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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CAROLINA POWER AND LIGHT COMPANY AND
NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

(Shearon Harris Nuclear Power Plant,
Units 1 and 2)

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Docket Nos. 50-400 OL
50-401 OL

MRC STAFF RESPONSE IN OPPOSITION TO CONTENTIONS PROFFERED
BY WELLS EDDLEMAN AND CCNC BASED UPON AN OCTOBER 6, 1984
AFFIDAVIT OF CHAN VAN VO DAVIS

I. INTRODUCTION

At a press conference held in Raleigh, NC on Monday, October 22, 1984
Mr. Chan Van Vo Davis and his attorney, Mr. Robert Guild, released to
the public an Affidavit of Mr. Davis dated October 6, 1984. ^{1/} That
Affidavit alleged several deficiencies in the construction of the Harris
facility. On October 23, 1984, at the resumption of the evidentiary
hearings in this operating license proceeding, Mr. Wells Eddleman dis-
tributed Mr. Davis' Affidavit to all present. Subsequently Mr. Eddleman
on behalf of himself, and Mr. John Runkle on behalf of CCNC, proffered
contentions using the Chan Van Vo Davis Affidavit as their basis. ^{2/} The
Licensing Board directed that any responses to the proffered contentions
based upon the Chan Van Vo Davis Affidavit be distributed to the Board

1/ Attached as Exhibit 1.

2/ These proffered contentions are attached as Exhibits 2 and 3
respectively.

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and parties at the beginning of the evidentiary session beginning on Tuesday, November 13, 1984. The Staff's response in opposition follows.

II. DISCUSSION

A. NRC Standards Applicable To Proffered Contentions

In order for Intervenor's proffered contentions relating to the Chan Van Vo Davis' Affidavit to be admitted as matters in controversy in this proceeding, they must satisfy two standards. First, each contention must satisfy the Commission's requirement that the basis for the contention be set forth with reasonable specificity. 10 CFR § 2.714(b). Second, since they are late filed contentions, under the Commission's decision in Duke Power Company et al (Catawba Nuclear Station, Units 1 and 2), CLI-63-19, 17 NRC 1041 (1983), balancing of the five factors of 10 CFR § 2.714(a) must favor admission of the contentions.

In order for proposed contentions to be found admissible, they must fall within the scope of the issues set forth in the Notice of Hearing initiating the Proceeding,^{3/} and comply with the requirements of 10 CFR § 2.714(b) and applicable Commission case law. Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2), ALAB-107, 6 AEC 188, 194 (1973), aff'd, BPI v. Atomic Energy Commission, 502 F.2d 424, 429 (D.C. Cir. 1974); Duquesne Light Co. (Beaver Valley Power Station, Unit No. 1), ALAB-109, 6 AEC 242, 245 (1973). Under 10 CFR § 2.714(b) a

^{3/} Public Service Co. of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167, 170 (1976). See also, Commonwealth Edison Company (Carroll County Site), ALAB-601, 12 NRC 18, 24 (1980); Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 NRC 287, 289-290, n. 6 (1979).

petitioner for intervention in a Commission licensing proceeding must file a supplement to its petition:

... [w]hich must include a list of the contentions which petitioner seeks to have litigated in the matter, and basis for each contention set forth with reasonable specificity.

The purpose of the basis requirements of 10 CFR § 2.714 are (1) to assure that the contention in question raises a matter appropriate for litigation in a particular proceeding, ^{4/} (2) to establish a sufficient foundation for the contention to warrant further inquiry into the subject matter addressed by the assertion and, (3) to put the other parties sufficiently on notice " ... so that they will know at least generally what they will have to defend against or oppose." Peach Bottom, supra at 20. From the standpoint of basis, it is unnecessary for the petition to detail the evidence which will be offered in support of each contention.

Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-130, 6 AEC 423, 426 (1973). Furthermore, in examining the contentions

4/ A contention must be rejected where:

- (a) it constitutes an attack on applicable statutory requirements;
- (b) it challenges the basic structure of the Commission's regulatory process or is an attack on the regulations;
- (c) it is nothing more than a generalization regarding the intervenor's views of what applicable policies ought to be;
- (d) it seeks to raise an issue which is not proper for adjudication in the proceeding or does not apply to the facility in question; or
- (e) it seeks to raise an issue which is not concrete or litigable.

Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20-21 (1974).

and the bases therefor, a licensing board should not reach the merits of the contentions. Houston Lighting and Power Company (Ailens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 548 (1980); Duke Power Co. (Amendment to Materials License SNM-1773 - Transportation of Spent Fuel From Oconee Nuclear Station for Storage at McGuire Nuclear Station), ALAB-528, 9 NRC 146, 151 (1979); Peach Bottom, supra, at 20; Grand Gulf, supra at 426.

As the Appeal Board instructed in Alabama Power Company (Joseph M. Farley Nuclear Plant, Units 1 and 2), ALAB-182, 7 AEC 210, 216-217 (1974), in assessing the acceptability of a contention as a basis for granting intervention:

[T]he intervention board's task is to determine, from a scrutiny of what appears within the four corners of the contention as stated, whether (1) the requisite specificity exists; (2) there has been an adequate delineation of the basis for the contention; and (3) the issue sought to be raised is cognizable in an individual licensing proceeding. (Footnotes omitted)

This applies equally to a contention proffered by an intervenor as well as by a petitioner to intervene. If a contention meets these criteria, the contention provides a foundation for admission "irrespective of whether resort to extrinsic evidence might establish the contention to be insubstantial." ^{5/} The question of the contention's substance is for later resolution - either by way of § 2.749 summary disposition prior to

^{5/} Farley, supra, at 217. In addition, the proposed contention should refer to and address relevant documentation, available in the public domain, which is relevant to the Harris plant and the proffered contention. See, Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2), LBP-81-24, 14 NRC 175, 181-184 (1981).

the evidentiary hearing ... or in the initial decision following the conclusion of such a hearing." Farley, supra, 7 AEC at 217. Thus, it is incumbent upon Mr. Eddleman and CCNC to set forth contentions and bases therefore which are sufficiently detailed and specific to demonstrate that the issues they purport to raise are admissible.

On June 30, 1983 the Commission reviewing ALAB-687, 16 NRC 460 (1982) issued its decision in Duke Power Company et al. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041 (1983). This decision considered the standards to be applied to contentions premised upon information contained in licensing-related documents not required to be prepared early enough so as to enable an intervenor to frame contentions in a timely manner in accord with the provisions of 10 C.F.R. § 2.714(b). In Catawba the Commission determined that it is reasonable to apply the late-filing criteria in 10 CFR § 2.714(a)(1) and the Appeal Board's three-part test for good cause ^{6/} to contentions that are filed late because they depend solely on information contained in institutionally unavailable licensing-related documents. ^{7/} Id. at 1045. Further, the Commission determined that the institutional unavailability of a licensing-related document does not establish good cause for filing a contention late if information was otherwise available early enough to

^{6/} 17 NRC 1045. See also ALAB-687, 16 NRC 460, 469 (1982).

^{7/} The Commission believes that the five factors together are permitted by Section 189a of the Act and are reasonable procedural requirements for determining whether to admit contentions that are filed late because they rely solely on information contained in licensing-related documents that were not required to be prepared or submitted early enough to provide a basis for the timely formulation of contentions. Id. at 1045, 1050.

provide the basis for timely filing of that contention. ^{8/} Id., at 1048. Although the Chan Van Vo Davis Affidavit is not a licensing-related document, the rationale of the Commission's decision and analysis applies here.

