. Brandt, according to Mrs. Stiner. (D. Stiner at 52,022).

III.L.19. According to Mrs. Stiner, Mr. Brandt told her that the doors were not improperly welded, and therefore the hold tags which she had placed should be removed. Mrs. Stiner insisted the doors were not welded to the drawing and she would not approve the doors. There is some confusion in Mrs. Stiner's testimony as to what occurred subsequently, since she first testified that Mr. Brandt said he would look into the matter, and that an hour later Randall Smith told Mrs. Stiner that Brandt concluded that the doors were acceptable, and the hold tags should be removed or else she would be fired. (D. Stiner at 52,023, 52,054). However, on subsequent cross-examination by Applicants, Mrs. Stiner

^{44/} Mr. Brandt testified that these doors were missile shield doors. (T. Brandt at 45,280).

testified that Mr. Brandt explained to her that what she thought were all-the-way-around welds were simply run-off tabs. (Id. at 52,023, 52,110-111).

III.L.20. In Mrs. Stiner's view, she was harassed or intimidated because Mr. Brandt voided her NCR without giving her an explanation why she was wrong, or showing her proof that she was incorrect in her understanding of the weld symbol on the drawing. Mrs. Stiner believes that she was and is correct, and that there is absolutely no chance that she could be wrong on question of what weld was indicated by the weld symbol. (D. Stiner at 52,110-111).

III.L.21. Mr. Brandt's testimony contradicts Mrs. Stiners in a number of respects. For one, Mr. Brandt testified that he never spoke directly to Mr. Stiner about the doors. According to Brandt, he was informed by Randall Smith that a QC inspector had a problem with a weld symbol. Mr. Brandt explained that Smith described the problem, and that Brandt concluded that the weld symbol was correct, in accordance with AWS D1-1, Section 4.6. (Brandt Exhibit 12).^{45/} (T. Brandt at 45,281-83). He also told Smith that if the QC inspector had a problem, that he (Brandt) would conduct the inspection (Brandt, as a Level III Inspector, was qualified to do the inspection). (T. Brandt at 45,283-84). Brandt stated that Applicants attempted, but could not find, any NCRs written by Stiner on these doors. (Id. at 45,285-86).

^{45/} Staff does not object to admission of Brandt Exhibit 12.

Relocation of Mrs. Stiner's Office

III.L.22. Between the July and September 1982 hearing sessions, Mrs. Stiner's office was moved four times over a two-day period. (D. Stiner at 52,027-031). Three of the moves occurred on the first day. On the second day, she was moved to an office that was across the street and 50 feet away from the fab shop. At that time, Mrs. Stiner was assigned to do inspections at the fab shop, and she admits that the office was more convenient to the fab shop than her old office in the radwaste trailer, which was $\frac{1}{2}$ mile away from the fab shop. (Id. at 52,029, 52,118-19). Nonetheless, Mrs. Stiner feels she was harassed by having to move so many times in such a short period of time.

III.L.23. Mr. Brandt testified that he made the decision to relocate Mrs. Stiner's office. According to Mr. Brandt, he made this decision because the group that Mrs. Stiner was working in would be moving to new offices which were three-eighths to a half mile from the fab shop, where Mrs. Stiner was already assigned. (T. Brandt at 45,255-56). Mr. Brandt described how he arranged to have Ken Liford move Mrs. Stiner to the shack across from the fab shop, but he also testified he was unaware until about a month ago that it took four moves to get Mrs. Stiner to the fab shop. (Id. at 45,256-258). However, Mr. Brandt explained that circumstances were responsible for the need to move Mrs. Stiner. (Id. at 45,259-62).

III.L.24. Mrs. Stiner also felt harassed by the move to the shack, since the shack floor was unsafe^{46/} (D. Stiner at 52,033, 52,128-29), there were one-inch gaps between the floor and the walls, which she states were an inch thick (Id. at 52,230-31), there was trash and dirt in the shack when she first moved there (Id. at 52,031), and because the air conditioner was not functioning during the first few days (Id. at 52,032-033, 52,127). She also testified that the shack was very small, with no room to store her documents, which was not the situation in her old office in the radwaste trailer. (Id. at 52,032-033, 52,120, 52,127). Finally, Mrs. Stiner expressed her fear at the time that a truck might be intentionally^{47/} driven into the shack while she was in it. (Id. at 52,033, 52,121-123, 52,127-131).

III.L.25. In response to Mrs. Stiner's complaints about the air conditioning in the shack Applicants presented the testimony of Mr. Ronald L. Dempsey, who was a journeyman electrician for the maintenance department during 1982, and who is currently a maintenance general foreman at CPSES. The maintenance department's responsibilities include installing, maintaining and servicing air conditioning at all temporary construction building at the site. Mr. Dempsey testified that there are problems in

^{46/} Mrs. Stiner indicated that as one walked across the floor, it shimmied. Tr. 52,231.

^{47/} Mrs. Stiner used the term, "accidentally intentional," in describing the intent of the driver; she defined the term as being analogous to a situation where somebody intentionally trips another, and then calls it accidental. See Tr. 52,129-131.

maintaining the window air conditioners (which are the majority of the air conditioners at CPSES), due to the dirt and heat at the site. Maintenance receives approximately 10-15 calls for air conditioning service each day. (Deposition of Ronald L. Dempsey (July 20, 1984) ("R. Dempsey") Tr. 70,507-508). It takes approximately 1-3 days to have a maintenance man check a unit once a service request is made. Service calls are listed in order, and maintenance works on the calls as they appear on the list. (R. Dempsey at 70,508, 513-514).^{48/} In addition, Mr. Brandt testified that he could remember three times when window air conditions broke, and that it took between one to two days to fix them. (T. Brandt at 45,266-267).

III.L.26. Applicants also presented the testimony of Jimmie D. McClain, a non-ASME QC welding inspector employed by Ebasco, whose office is in the same shack near the fab shop that Mrs. Stiner was finally

^{48/} CASE objected to Mr. Dempsey's testimony as irrelevant, since there was no showing that Mr. Dempsey was personally responsible for the servicing of the air conditioner at the shack that Mrs. Stiner was assigned to. The Staff disagrees with CASE, since it understands Mr. Dempsey's testimony as stating that he was responsible for servicing window air conditioners at CPSES at least since 1982. In addition, Mr. Dempsey's testimony related to the general nature of air conditioner maintenance at CPSES and the length of time required for repairs to be accomplished. Accordingly, Mr. Dempsey has personal knowledge of the general air conditioning maintenance practices at CPSES during 1982, he is qualified to give testimony on that issue.

assigned to prior to her leaving CPSES.^{49/} Deposition of Jimmie D. McClain (July 20, 1984) ("J. McClain"), Tr. 71,005-007). Mr. Brandt also testified about the shack near the fab shop. Mr. McClain testified that the shack was "the best office he ever worked in," because it was private, air-conditioned, and because he was "kind of on my own up there." (J. McClain at 71,008-009). Indeed, in Mr. McClain's view, it was "the gravy train of the job site," and he was happy to be assigned to that office, since "it was my turn to have a little gravy." (J. McClain at 71,012).^{50/}

III.L.27. The shack is approximately 8 x 12 feet, which is a little larger than Mr. Brandt's current office. (T. Brandt at 45,263). The shack is built entirely out of plywood, but it has double walls approximately 6 inches thick. (J. McClain at 71,013-014). There is a gravel road (McClain terms it a "driveway") that runs next to the shack, but McClain indicated that there is very light traffic on the road. He also testified that mostly small vehicles, such as cars, pickup trucks and forklifts use this road, and that the speed limit is 15 mph. (J. McClain

^{49/} CASE objected to Mr. McClain's testimony as irrelevant, since Mr. McClain has no personal knowledge of the shack in December 1982. Tr. 71,007-008; 71,017. The Staff disagrees with CASE. Mr. Brandt testified that Mr. McClain now occupies the shack that Mrs. Stiner did. T. Brandt, Tr. 45,262. Mr. McClain's testimony on cross-examination by CASE clearly shows that the shack has not been moved or changed during the time Mr. McClain was at CPSES, and that Mr. McClain doubted whether the shack was ever moved, because of the electrical hookup being buried, and the "old look" of the shack (Mr. McClain believes the shack was approximately 2-3 years old). Tr. 71,007; 71,014-015.

^{50/} See also T. Brandt at 45,264.

at 71,009-010). Mr. McClain believes the shack is very safe, based upon his experience with other shacks. (J. McClain at 71,018). Finally, Mr. McClain twice had trouble with the shack's air conditioner. The air conditioner once was out for two days; another time it was out for two or three hours because a fuse blew.

Document Copying and Removal

III.L.28. Sometime between the July and September 1982 hearing session, Mrs. Stiner recalls that a letter was sent from either Brown and Root or Applicants' counsel accusing Mrs. Stiner of copying documents for CASE and removing documentation from the CPSES site.^{51/} She understands the letter as accusing her of stealing and lying, and threatening her termination if she was caught. Mrs. Stiner considers this letter to be intimidation and harassment. (D. Stiner at 52,089-60). Mrs. Stiner does not say how she learned about the letter, or its contents.

III.L.29. The Staff believes that Mrs. Stiner is referring to a telegram dated August 12, 1982, which was sent by Applicants' counsel to Mrs. Juanita Ellis, President of CASE.^{52/} The telegram does not

^{51/} Mrs. Stiner actually says the letter was "sent out to Brown and Root or to the attorneys for the Applicants."

^{52/} This telegram is discussed in CASE's "Motion for Protective Order" (August 12, 1982).

accuse Mrs. Stiner of stealing or lying;^{53/} rather, the telegram suggests that Mrs. Ellis was encouraging Mrs. Stiner to copy and remove the documents from the site, with Mrs. Stiner being an innocent participant. Since Mrs. Stiner did not testify how she found out about the contents of this telegram, and because the telegram was addressed only to CASE, it would appear that Mrs. Stiner's erroneous understanding of the telegram's message is attributable solely to CASE.

III.L.30. Mr. Brandt also testified that both he and Mr. Tolson had independently learned that Mrs. Stiner was requesting copies of NCRs which were not related to her work responsibilities. (T. Brandt at 45,248-49). Messrs. Tolson and Brandt had a meeting with her, and explained to her that she should not copy documents that were not necessary to her job. (Id.). Mr. Brandt also testified that, except for a week's period, Mr. Stiner did not have any need to copy a large number of documents, and then only ones that Mr. Foote requested be copied. (Id. at 45,253-54).

^{53/} The telegram states: We have found that Mrs. Darline Stiner, your witness in the pending hearings relating to Contention Five has been engaged recently in efforts during working hours at Comanche Peak to compile certain information and documents, apparently for use by CASE in the hearing.

If these activities by Mrs. Stiner at the sites are being conducted at your instances, such activities appear to be an attempt to circumvent the order of the Board terminating discovery on contention five. Further you may be jeopardizing Mrs. Stiner's employment at Comanche Peak if you are directing or encouraging such activities because they prevent her from devoting full time and attention to her job.

Accordingly, you should instruct your witness, Mrs. Stiner, to refrain from such further activities. (emphasis added)

Incidents Intended to Have Mrs. Stiner Leave CPSES

III.L.31. Mrs. Stiner identified a series of incidents of alleged harassment and intimidation which occurred from the time she had been identified as a witness for CASE in the CPSES licensing proceeding until December, 1982, when she ended her employment at CPSES. The first of these series of incidents occurred approximately two weeks before the start of the September 1982 hearing session. At that time, Mrs. Stiner was approximately five months pregnant, and by her description, was "noticeably pregnant."^{54/} At that time, Mrs. Stiner was called into Mr. Ronald Tolson's office for a meeting with Mr. Tolson. During the meeting, Mr. Tolson said that he didn't care which side of the fence Mrs. Stiner had chosen, but that she should "stick directly to her job." He then said that he didn't know whether Mrs. Stiner was going to have fun, but that he was going to have fun in September. According to Mrs. Stiner, Mr. Tolson indicated that he was concerned about her health; he repeated this several times during their meeting. (D. Stiner at 52,025-26).

III.L.32. Mrs. Stiner feels that her meeting with Mr. Tolson was harassing, and an attempt to threaten her for agreeing to testify about defects at CPSES. Her belief is based upon the fact that Mr. Tolson suddenly displayed a close interest in her health, when previous to this time he had not spoken to her (except for one meeting informing Mrs. Stiner that

^{54/} Mrs. Stiner says she was "...big as a barrel. I was pregnant as anyone could possibly be." (D. Stiner at 52,031; See also 52,039).

she should take a general education development test).^{55/} She was also intimidated by Mr. Tolson's look, and his tone of voice during the meeting. (D. Stiner at 52,025-27; 52,113-116).

III.L.33. The meeting with Mr. Tolson apparently was the first of several meetings that Mr. Stiner claims she had with Mr. Tolson, Randall Smith, and/or Thomas Brandt regarding her pregnancy. She believes that these meeting were intended to harass her into leaving her employment at the CPSES site. According to Mrs. Stiner, she was subsequently called into Mr. Tolson's office "at least six or eight times," and that each time she was told by Mr. Tolson that he was concerned about her health, and that she should "stick directly to her job." (See e.g., D. Stiner, at 52,036-037). Mrs. Stiner also testified that Messrs. Smith, Brandt, or Mike Foote asked her three or four times a week when she would be leaving her job. At each of these meetings, Mrs. Stiner said that she reiterated her unwillingness to leave, because of financial problems in her household. (Id. at 52,036, 52,049-51).

III.L.34. Mrs. Stiner remembers a meeting with some "men from Houston," which she recollects occurred in November or December 1982. During this meeting, the men explained what Mrs. Stiner's options regarding leaves of absences were. Mrs. Stiner feels this meeting was intended to get her to leave CPSES because, in her memory, no other pregnant women had their

^{55/} Mr. Brandt confirmed Mrs. Stiner's testimony on this point, and adds that he and Mr. Tolson encouraged Mrs. Stiner to get a GED, so that Mrs. Stiner could be certified as an inspector at other construction sites. (T. Brandt at 45,242-43). Mr. Brandt also testified that this meeting was in spring or early summer of 1982. (Id. at 45,243-44).

options regarding leave of absences explained to them. (D. Stiner at 52,034-036, 52,131-133, 52,135). However, on cross-examination, Mrs. Stiner admitted that it wasn't the conversation of the meeting that was intimidating or frustrating, but rather the fact that she had been told about her options at least three times before. (Id. at 52,132-133).

III.L.35. Mrs. Stiner testified that she was also harassed by Mr. Brandt's direction that she bring a doctor's note indicating that she was fit to work each week. (D. Stiner at 52,050, 52,215-16). In her mind, this was another example of the Applicants trying to get her to leave CPSES.

III.L.36. Mrs. Stiner's recollection of these events surrounding her pregnancy are somewhat at odds with the testimony of Mr. Brandt, and a Mr. Egbert, who was QA Administrative Manager at that time. Affidavit of David K. Egbert Regarding Discussion with Darlene K. Stiner (August 1, 1984). According to Mr. Brandt, in July 1982 Mrs. Stiner presented him with a note from her physician, stating that Mrs. Stiner should not lift heavy loads and should avoid stair climbing, due to her pregnancy. (T. Brandt at 45,244). Accordingly, Mrs. Stiner was removed from field inspections, and shortly thereafter assigned to work in the fab shop, where Mrs. Stiner would not have to climb or lift loads. (Id. at 45,244; 45,247; 45,253-54).