The factors which must be balanced in judging the admissibility of a late-filed contention are:

- (i) Good cause, if any for failure to file on time.
- (ii) The availability of other means whereby the petitioner's interest will be protected.
- (iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (iv) The extent to which the petitioner's interest will be represented by existing parties.
- (v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

10 C.F.R. § 2.714(a)(1)

With respect to the good cause factor the Commission adopted the Appeal Board's test to determine whether good cause exists for late filing of a Contention. Catawba, supra, 17 NRC at 1045. Under that test good cause exists if a contention: 1) is wholly dependent upon the content of a particular document; 2) could not therefore be advanced with any degree of specificity (if at all) in advance of the public availability of that document; and 3) is tendered with the requisite degree of promptness once the document comes into existence and is accessible for public

^{8/} The Commission set out in its decision the fundamental principles upon which it bases its conclusion that intervenors are required diligently to uncover and apply all publicly available information to the prompt formulation of contentions. Id. at 1048-1050.

examination. Id. at 1043-1044. The Appeal Board has recently discussed the showing necessary to cause the third factor to weigh in favor of the admission of a late petitioner for leave to intervene. Washington Public Power Supply System, et al. (WPPSS Nuclear Project No. 3) ALAB-747, 18 NRC, 1167 (1983). In WPPSS the Appeal Board reasserted a standard it had set forth in Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-704, 16 NRC 1725, 1730 (1982). As the Appeal Board stated:

Almost a year ago, we observed that, because of the importance of the third factor, "[w]hen a petitioner addresses this criterion it should set out with as much particularity as possible the precise issues it plans to cover, identify its prospective witnesses, and summarize their proposed testimony.

WPPSS, supra, 18 NRC at 1177. This standard is instructive in determining whether an intervenor has satisfied the third factor with respect to a late filed contention.

B. The Contentions and the Chan Van Vo Davis Affidavit

1. WB-1 CCNC

This proffered contention alleges that the Quality Assurance Program at Shearon Harris is deficient in that the nuclear safety material traceability documentation was falsified. The contention also alleges that other Quality assurance documents relating to safety were falsified or destroyed. This contention makes no citation to page and paragraph of Mr. Chan Van Vo Davis' affidavit to support this allegation. The Staff does not see that Mr. Chan Van Vo Davis has alleged that CP&L or its contractors' employees have falsified or destroyed material

documentation. These are very serious charges for anyone to make. The allegation asserted by CCNC is not, as we read it, in the Affidavit.

On its face the contention lacks the specificity and basis required by 10 C.F.R. § 2.714 and the contention should be denied.

2. WB-2 CCNC

This proffered contention alleges that the piping line from the discharge nozzle of a steam generator feed-water pump 1A-NNS was improperly installed thereby causing a potential safety problem. Attached hereto is an affidavit of Norman Wagner, the Staff's technical reviewer of auxiliary systems. Mr. Wagner states that the feed-water pump 1A-NNS does not perform a safety function. It is not a matter of concern for public health and safety under the Atomic Energy Act and the contention should be denied. See also Tr. 5327.

3. Eddleman Contentions 41C, E and F

These proffered contentions are broad general allegations that the Applicants' QA procedures violate all of the criteria of 10 C.F.R. Part 50, Appendix B and allege as basis all of the Chan Van Vo Davis Affidavit. The specificity required by 10 C.F.R. § 2.714 is totally lacking. There is no basis in Mr. Chan Van Vo Davis' Affidavit to support these wholesale assaults upon Applicants' QA program. As Mr. Eddleman states in transcript pages 5739-5743, October 25, 1984 the contentions were drafted to go far beyond the Chan Van Vo Davis Affidavit, and they do. Part of the wholesale assault is a telephone conversation between Mr. Davis and Mr. Eddleman which is not a part of the Affidavit and cannot be considered. Lacking specificity, basis and going beyond the Chan Van Vo Davis Affidavit, the contentions should not be admitted.

4. 41D Eddleman

This proffered contention alleges that "the Harris plant is in violation of material traceability requirements" of 10 C.F.R. Part 50, Appendix B, see Chan Van Vo Davis Affidavit. Again, a broad generalization. The Chan Van Vo Davis Affidavit at page 11 line 11 addresses alleged problems with hanger A-2-236-1-CC-H-105 and no other.