III.L.37. Two or three days after Mr. Brandt received the note from Mrs. Stiner, Mr. Tolson and Mr. Brandt had a meeting with Mrs. Stiner, to discuss her pregnancy. According to Brandt, he became aware that she had had a miscarriage in the past, and this raised a concern about whether

she was able to work. (T. Brandt at 45,244-45). At the meeting, Mr. Stiner, Mr. Brandt and Mr. Tolson discussed her health and her plans for working. Mr. Brand said that Mr. Stiner expressed her desire to continue working, but that she also asked about her options as far as a ROF, a leave of absence, as well as information on unemployment compensation and insurance benefits. (Id. at 45,245-46). After this meeting, Messrs. Tolson, Brandt, and Raymond Yockey, Brown & Root's personnel services manager, had a meeting to explain to Mrs. Stiner her options and benefits with regard to a leave of absence, and her insurance benefits if she resigned. (Id. at 45,247-48). Attached to Mr. Egbert's Affidavit was a "Memorandum to File," dated October 14, 1982, memorializing his October 12, 1982 meeting with Mrs. Stiner. Mr. Egbert's October 14 memo states:

It is important to note that...Mrs. Stiner indicated that her physician has informed her that her uterus is low and that should she feel the slightest pain (presumably labor pain), she should contact him immediately as she could deliver (childbirth) with in 25 minutes time.

With that, the writer thought it appropriate to request Mrs. Stiner provide a written (return to work) release from her physician each and everytime she was given a maternity examination from now until childbirth.

Mr. Egbert's Affidavit and memo suggest that Mrs. Stiner's recollection of the date of her meeting with some "men from Houston" is incorrect, and that it was not unusual for Brown and Root to explain to Mrs. Stiner her maternity, insurance and leave of absence benefits. Mr. Egbert's memo also suggests that Mrs. Stiner's understanding of the motivation behind

Mr. Brandt's request for a medical release is incorrect, since the request was apparently motivated by Mr. Egbert's understanding of the concerns of Mrs. Stiner's own physician.

III.L.38. Mrs. Stiner testified that following the September hearing session, Mr. Compton, who drove a bus "for Brown and Root personnel", refused to let Mrs. Stiner ride on the bus, on the basis that his insurance wouldn't cover pregnant women. (D. Stiner at 52,037-41). Mrs. Stiner returned to her husband's truck, and Mr. Stiner drove her to work, and dropped her off at the guard shack. When she got out, Mrs. Stiner claims that passengers on the bus cursed and yelled obscenities at her. (Id. at 52,041-42). Mr. and Mrs. Stiner walked to the the time office, and Mr. Stiner asked Mr. Frankum for an escort. Mr. Stiner told Mrs. Stiner that Mr. Frankum was rude, and told Mrs. Stiner to go home if she was afraid. (Id. at 52,148).

III.L.39. Mrs. Stiner testified that on the same day that she was refused transport on the bus, she found out that two woman employed by Brown and Root (Phyllis May, and Leslie Sanchez) told Jerry Lamb (a labor foreman) that they were going to physically assault Mrs. Stiner for having a "big mouth." Mrs. Stiner reported this to Ronald Smith.^{56/} (D. Stiner at 52,045-46). Mr. Brandt testified that he has known both

^{56/} The Staff objects to introduction of this evidence, on several grounds. First, it is heresay, since the alleged threat was not made to Mrs. Stiner; indeed, the record is silent as to how Mrs. Stiner found out about the two women's threats. Second, there is no evidence that Applicants instigated, learned about and/or condoned the alleged actions of the women. Accordingly, the Staff moves that the testimony of Mrs. Stiner on this subject be stricken from the record.

of these women for two and a half years, and that they are not of a violent disposition, in his opinion. According to Brandt, when he found out about this allegation by Mrs. Stiner, he called both women in for an interview. Both Ms. May and Ms. Sanchez denied threatening Mrs. Stiner. (T. Brandt at 45,288-89).

III.L.40. Mrs. Stiner believes that the Applicants were responsible for the incidents with the bus and the yelling workers, since the Circuit Breaker (a newspaper published by Applicants and distributed to the workers at CPSES) reported that Mrs. Stiner testified at the CPSES licensing hearings. (D. Stiner at 52,148, 149-80). However, Mrs. Stiner did admit in her testimony, during both direct and cross-examination, that she did not know who owned the buses,^{57/} and in fact states that it is not her contention that her "denial to access was directly connected with the management. I am saying that the fact that they [the workers at CPSES] even know about my testimony or the fact that they were hostile to me ... that was directly connected with management. Because of the Circuit Breakers and because of the fact that they were aware that I gave testimony. (Tr. 52,149, see also 52,217-18). Mrs. Stiner said that the Circuit Breaker "put in parts that they wanted put so that it would sound like Henry and Darlene Stiner were

^{57/} Mrs. Stiner said, "...I don't actually know who does the financing, and that sort of thing for the buses. . ." Tr. 52,041.

testifying against the co-workers." (D. Stiner at 52,150;^{58/} 52,044). Nonetheless, Mrs. Stiner could not identify any portion of the September 14, 1982 issue of the Circuit Breaker^{59/} (which reported that the Stiners' testified at the September 1982 hearing session) which she believes was offensive or inaccurate.^{60/} (Id. at 52,152-54).

III.L.41. In December 1982, Mrs. Stiner was in her eighth month of pregnancy. On December 5, 1982, Randall Smith allegedly told Mrs. Stiner that she had to end her employment at CPSES, due to company policy and the law. (D. Stiner at 52,035, 049). On December 10, Mrs. Stiner asked Mr. Smith to tell Mr. Brandt that if she received a ROF ("Reduction of Force"), that she would leave, but that if she didn't that she would stay. Mrs. Stiner explained that only if she received an ROF would she have an opportunity to apply for unemployment benefits. (Id. at 52,050-51). Mrs. Stiner also testified that she had repeatedly told her

^{58/} Mr. Stiner did not testify that she reported her discomfiture about her name being reported in the Circuit Breaker to management officials at CPSES. This contradicts CASE's counsel's representation in the deposition of Mr. Thomas Locke (Tr. 41,553) that Mrs. Stiner had approached CPSES management.

^{59/} Intervenor's Exhibit 2, bound into the Evidentiary Deposition of Thomas R. Locke, Jr. (July 10, 1984).

^{60/} The one paragraph discussing the Stiners says, "Testimony on quality assurance started during the June hearing session and continued in July. Developments involving witnesses for the intervenor-Citizens Association for Sound Energy-Monday included: . . . Cross-examination of a former employee, Henry Stiner, and his wife, Darlene, presently a quality control inspector at the plant, about allegations they've made concerning welding and the adequacy of NRC investigations."

supervisors that she did not want to leave her job, but would stay until her doctor said otherwise. (Id. at 52,052).

III.L.42. Apparently, some agreement was reached about Mrs. Stiner leaving. On the day she was supposed to leave CPSES, Mr. Brandt "sent word that I wasn't going to get my ROF, that I was going to quit." (D. Stiner at 52,052). Mrs. Stiner responded that she wouldn't leave, but would continue in her job. Mrs. Stiner then says that she did get her ROF, and that this was indicative of Applicants' desire that she leave CPSES, since no other workers were being subjected to ROFs at the site. (Id. at 52,052-53).

III.L.43. Mrs. Stiner testified generally that she was intimidated and discouraged from doing her job as a QC inspector by the craft because they would disagree with her concerning the validity of her NCRs, they would suggest that she would be fired, they would threaten to call, and then call her supervisor. (See, e.g., D. Stiner at 52,057-59 (citing the fab shop doors incident; 52,063-64 (weave welds on pipe support at 790 elevation))). Mrs. Stiner felt more discouraged when her supervisor agreed with the craft and instructed her to approve the item. According to Mrs. Stiner, she estimates this to have occurred 90 percent of the time when there was a dispute. (Id. at 52,054-55; 52,057-58; 52,064-66).

General Discouragement

III.L.44. During cross-examination, Mrs. Stiner explained what she meant by "intimidation" and "harassment". In her view, intimidation and harassment occurred when she disagreed with a supervisor, and the supervisor resolved the dispute against Mrs. Stiner, even though Mrs. Stiner

continued to believe she was correct. In Mrs. Stiner's view, all disputes should be resolved in the inspector's favor, unless the supervisor can "prove by procedure and sit down and show the inspector . . . what he's talking about," and the inspector then admits his/her error. (See, e.g. D. Stiner at 52,068-69, 52,-067, 52,076-78, 52,175-76). Indeed, Mrs. Stiner believes that even when an engineer resolves a technical concern, that the engineer must be able to convince the inspector that his resolution was correct by reference to a procedure. (Id. at 52,176-77). However, Mrs. Stiner admits that in many instances, she (or any other inspector) do not possess the professional qualifications and knowledge to properly determine whether the disposition of a non-conference was acceptable or not. (Id. at 52,177-79). Moreover, Mrs. Stiner admits that while she was a QC inspector at CPSES, she had an incorrect understanding of what was a permissible weave at CPSES. (Id. at 52,085-87).

III.L.45. Under Mrs. Stiner's definition, every disagreement between a QC inspector and his/her supervisor which was resolved in a fashion contrary to the inspector's belief would constitute an incident of intimidation.

III.L.46. Although Mrs. Stiner said she was intimidated and discouraged from doing her job, in every instance that Mrs. Stiner testified that she was intimidated, she also testified that she did perform her inspections, identified non-conforming conditions, and submitted NRCs for proper dispositioning in accordance with her procedures. (See D. Stiner at 52,005 (hole in polar crane rail); 50,010-11 (pipe hanger with weave welds); 52,020-21 (fab shop doors).

III.M. HENRY STINER

III.M.1. Henry Stiner claims he was improperly terminated for reporting a pipe gouge to a QC inspector during his second term of employment at CPSES. Mr. Stiner's direct testimony consists of part of CASE Exhibit 666, prefiled on September 1, 1982, from p. 35, line 2 through p. 41, line 6 ("CASE Exhibit 666"). Responses to cross-examination at Stiner's evidentiary deposition are found in Deposition of Henry Stiner; July 13, 1984 (51,500-721); ("H. Stiner").

III.M.2. In his direct testimony, Stiner testified that on Friday, July 10, 1981, he was welding on a hanger when his foreman, Jimmie Green, noticed a gouge mark in one of the pipes the hanger was holding. (CASE Exhibit 666, p.35). The gouge was about four inches long and the width of the grinding disc. (Id.). Green suggested to Stiner that Stiner make a downhill weld and cover it with paint so no one would know it was there. (Id.). Stiner told Green that he would rather not, and Green left. (Id.). Stiner called his wife Darlene, who was QC inspector in the hanger department, and she suggested a piping inspector should write an NCR on the gouge. (Id.). Mr. Stiner sent a pipe welder named Alvarez upstairs who found Sue Ann Neumeyer, a QC piping inspector, and she came down to look at the gouge. (Id.). Neumeyer could not find the gouge at first, so Stiner crawled on the scaffold to point it out. (Id. at 35-36. At that point, Green and Cliff Brown walked in, saw Mr. Stiner, and left without a word. (Id. at 36).

III.M.3. Mr. Stiner further testified that that Friday afternoon he told Green he had to take off to go to the doctor the following Monday for treatment on his back, and also for some flu-like symptoms. (CASE Exhibit 666 at 36). The medication Stiner got from the doctor made him drowsy, and the doctor restricted him to home. (Id.). Stiner called his group's secretary and told her he would be back Tuesday or Wednesday. (Id.). On Wednesday, Stiner went to the site in order to see the medics at work and discovered he had been terminated. (Id.).

III.M.4. Mr. Stiner asked Green why he had been terminated and was told a 3-part memo had come from Ed Hallford, the general foreman, telling Green to fire Stiner. (CASE Exhibit 666 at 36-37). Stiner explained his story to Hallford, who told Stiner that if they did hire Stiner back they couldn't have anybody taking off when they get ready to. (Id. at 37-38). Then Hallford said, in essence, "Fire him" and had Green escort Stiner to the gate. (Id. at 38).

III.M.5. Mr. Stiner attempted to contact various people on site, including Ray Yockey, the Personnel Manager. (CASE Exhibit 666 at 38-40). Stiner sent a letter to Yockey, enclosing his medical excuses. (Id. at 40). Yockey wrote back and informed Stiner that it was up to the employer to decide whether or not to accept medical excuses, and in Stiner's case, the employer did not wish to excuse his absences. (Id.). Stiner's letter to Yockey, his two medical excuse forms and Yockey's alleged reply were offered into evidence as Stiner Exhibits 3, 4, 5 and 6 respectively. (H. Stiner at 51,527). Various objections were made to the introduction of these exhibits into evidence, mainly those of hearsay and lack of authentication. (Id. at 51,514-536).

III.M.6. Mr. Stiner testified that he believes the reason for his termination was the gouge in the pipe and his subsequent actions. (H. Stiner at 51,695). Sue Ann Neumeyer, the QC pipe inspector, has testified concerning this incident. Deposition of Sue Ann Neumeyer; August 2, 1984 (59,694-59,827); ("Neumeyer").

III.M.7. Neumeyer testified that she saw the gouge which was pointed out by Mr. Stiner. (Neumeyer at 59,759). The gouge was six inches or less from a hanger. (Id.). Neumeyer's opinion was that the most probable explanation for the gouge was that someone was grinding on the hanger and accidentally hit the pipe. (Id. at 59,759-760). When Green came in, Stiner told Neumeyer that he was in trouble and was not supposed to have notified Neumeyer. (Id. at 59,760). Neumeyer could not understand why, because the gouge had to be fixed. (Id. at 59,760-761). Stiner thought Neumeyer would write up the gouge, which she did. The NDE Report, written by Neumeyer (then Stogdill), was stipulated to by the parties. (Tr. 11,014-108). (Id.). Stiner was insistent in telling Neumeyer that he had not made the gouge. (Id. at 59,761-762). Neumeyer's opinion is that craftspeople are defensive when things are written up; they are concerned things are written up against them. (Id. at 59,762). If Green had not seen Neumeyer looking at the gouge, and Neumeyer had written it up, in all likelihood Green would not have known about the gouge. (Id. at 59,766-767). Green was working hangers and Neumeyer only identified the pipe, not the hanger. (Id. at 59,767).

III.M.8. With respect to the termination of Stiner, testimony was provided by Stiner's foreman Jimmie Green (Deposition of Jimmie Green; July 9, 1984 (35,000-35,078); ("Green")), his general foreman, Ed Hallford

(Deposition of John Edward Hallford; July 19, 1984 (70,000-059); ("Hallford")), and Stiner's foreman during his first term of employment at CPSES, Fred Coleman (Deposition of Fred Coleman; July 9, 1984 (35,079-125); ("Coleman")).

III.M.9. Green testified that Stiner was terminated for absenteeism. (Green at 35,043). Green filled out Stiner's termination papers based on a 3-part memo from Hallford telling Green to fire Stiner. (Id. at 35,053). There was no relationship between Stiner reporting the gouge in the pipe and his termination. (Id. at 30,074-075).

III.M.10. Hallford testified that he spoke to Stiner his first day in Hallford's crew about Stiner's past attendance record. (Hallford at 70,006-007; 70,058). Hallford had checked and discovered that Stiner had previously been terminated for poor attendance. (Id.). As far as Hallford was concerned, Stiner was on a temporary probationary period. (Id.). According to Hallford, Stiner's wife called in for Stiner on Monday, July 13, and said Stiner had electrical and air-conditioning problems. (Id. at 70,008). On Tuesday, Stiner's wife again called in and said Stiner had a sunburned back. (Id. at 70,009). Hallford then told Green that if Stiner didn't report to work Wednesday morning they would terminate him. (Id.). Hallford went personally to check and see if Stiner was there at work time the next morning; Stiner was not. (Id.). Hallford then gave Green written instructions on a 3-part memo to fire Stiner. (Id. at 70,010, 70,036). While Stiner was processing out he asked Hallford if Hallford would reconsider. (Id. at 70,012). Hallford began to say something about, "If I let you stay...", then decided he could not set a precedent and told Green to go ahead and terminate Stiner. (Id.).

III.M.11. Hallford also testified that there is no such thing as sick leave at the site. (Id. at 70,042). A worker does not get a medical excuse for not coming to work; he gets a medical reason, but that does not excuse the man from coming to work; he is still absent. (Id. at 70,042). If a man has excessive medical reasons, Hallford would terminate him until the "got his medical thing straightened out." (Id. at 70,042-043).