Mr. Eddleman's contention does not even address the purported defect alleged by Mr. Chan Van Vo Davis. This lacks the specificity and basis required by 10 C.F.R. § 2.714(b) and Peach Bottom cited in foot note 4 supra. The proffered contention raises no specific issue from the Chan Van Vo Davis Affidavit which could be litigated and it should be denied. In addition, we note that the scope of the contention far exceeds the scope of the Chan Van Vo Davis Affidavit.

5. 41G Eddleman

This proffered contention alleges that "there exists a pattern of harassment, intimidation, and failure to respond ... to employees ... QA/QC concerns", and cites as basis the entire Chan Van Vo Davis Affidavit. Again, Mr. Eddleman has not set forth a specifically alleged defect and some rational basis in support thereof. The Chan Van Vo Davis Affidavit states on page 14 line 15 that Davis was pressured but no detailed description of the pressure is set forth or any description of what he was being pressured to do. On page 15 line 3 Mr. Chan Van Vo Davis states that there is "a great deal of pressure". However, that pressure is not detailed. A close reading of Mr. Chan Van Vo Davis' Affidavit does not describe an allegation of any specific pressure upon an identifiable person to do anything wrong in regard to QA. The contention lacks the

basis and specificity required by 10 C.F.R. § 2.714, goes beyond the Chan Van Vo Affidavit, and is so general that it raises no issue which could be resolved in an evidentiary hearing.

6. 41H Eddleman

This proffered contention alleges that construction inspection and QA personnel were harassed and had insufficient independence from cost and schedule considerations. Mr. Eddleman here again cites to the Chan Van Vo Davis Affidavit as a whole. Again, Mr. Eddleman frames his contention in the broadest possible generalities. No single instance of pressure or schedule consideration is set forth by Mr. Eddleman, or by Mr. Chan Van Vo Davis in his affidavit, which resulted in a lack of proper inspection or which resulted in a failure to inspect the construction. The Chairman correctly characterized Mr. Eddleman's desire on transcript page 5738. Mr. Eddleman wants to use Chan Van Vo Davis as a spring board to start from day one to have a chance to discover on the stand Applicants' QA program for the entire Harris project. This was previously reviewed as a part of Joint Intervenors' Contention I. As a part of Applicants' case, Mr. Harold R. Banks, CP&L's Manager, Corporate Quality Assurance, appeared and testified at length on CP&L's QA program, transcript page 2452 and following. Mr. Brandt was extensively cross-examined by the intervenors. The contention lacks specificity, lacks basis, and goes far beyond the scope of Mr. Chan Van Vo Davis' Affidavit. It attempts to relitigate matters already litigated and upon which the record is closed. The contention should not be admitted as an issue in controversy.

C. 10 C.F.R. § 2.714(a)(1) Late Filed Contentions and Further Analysis

As set forth in our discussion of the applicable law, the Commission in Catawba, cited supra, requires that the Licensing Board consider the late filing factors of 10 C.F.R. § 2.714(a)(1) and that "good cause" be analyzed as the Appeal Board did as set forth at 16 NRC 469. Our discussion follows that format.

10 C.F.R. § 2.714(a)(1)(i) Good Cause (as interpreted by the Appeal Board in 16 NRC 469). Is the contention wholly dependent upon the content of a particular document, i.e., the Chan Van Vo Davis Affidavit, and could it have been advanced earlier?

In regard to pipe hanger material documentation and independence of inspectors at the site as raised in Contentions WB-1, 41C, 41D, 41E, 41F and 41H, the contentions are not wholly dependent on the Chan Van Vo Affidavit, and the contentions could have been advanced earlier. Proper documentation of pipe hangers was the subject of Inspection Report No. 50-400/83-20 issued June 30, 1983, ^{9/} a copy of which is in the Commission's Public Document Room. CP&L was cited for a violation of 10 C.F.R. Part 50, Appendix B, Criterion V, in relation to proper documentation of installed pipe hangers. We also note that paragraph 8 on page 5 of Inspection Report No. 50-400/84-22 issued on August 1, 1984 ^{10/} explicitly refers to control of material documentation and independence of the inspectors at the site. Thus, concerns regarding pipe hanger material identity and independence of inspectors were known and in the realm of public infor-

^{9/} Attached as Exhibit 4.

^{10/} Attached as Exhibit 5.

mation at least as early as June 30, 1983 and August 1, 1984. Proffered contentions WB-1, 41-C, 41-D, 41-E and 41-F relate to material traceability, are not wholly dependent upon the Chan Van Vo Davis Affidavit and could have been raised earlier.

Proffered 41-G relates to harassment. This was raised in CCNC Contention 16 filed on May 14, 1982 and discussed at a prehearing conference held in Raleigh on July 14, 1982, transcript page 301. As the Chairman then observed this is a very serious charge. Mr. Chan Van Vo Davis' Affidavit states in paragraph 14, page 9 that he was threatened [with what?] and on page 16, line 6 states that workers will not come forth as they may suffer the retaliation that the affiant received. Harassment could have been raised earlier and indeed was. We note that the retaliation that Chan Van Vo Davis incurred was to be discharged for cause, an action now upheld by the Department of Labor (Mr. Chan Van Vo Davis has appealed). We also observe that workers' concerns and how they were treated by CP&L and the NRC-I&E office were addressed at length in the hearings on management qualification. There, Mr. Banks, CP&L's manager, corporate quality assurance testified and was cross-examined at length by intervenor.

Proffered Contention 41-H relates to independence of the inspection function. This is not new material. The concern could have been raised earlier. This was extensively addressed in the hearings on management qualifications, Joint Contention I. It was also addressed in paragraph 8 page 5 of Inspection Report No. 50-400/84-22.

Thus, we conclude that none of the proffered contentions is wholly dependent upon the Chan Van Vo Davis Affidavit and that all of them could have been raised earlier based upon information publically available.

10 C.F.R. § 2.714(a)(1)(i). Good Cause for filing late as interpreted by ALAB-687, 16 NRC 469. Are the proffered contentions tendered promptly once the document (Affidavit) is available?

CCNC and Mr. Eddleman filed their contentions expeditiously after they had the Chan Van Vo Davis Affidavit. However, their contentions are not dependent upon information in the Chan Van Vo Davis Affidavit and could have been advanced earlier.

The Staff concludes the CCNC and Mr. Eddleman lack good cause under 10 C.F.R. § 2.714(a)(1) to file the proffered contentions late.

10 C.F.R. § 2.714(a)(1)(ii). The availability of other means whereby the petitioner's interest will be protected.

The NRC Region II office of the Office of Inspection and Enforcement and the Office of Investigation received Mr. Chan Van Vo Davis' Department of Labor complaint on September 19, 1984; his telephone complaint on October 1, 1984, and the Affidavit under consideration on October 10, 1984. All of the allegations made by Mr. Chan Van Vo Davis in his Affidavit will be investigated by NRC's Region II and OI offices, including the feedwater pump even though it is not a safety item. These investigations will be made public when completed. The public interest, and Mr. Chan Van Vo Davis' and Mr. Eddleman's interest in public health and safety will be adequately protected by NRC's offices of Investigation and Inspection and Enforcement.

10 C.F.R. § 2.714(a)(1)(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

The Chan Van Vo Davis Affidavit and the Department of Labor upholding the discharge for cause give no hint of competent expertise which would assist in developing a sound record upon CP&L's application for an operating licensing.

10 C.F.R. § 2.714(a)(1)(iv) The extent to which the petitioner's interest will be represented by existing parties.

The Applicants' QA program has been extensively litigated already and any interest Mr. Eddleman or CCNC may have in inspection of construction has been addressed. Four matters are in the Chan Van Vo Davis Affidavit: the feedwater pump, pipe hanger materials traceability, intimidation, and inspection independence. No party presently has contentions to be litigated upon these matters. Insofar as the NRC Staff is a party, the Staff will investigate these matters and protect the public interest in health and safety.