Mr. Stiner's Meeting With the NRC

III.M.12. Mr. Stiner alleged, in his written testimony (CASE Exhibit 666, pp. 46-49), that he had a meeting with the NRC following his termination in 1981. At this meeting were Mr. Stiner, Messrs. Driskill and Gagliardo of the NRC Mrs. Ellis, President of Intervenor CASE, Betty Brink, Marshall Gilmore, and Dick Falk, a member of CFUR (a former intervenor in this proceeding). The meeting was held in Mr. Gilmore's office in Hurst, Texas. (H. Stiner, Tr. 51,703-06). According to Mr. Stiner, Messrs. Driskill and Gagliardo of the NRC were arrogant and not very interested in listening to his concerns. (CASE Exhibit 666 at 48-49). He also states that Mr. Driskill attempted to scare him into not disclosing his allegations to the NRC at the meeting. (Id., pp. 47-48). In cross-examination, Mr. Stiner also said that he was not satisfied by the NRC's response to his first contact by phone with the NRC.^{61/}

^{61/} The Staff continues to move to strike Mr. Stiner's written and oral testimony regarding his contacts with the NRC and the NRC response to his contacts, on the grounds of relevance. The issue in this proceeding is the adequacy of Applicants' QA/QC program, and whether that program's adequacy has been called into question by CASE's allegations of intimidation of QA/QC personnel. The adequacy of the Staff's response is not an issue, and Mr. Stiner's testimony on this subject should be stricken from the record of this portion of the proceeding.

III.M.13. Mr. Stiner called the NRC's national office in July or August of 1981, and told the NRC that "there were thing happening at Comanche Peak that just weren't quite right." Mr. Stiner mentioned that he had been terminated for reporting the pipe gouge. (H. Stiner at 51,719). Mr. Stiner was told that somebody would call him back. The next day, Mr. Driskill returned Mr. Stiner's call, and told him that because the NRC was "tied up" on another case, that the NRC would get back to him later. A week later, according to Mr. Stiner, Mr. Driskill called to arrange an interview with him. (Id. at 51,716-17, 51,720).

III.M.14. Mr. Stiner's testimony reflects that the NRC informed Mr. Stiner that he had protection against termination for contacting the NRC. (CASE Exhibit 666 at p. 47, ln. 1-7). It also appears that the NRC offered Mr. Stiner confidentiality ("He said first off, they would try to keep our names just as a letter designation but that if Darlene was terminated there were provisions that took care of that"). (Id.).

III.M.15. Mr. Stiner indicated that Mr. Driskill informed Mr. Stiner of the potential of his being harassed, since other witnesses claimed they had been harassed. Mr. Driskill also informed Mr. Stiner that if there was a formal hearing ("federal hearing"), he should expect that his criminal record would be brought out. Mr. Stiner testified that Mr. Gagliardo explained that Mr. Driskill's statements were not intended to scare him off, but simply to make Mr. Stiner aware of the possible consequences of coming forward. Mr. Gagliardo also stated that the NRC's main concern is the protection of the informer. (CASE Exhibit 666, pp. 47 (ln. 8-21); 48 (ln. 15-20)).

III.M.16. Mr. Stiner cited only one example to support his belief that the NRC was not truly interested in his allegations, viz., that Messrs. Driskill and Gagliardo stated that unless there was some identifying information on the pipe gouge incident, such as hanger numbers, times, dates and names (CASE Exhibit 666, p. 48, ln. 9-11), it would not be useful for the NRC to investigate this allegation.^{62/} (Id.).

III.M.17. The NRC responded to Mr. Stiner's phone call in a reasonably prompt period of time. The NRC meeting with Mr. Stiner was conducted in a reasonable manner, with the NRC properly trying to get as specific information as possible to assist it in conducting its followup on Mr. Stiner's concerns. The NRC also tried to make Mr. Stiner aware of the possible adverse consequences he might face for contacting the NRC.^{63/}

III.M.18. Mr. Coleman testified that he had spoken with Stiner on the telephone after Stiner's termination. (Coleman at 35,117). This telephone discussion was the subject of previous testimony by Mr. Coleman during the hearing session of March 22, 1984. (Id.; Tr. 11,532-612). One matter discussed was Stiner's complaints that the was "run off". (Tr. 11,553). Coleman testified that he told Stiner,

^{62/} The Staff notes that Mr. Stiner's basis for believing that the NRC was not interested in his allegations is essentially the same as Mr. Dennis Culton's reasons for believing that Messrs. Stewart and Tomlinson of the NRC were not interested in his concerns. See Staff findings of fact on Dennis Culton.

^{63/} On this basis, the Staff moves that Mr. Stiner's testimony on this matter be stricken on the basis that does not support CASE's theory that the actions of the NRC contributed to a "sense of isolation" among workers at CPSES, as well as intensified the intimidation that occurred on-site (see, e.g., representation of CASE's counsel at Tr. 51,541).

"(A)nybody that misses that much time from work don't need a job because they sure don't need you out there if you can't come to work." (Id.).

At his deposition, Coleman testified that he was terminated for absenteeism. (Coleman at 35,122-124).

III.N. ROBERT G. TAYLOR

III.N.1. Mr. Taylor is currently a Reactor Inspector, and was the Senior Resident Inspector-Construction ("SRIC") for CPSES. (R. Taylor at 53,505-07):

III.N.2. Mr. Taylor's office was located in the east end of the Construction Administration Building at the CPSES site. There were two ways of entering the office, either by a hallway past the offices of CPSES management, or by an outside door that was labeled with the NRC official emblem. The outside door was unlocked during Mr. Taylor's office hours. (R. Taylor at 53,510-17).

III.N.3. There was a notice posted at the CPSES site inviting any worker with concerns about the plant to make a collect call to the NRC at a phone number that was provided on the notice. R. Taylor, Tr. 53,518-21. The notice, in one form or another, was posted at the site for the entire period that Mr. Taylor was assigned to CPSES.^{64/} (R. Taylor at 53,519, 53,523).

^{64/} There was some cross-examination of Mr. Taylor on the posting of NRC Form 3. R. Taylor, Tr. 53,523-25. The Staff points out that there is no record evidence that Form 3 was not posted from October 1982 to January 1983. Moreover, there is no evidence showing that the predecessor version of the Form 3 notice was not posted during the October 1982 to January 1983 time period.

III.N.4. When Mr. Taylor did his inspections in the field, he wore a white helmet with his name and the NRC emblem on it. If anyone wanted to speak with the NRC they could just walk up to Mr. Taylor and arrange for a meeting. Alternatively, they could simply note his name, and find his number in the local phone directory. (R. Taylor at 53,521-22). Moreover, as part of his inspections, Mr. Taylor often spoke to workers in the field. (R. Taylor at 53,517-18). Any worker who wished to relate their concerns to the NRC could have talked with Mr. Taylor at that time, or could have arranged to talk with Mr. Taylor off-site.

III.N.5. On April 13, 1982, the day following Mr. Charles Atchison's termination, Mr. Taylor was approached by Mr. Tolson, who said that he had terminated Mr. Atchison the previous evening. Mr. Taylor then identified Mr. Atchison as the Applicants' 1980 allegor. (R. Taylor at 53,526-27). This was the only time that Mr. Taylor disclosed an allegor's identify to the Applicants. (Id. at 53,531, 53,533). According to Mr. Taylor, he did so for two reasons. First, Mr. Atchison was no longer covered by NRC Region IV's informal policy of confidentiality, since Mr. Atchison was no longer employed at the site. That informal policy was that the confidentiality of allegors would be kept confidential as long as they were employees at a nuclear power plant. This policy was made known to Mr. Atchison at the time he first reported his allegations to Region IV. (Id. at 53,527-30). Mr. Taylor believes it was a common-sense policy, since confidentiality is extended to the allegor in order to prevent punitive measures from being taken against the allegor by the employer. However, once the allegor leaves the site,

the (now-former) employer has little opportunity to retaliate against the allegor. (Id. at 53,530-31). Mr. Taylor's second reason for disclosing Mr. Atchison's identity was his "impression of the lack of sincerity on the part of Mr. Atchison." (Id. at 53,533-34).

III.N.6. Mr. Taylor testified that, in his view, most of the hourly workers at CPSES were fearful of approaching him or coming to his office, because of the possibility that they might be terminated. (R. Taylor at 53,538-39). In Mr. Taylor's view, the workers' fear of talking with him may be due to the fact that CPSES is a non-unionized construction site, and workers have little protection against immediate termination. A worker who visits Mr. Taylor would be away from his work position, and if discovered, could be terminated immediately. (Id. at 53,544-46). However, Mr. Taylor also feels that workers may simply believe that if they contact the NRC, they would be terminated. (Id. at 53,546).

III.N.7. In any event, Mr. Taylor knows of no person who was disciplined, terminated, or otherwise discouraged from talking to him. (R. Taylor at 53,547). Nor has Mr. Taylor observed any of the Applicants' management, supervisors, or any of Applicants' subcontractors discouraging QC inspectors or other QA personnel from going to the NRC. (Id. at 53,550). Indeed, Mr. Taylor testified that it was his perception that Applicants were, in many ways, more fearful of Mr. Taylor's reaction if he discovered that Applicants had retaliated against an allegor, than from the allegations themselves. (Id. at 53,550). Finally, Mr. Taylor testified that he was unaware of any QC inspectors or other QA personnel who complained to him that they had been intimidated or harassed. (Id. at 53,548).

III.0. T-SHIRT INCIDENT

III.0.1. The "T-Shirt incident" has been described to the Board and parties by Intervenors in the enclosure to the June 27, 1984 letter from Ms. Billie Garde to Mr. Leonard Belter, counsel for Applicants, as follows:

Eight QC employees in the electrical department reported to work wearing "T-shirts" that said "NIT PICKERS PICK NITS." These employees were rounded up and taken to the office of Ron Tolson where they were questioned by management, their personal materials taken from their desks, and then interviewed by the site ombudsman. Efforts to attempt to get the NRC to stop the detention failed. CASE will demonstrate that the T-shirts were worn as an expression of the frustration of site QC inspectors, that the response by management was oppressive, and that the lack of response by NRC was nonfeasance (sic). Further that instead of there being no reprisal against those who wore the T-shirts the employees were first cut down to 40 hours per week, some were transferred, some quit, and most recently some were laid off. Of all the inspectors only a few remain on the job.

III.0.2. On March 8, 1984, Mr. Welch was on his first day as the Building QC Supervisor of 17 QC electrical inspectors assigned to the Safeguards Building. (Deposition of Mark Allen Welch; July 16, 1984 (Tr. 53,000-264); ("Welch"), at 53,001-012, 53,031, 53,045). The other participants at the onset of the incident who have given testimony are: Kenneth Whitehead (Deposition of Kenneth Wayne Whitehead; July 17, 1984 (Tr. 55,000-164); ("Whitehead")) and Jack Pitts (Deposition of Jack Pitts; July 31, 1984 (Tr. 73,500-553); ("Pitts")). Messrs. Whitehead and Pitts were QC Electrical Inspectors assigned to the Safeguards Building at the time of the incident. (Whitehead at 55,006-009; Pitts at 73,504, 73,512).

III.0.3. Mr. Welch testified that three or four days prior to his assignment as QC Supervisor for the Safeguards Building, Dan Hicks, the Assistant QC Supervisor, made Welch aware that some T-shirts existed. (Welch at 53,121). Hicks told Welch that if inspectors should show up wearing the T-shirts, Welch should have the inspectors change their shirts. (id.). Hicks did not tell Welch specifically why the inspectors should change their shirts, but Welch understood that the T-shirts had words on them derogatory to the inspection group and its purpose. (Id. at 53,121-122). Welch was also not told what the T-shirts said or whether QC inspectors had previously worn the shirts on the site. (Id. at 53,122).

III.0.4. On the morning of March 8, 1984, Welch was informed by Harry Johnson, an individual reporting to Welch who works in Welch's office, that several individuals in the QC electrical group were wearing "the black T-shirts." (Id. at 53,119). Between 8 a.m. and 9 a.m. Welch went over to talk to the inspectors. (Id. at 53,120). Before he left he called Ron Tolson's office and talked to either Tolson or Hicks to confirm his previous directions by Hicks as to what action he should take. (Id. at 53,120-121).

III.0.5. Mr. Ronald Tolson, who at the time of the incident was construction QA supervisor for TUGCO, has testified about the incident. Deposition of Ronald D. Tolson, July 10, 1984 (Tr. 40,500-669) ("Tolson"). Tolson confirms that it was he who received the call from Welch. (Tolson at 40,546). Tolson told Welch to send the inspectors home and have them change their shirts. (Id. at 40,551). Tolson had heard of the existence of the T-shirts earlier in the week, though he had not seen them, nor had any of his key personnel. (Id.). However, Tolson was aware that the shirts

had the work "nitpicker" on them and he considered it a personal slap at himself and his office. (Id. at 40,454-551).

III.0.6. Approximately 9 a.m. that morning Welch arrived at the QC office. (Welch at 53,122; Whitehead at 55,087; Pitts at 73,506). There were eight QC inspectors in the office wearing the T-shirts: Anthony Ambrose, Milton Barfield, Lan Davis, Bruce Hearn, D. T. Oliver, Jack Pitts, Eddie Snyder and Wayne Whitehead. (Welch at 53,123). Pitts testified that the words on the T-shirt were "Comanche Peak Nit-Pickers. We're in the business of picking nits." (Pitts at 73,550). He is not clear on where the phrase came from; he was just asked if he wanted to buy a T-shirt by Milton Barfield and Eddie Snyder, whom he believes designed the shirts. (Id.).

III.0.7. Welch asked the inspectors for their names and badge numbers so he could fill out the documentation to enable them to pass through the gate to go home and change their shirts. (Welch at 53,124; Whitehead at 55,087; Pitts at 73,506). The inspectors did not give Welch their names and badge numbers. (Welch at 53,124; Whitehead at 55,088). Some of the inspectors wanted to know why they had to change their shirts. (Welch at 53,124; Whitehead at 55,088; Pitts at 73,506). Then Welch told them that if they had questions or a problem about changing their shirts, they could talk to Mr. Tolson. (Welch at 53,125; Whitehead at 55,088; Pitts at 73,506). The inspectors decided as group to go to see Tolson. (Welch at 53,126; Pitts at 73,506).

III.0.8. Welch then called Tolson's office and was told to bring the group down to the office. (Welch at 53,126; Tolson at 40,557). Thereupon, the group of inspectors went to Tolson's office, escorted by Welch and

Stan Vore, the lead inspector, who was not wearing a T-shirt. (Welch at 53,127-128; Whitehead at 55,088; Pitts at 73,506). Tolson was in his office when they arrived; one of the inspectors, Eddie Snyder asked Tolson if he could record the meeting, and at that point Tolson left his office. (Welch at 53,129-130; Whitehead at 55,089; Pitts at 73,506-507; Tolson at 40,557).

III.0.9. Tolson testified that his leaving was an "instantaneous reaction", tying it back in his mind to a previous session he had had, which had been taped without his knowledge. (Tolson at 40,560). Tolson then received directions from Dallas (TUGCO headquarters) to escort the inspectors to a room immediately across the hall from his office. (Id. at 40,561).

III.0.10. Mr. Billy Ray Clements, Vice-President for Nuclear Operations for TUGCO in Dallas, testified concerning this incident. Deposition of Billy Ray Clements; July 10, 1984 (Tr. 40,000-192); ("Clements"). Mr. Clements testified that he was informed by Tolson at 9 or 10 a.m. that there were eight QC inspectors wearing T-shirts which had something written on them concerning nit-picking. (Clements at 40,096). Clements and Tolson discussed the situation. (Id. at 40,100). Clements was not sure if he told Tolson to isolate the inspectors, but they both agreed they wanted the inspectors separated from the population of the rest of the plant. (Id.). Clements remembers telling Tolson to make sure the inspectors were protected; he didn't know what the situation was as far as animosity between craft and inspectors. (Id.). Clements also called his boss, Mr. Michael Spence, President of TUGCO, and Mr. Paul Check, NRC

Deputy Regional Administrator, Region IV, and told them about the situation. (Id. at 40,097).