10 C.F.R. § 2.714(a)(1)(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

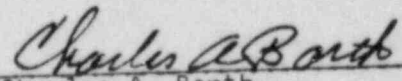
Adding new contentions will broaden the issues and may delay the operating license proceeding.

Balancing the late filing factors of 10 C.F.R. § 2.714(a)(1) weighs against admission of the contentions proffered by CCNC and Mr. Eddleman.

IV. CONCLUSION

The Staff concludes that the proffered contentions: lack specificity; lack basis; could have been asserted earlier; that the NRC will adequately address Chan Van Vo Davis' concerns; and that there is nothing to indicate that admitting the proffered contentions will assist in developing a sound record. In addition, contention WB-2 concerns non-safety equipment. Further contentions WB-1, and Eddleman 41-C through 41-E go far beyond the Chan Van Vo Davis Affidavit and are so broad as not to raise issues which could be resolved in an evidentiary hearing. The Licensing Board should deny admission of all of the contentions proffered by CCNC and Mr. Eddleman which are premised upon the October 6, 1984 Affidavit of Mr. Chan Van Vo Davis.

Respectfully submitted.



Charles A. Barth
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 13th day of November, 1984

Steven Rochlis
Regional Counsel
FEMA
1371 Peachtree Street, N.E.
Atlanta, GA 30309

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

Robert P. Grubar
Executive Director
Public Staff - NCUC
P.O. Box 991
Raleigh, NC 27602

Wells Eddleman**
718-A Iredell Street
Durham, NC 27701

Richard E. Jones, Esq.
Associate General Counsel
Carolina Power & Light Company
P.O. Box 1551
Raleigh, NC 27602

Spence W. Perry, Esq.
Associate General Counsel
Office of General Counsel
FEMA
500 C Street, SW Rm 840
Washington, DC 20472

Bradley W. Jones, Esq.**
Regional Counsel, USNRC, Region II
101 Marietta St., N.W. Suite 2900
Atlanta, GA 30323

George Trowbridge, Esq.**
Thomas A. Baxter, Esq.
John H. O'Neill, Jr., Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, N.W.
Washington, DC 20036

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

Dr. Harry Foreman, Alternate
Administrative Judge
P.O. Box 395 Mayo
University of Minnesota
Minneapolis, MN 55455

Charles A. Barth

Charles A. Barth
Counsel for NRC Staff

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AFFIDAVIT OF NORMAN H. WAGNER

State of Maryland)
County of Montgomery) SS

Norman H. Wagner, having first been duly sworn, hereby states as follows: I am employed as an engineer in the Auxiliary Systems Branch of the Division of Systems Integration, Office of Nuclear Reactor Regulation and am the Staff reviewer of auxiliary systems for the Shearon Harris operating license application. My educational qualifications and professional experience are set forth immediately below.

Education

- B.S. - Chemical Engineering - C.C.N.Y., 1948
- M.S. - Chemical Engineering, University of Cincinnati, 1952

Experience

I have been with the U.S. Nuclear Regulatory Commission from its inception in 1975, with a short period (from January 1975) with the U.S. Atomic Energy Commission. In my career with the Nuclear Regulatory

Commission I have been assigned to the Reactor Systems Branch, to the Systems Interaction Branch and to the Auxiliary Systems Branch at times and in the capacities shown below:

From January 1975 to approximately September 1980, I served as an engineer in the Reactor Systems Branch, with the title of Reactor Engineer. In that capacity I performed licensing case reviews, checking adherence of reactor systems in nuclear power plants to the rules and regulations stipulated by the Nuclear Regulatory Commission. In September of 1980 I was transferred to the newly formed Systems Interaction Branch where I, with other members of the branch, attempted to develop a systematic methodology for reviewing nuclear power plants for adverse system interactions. I was transferred back to the Reactor Systems Branch in July 1981 when the Systems Interaction Branch was dissolved, and then to the Auxiliary Systems Branch in December 1981 where I am presently; in this capacity my main effort is reviewing plant systems and assuring compliance of these systems with the rules and regulations of the Nuclear Regulatory Commission.