III.0.11. Clements testified that he telephoned Check several times on the day of the incident. (Id. at 40,103). Clements told Check the T-shirt people were being kept in a room because Clements didn't know what the relationship was between the construction hands and the inspectors, and he didn't want any violence "out there", physical or verbal. (Id. at 40,105). Clements also mentioned to Check that it had been reported to Clements that the T-shirt wearers had been doing "destructive inspection." (Id.).

III.0.12. Upon receiving directions from Dallas, Tolson had the inspectors escorted to another office. (Tolson at 40,561). The inspectors were moved to a then-vacant auditor's office. (Welch at 53,142, Whitehead at 55,092; Pitts at 73,507).

III.0.13. At that time, Pitts went to see Mr. Thomas Brandt, his immediate supervisor with EBASCO. (Pitts at 73,507; Welch at 53,142-143). Mr. Thomas Brandt, at the time of the incident an Engineer on the QA supervisor's staff, employed by EBASCO, testified concerning this incident. Deposition of C. Thomas Brandt; July 11, 1984 (Tr. 45,000-238); ("Brandt"). Brandt told Pitts that Pitts' wearing of the T-shirt was unprofessional and, as far as Brandt was concerned unacceptable attire. (Brandt at 45,128; Pitts at 73,507). According to Brandt, the T-shirt poked fun at an already sensitive issue and could easily have aggravated or aroused the craft people. (Brandt at 45,128). Pitts told Brandt that he was the only EBASCO QC inspector in a totally Brown & Root group and

he was wearing the T-shirt in an effort to fit in. (Pitts at 73,507; Brandt at 45,143). Pitts agreed it was a lack of professionalism on his part and told Brandt it would not happen again. (Pitts at 73,507-508; Brandt at 45,143). Brandt considers the counselling session he had with Pitts, which was subsequently put in written form and signed by Pitts, a disciplinary action. (Brandt at 45,146-149).

III.0.14. While the inspectors were waiting in the auditor's office, they were individually escorted to the office of Boyce Grier, the site ombudsman. (Whitehead at 55,094-095; Pitts at 73,508). Mr. Boyce Grier has testified to his knowledge of the incident. Deposition of Boyce A. Grier; July 11, 1984 (Tr. 45,500-614); ("Grier"). Grier interviewed the eight inspectors wearing T-shirts that day, but it was purely coincidental, because the interviews had been arranged in advance. (Grier at 45,592). Grier had previously been requested by Tolson to interview all the inspectors in the Safeguards electrical QC section. (Id. at 45,591). There had been complaints on the part of inspectors about procedures, and Tolson asked Grier to conduct the interviews and provide him with a report on Grier's assessment of problems. (Id.).

III.0.15. Grier identified his handwritten notes of the interviews which were offered into evidence as Grier Exhibit 42-6. (Grier at 45,594-599). The Board notes that Grier was not questioned on the contents of these notes. The Board also notes that Mr. Grier did not record any comments on the T-Shirt incident in Grier Exhibit 42-6.

III.0.16. According to Welch, at approximately the time the QC inspectors were waiting in the auditor's office or talking to Mr. Grier, Tolson told Welch to accompany some security guards to search the work

tables of the QC inspectors for utility documentation. (Welch at 53,160). Welch went with two security guards to the inspectors' office and the guards looked through the paperwork on the tables of the eight inspectors who wore the T-shirts. (Id. at 53,161-162). The guards then confiscated the utility documentation by picking it up and putting it in a file folder with the inspector's name on it. (Id. at 53,162-163). Welch was not aware of the guards confiscating personal effects. (Id. at 53,162). After several inspectors and craftsman had tried to get in and out of the office, the door was locked; other inspectors had desks in the office. (Id. at 53,164). The entire process took between one and a half to three hours. (Id. at 53,165). Welch took the documents to Tolson's office, and then to Mr. Scott's office where Mr. William Cromeans went through them. (Id. at 53,170-171). Welch had nothing further to do with the T-shirt personnel on that day. (Id. at 53,172).

III.0.17. After the inspectors talked to Grier, Whitehead testified that the inspectors who were waiting in the auditor's office were told they were being kept there to protect them from craft. (Whitehead at 55,096). Whitehead did not feel in any danger and "couldn't believe" that was the reason they were being held. (Id. at 55,096-097). Whitehead also recalls that someone came into the auditor's office and told the inspectors that the NRC had been notified and that management was trying to decide what to do. (Id. at 55,098).

III.0.18. At lunch time, two other inspectors, Ron Jones and Gerald Pryor brought lunches to them in the auditor's office and told them that the QC trailer had been locked and someone was searching the office. (Whitehead at 55,104; Pitts at 73,538).

III.0.19. During the course of the day, Tolson received additional instructions from Dallas to send the inspectors home, with pay, and tell them that if their jobs were available the next day they could return without the T-shirts. (Tolson at 40,561). Tolson informed Brandt and Gordon Purdy of the decision, and they informed the EBASCO and Brown & Root employees respectively. (Id. at 40,562).

III.0.20. Gordon Purdy testified that he was called in to interface with the Brown & Root employees, and, apparently that morning, he told the inspectors they were to stay in the area because construction personnel might not think the T-shirts were humorous. Deposition of Gordon Raymond Purdy; July 10, 1984 (Tr. 41,000-272); ("Purdy"), at 41,198. Shortly after lunch, Purdy told the Brown & Root inspectors they could go home, but please don't wear the T-shirts back in again since they were obviously creating a disruption in the project. (Id. at 41,199).

III.0.21. Brandt called Pitts back in, told him the decision was to send him home with "an option to come back without the T-shirt." (Brandt at 45,149). At that time, Pitts signed the written copy of the counselling session. (Id.).

III.0.22. At about 1:30 p.m., the inspectors retrieved their personal things, coats and lunch buckets, and were escorted to the gate. (Whitehead at 55,100; Pitts at 73,509). They were sent home with pay. (Id.).

III.0.23. While these events were taking place, Applicants were communicating with the NRC Staff. Mr. James Cummins, NRC Senior Resident Inspector for Construction at Comanche Peak testified to events within his knowledge. Deposition of James E. Cummins; July 17, 1984 (54,000-075); ("Cummins"). On August 20, 1984, pursuant to agreement of counsel, the

Staff submitted the Testimony of Doyle Hunnicutt Regarding the T-Shirt Incident, (pp. 1-8), ("Hunnicutt").

III.0.24. Cummins first became aware of the T-Shirt incident when a telephone call came into the office of Douglas Kelley, NRC Senior Resident Inspector for Operations, between 11 a.m. and noon. (Cummins at 54,008, 54,014-015). An anonymous caller told Cummins, and Kelley, who was on the extension, that Brown & Root Security was going through the QC inspectors' desks and that they had some of the QC inspectors in Tolson's office. (Id. at 54,008). Kelley relayed this information to Mr. Doyle Hunnicutt, their supervisor in NRC Region IV. (Id. at 54,009; Hunnicutt at 2).

III.0.25. Hunnicutt instructed Cummins and Kelley not to intervene at the present time. (Hunnicutt at 2; Cummins at 54,009). Hunnicutt believed it was a management labor problem and not something affecting the health and safety of the plant. (Hunnicutt at 2-3). About noon, Hunnicutt received a call from C. Oberg, an NRC reactor inspector at CPSES, who told Hunnicutt that Oberg had received an anonymous phone call and visit, and the information Oberg received was that plant management personnel were going through the desks of personnel in the Safeguards building and it was because some QC inspectors were wearing T-shirts which referred to "nit-pickers". (Hunnicutt at 3; Cummins at 54,022-024).

III.0.26. Hunnicutt discussed the available information with his Branch Chief in Region IV, and they decided to remain out of the dispute between CPSES management and the T-shirt wearers. (Hunnicutt at 3). He phoned back to Cummins and Kelley and told them not to interfere. (Id. at 3; Cummins at 54,013). Hunnicutt discussed his information with senior NRC management, and was informed by Paul Check, Deputy Regional Administrator, that

Clements had already telephoned to tell Check of the T-shirt incident. (Hunnicuttt at 4). Clements had also told Check the inspectors might have been involved in electrical wiring damage. (Id.).

III.0.27. Meanwhile, Cummins had gone back to his trailer, where he received another anonymous phone call telling him the QC inspectors were sequestered, and requesting NRC intervention. (Cummins at 54,013). Cummins told the caller he had been directed by Region IV not to intervene. (Id. at 54,013-014). Cummins reported this call to Hunnicutt. (Id. at 54,020.

III.0.28. About 12:30 p.m. to 1:00 p.m., Hunnicutt instructed Kelley to go to the administrative building and make a reasonable attempt to meet with the T-shirt personnel, and if possible to take photographs of the T-shirt personnel wearing the T-shirts to aid in determining the extent of the overall management-inspector concerns. (Hunnicuttt at 4). He also instructed Kelley to go to the Safeguards building and attempt to find and photograph electrical wiring which appeared to have been damaged. (Id.). About 1:30 p.m. Kelley called Hunnicutt and told him that he had been to the administrative building and that the eight QC inspectors had been escorted to the site exit by CPSES personnel. (Id. at 5). Kelley also told Hunnicutt that he had not been able to take any pictures of the T-shirt personnel, and that he had found one wire which appeared to have some scratch marks, but no other indications of damage. (Id.).

III.0.29. That afternoon, Paul Check told Hunnicutt that Clements had told Check that plant management had taken documentary material from the desks of the QC inspectors. (Id.). Eric Johnson, Hunnicutt's supervisor, called Cummins the next day, March 9, 1984, and instructed Cummins to get custody of the material. (Id.; Cummins at 54,028). Cummins acquired the

material, making copies of any originals, from Tolson. (Cummins at 54,028-029). Cummins phoned Hunnicutt when he had secured the documents in the NRC trailer. (Hunnicutt at 6).

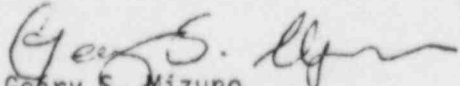
III.0.30. On Monday, March 12, 1984, Welch came and got the documents back. (Cummins at 54,033-034). Cummins contacted Hunnicutt and was told to retrieve the papers. (Id. at 54,034; Hunnicutt at 6). Cummins got the documents back within half an hour. (Id.). The next day, Hunnicutt came to the site to take an inventory of the documents; he completed a physical inventory of each of the eight packages of material that were identified by a name attached to each package of material. (Hunnicutt at 6). Several days later a copy of the physical inventory was requested by, and given to Tolson by Cummins with prior telephone approval from Hunnicutt. (Id.).

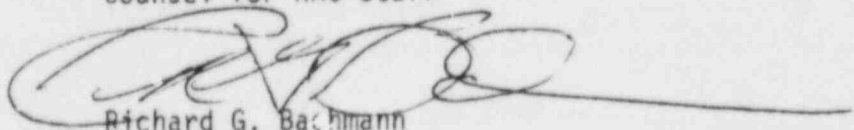
III.0.31. On or about April 2, 1984, Richard Denise, Region IV, requested that Hunnicutt make up a list of interview questions and interview some or all of the eight QC inspectors involved in the T-shirt incident. (Hunnicutt at 7). On or about April 3, 1984, Cummins and Hunnicutt made up a list of eight questions that they deemed appropriate to cover the areas related to the CPSES-inspector problem. (Hunnicutt at 7; Cummins at 54,046-047). On April 5, 1984, Hunnicutt selected three of the T-shirt personnel at random, and with the assistance of Cummins, he interviewed these three QC inspectors individually between 1:00 p.m. and about 4:00 p.m. on April 5, 1984. (Hunnicutt at 8). Copies of the questions and summaries of the answers were marked for identification as Cummins Exhibits 1 through 4. (Cummins at 54,045). Cummins was unable to explain the reasons for asking the particular questions. (Id. at 54,053, 54,054-055). Hunnicutt testified the purpose of the questions was to

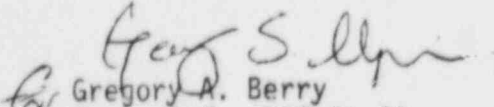
provide the NRC with a better understanding of the incident, and to help determine whether there should have been NRC involvement. (Hunnicuttt at 7).

III.0.32. In response to questioning by Intervenors, Welch testified concerning transfers of personnel to Unit 2 subsequent to the T-Shirt incident. According to Welch there was no connection to the "T-Shirt 8" and any transfers to Unit 2. (Welch at 53,022). At his deposition, Welch reconstructed a table he had made with the names of his 17 inspectors. (Id. at 53,027-028). Of the T-shirt personnel, three (Snyder, Barfield, Whitehead) were transferred to Unit 2 in a group of six shortly after the T-Shirt incident. (Id. at 53,033, 53,242). Subsequently, Ambrose and Hearn were transferred to the Unit 1 control building as the workload reduced. (Id. at 53,034, 53,243). Prior to the other transfers, Pitts was transferred off-site by EBASCO. (Id.). Welch testified that no new electrical QC inspectors have been hired. (Id. at 53,055). Eventually, the entire group was transferred to Unit 2 because the Unit 2 Safeguards Building had been virtually completed. (Id. at 53,243-244). According to Whitehead, subsequent to the transfers to Unit 2, Snyder and Barfield quit voluntarily. (Whitehead at 55,134).

Respectfully submitted,


Geary S. Mizuno
Counsel for NRC Staff


Richard G. Bachmann
Counsel for NRC Staff


Gregory A. Berry
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 4th day of September, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

TEXAS UTILITIES ELECTRIC)
COMPANY, et al.)

(Comanche Peak Steam Electric)
Station, Units 1 and 2))

Docket Nos. 50-445/2
50-446/2

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF PROPOSED FINDINGS OF FACT ON ALLEGATIONS OF INTIMIDATION, THREATENING AND HARASSMENT OF QUALITY CONTROL INSPECTORS AND OTHER QUALITY ASSURANCE PERSONNEL AT THE COMANCHE PEAK STEAM ELECTRIC STATION" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or deposit in the Nuclear Regulatory Commission's internal mail system (*), or by express mail or overnight delivery (**), or by hand delivery (***), this 4th day of September, 1984:

Peter B. Bloch, Esq., Chairman***
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Herbert Grossman, Alternate Chairman***
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Walter H. Jordan**
Administrative Judge
881 W. Outer Drive
Oak Ridge, TN 37830

Dr. Kenneth A. McCollom
Administrative Judge
Dean, Division of Engineering,
Architecture and Technology
Oklahoma State University
Stillwater, OK 74078

Mrs. Juanita Ellis
President, CASE
1426 South Polk Street
Dallas, TX 75224

Renea Hicks, Esq.
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548, Capital Station
Austin, TX 78711

Nicholas S. Reynolds, Esq.***
William A. Horin, Esq.
Bishop, Liberman, Cook,
Purcell & Reynolds
1200 17th Street, N.W.
Washington, DC 20036

Mr. James E. Cummins
Resident Inspector/Comanche Peak
Steam Electric Station
c/o U.S. Nuclear Regulatory Commission
P.O. Box 38
Glen Rose, TX 76043

John T. Collins
William L. Brown
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, TX 76011

Mr. Michael D. Spence, President
Texas Utilities Electric Company
Skyway Tower
400 North Olive Street, L.B. 81
Dallas, TX 75201

Lanny Alan Sinkin
114 W. 7th, Suite 220
Austin, TX 78701

Atomic Safety and Licensing Board
Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

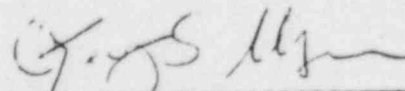
Billie Pirner Garde***
Citizens Clinic Director
Government Accountability Project
1901 Que Street, N.W.
Washington, DC 20009

Robert A. Wooldridge
Worsham, Forsythe, Sampels & Wooldridge
2001 Bryan Tower, Suite 2500
Dallas, TX 75201

Ellen Ginsberg, Esq.***
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Appeal
Board Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Anthony Z. Roisman, Esq.**
Trial Lawyers for Public Justice
2000 P Street, N.W., Suite 611
Washington, DC 20036



Geary S. Mizuno
Counsel for NRC Staff