Response

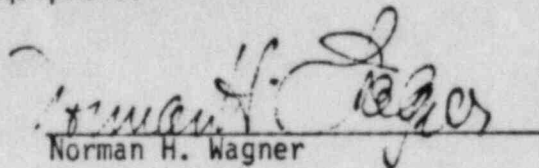
I have reviewed the Affidavit of Mr. Chan Van Vo Davis dated October 6, 1984. Mr. Davis alleges on pages 5 and 6 of his Affidavit that a 24 inch carbon steel pipe was "cold pulled" to fit the pipe to the discharge nozzle steam generator feed-water pump 1A-NNS. This pump pumps water to the steam generators.

Figures 10.1.0-3 and 10.1.0-4 in the Shearon Harris Final Safety Analysis Report (Amendment 15) are flow diagrams which include the pump

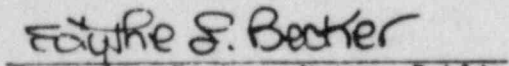
in issue. It does not appear that there is a 24" pipe attached to the pump's discharge nozzle. The pump appears to have an 18" discharge nozzle.

Pipes leading in and out of the steam generator feed-water pump 1A-NNS, and the pump itself, do not perform a safety-related function. Failure of that pump or its piping will not prevent bringing the Harris facility to a cold shutdown mode.

The concerns raised by Mr. Davis on pages 5 and 6 of his Affidavit relating to piping attached to steam generator feed-water pump 1A-NNS do not raise safety concerns for the facility. This is also evident from the pump's designation 1A-NNS. The NNS is the Applicants' nomenclature for non-nuclear safety equipment.


Norman H. Wagner

Subscribed and sworn to before me
this 8th day of November, 1984


Edythe L. Becker, Notary Public

My commission expires: July 1, 1986

AFFIDAVIT

My name is Chan Van Vo. I am also known as Van Vo Davis. I am giving this statement to Robert Guild, Attorney-at-Law, of Charleston, South Carolina, who has identified himself to me as a representative of the Government Accountability Project. I was employed for almost five years by Carolina Power & Light Company in the construction of the Shearon Harris Nuclear Power Plant near Raleigh, North Carolina, most recently in the position of Engineer where I was responsible for ensuring that the installation of pipe and pipe-hangers was in accordance with approved plans, specifications, codes, procedures and schedules. Although I am not opposed to nuclear power, my experience with CP&L causes me to have serious doubts about CP&L's commitment to nuclear safety and about the as-built quality of construction at the Shearon Harris Nuclear Power Plant. On many occasions I have brought safety concerns and construction deficiencies to the attention of my supervisors only to face lack of interest and hostility; and in one case only to find my documentation of a serious safety concern discarded in my supervisor's trash can the next day. I have taken these concerns up my chain of command to senior management at CP&L on several occasions only to be told that 'this is not Vietnam, here at CP&L you are only a soldier who must follow orders.' This lack of interest in my safety concerns was followed by a pattern of harassment, intimidation, pressure to resign, and ultimately my termination. I have filed a

Exhibit 1

complaint against CP&L with the U.S. Department of Labor for violation of the Employee Protection Provisions of The Energy Reorganization Act because of the Company's discrimination against me for raising safety concerns. I was only trying to do my job to the best of my ability according to my professional engineering training. I believed that the Quality Assurance regulations of the Nuclear Regulatory Commission, 10 CFR Part 50, Appendix B, and the Company's written policies and procedures meant what they said. However, I have learned that CP&L has very little interest in seeing that the Shearon Harris Nuclear Power Plant is built "by the book." Workers at the site are expected to "look the other way" when they see safety violations or risk losing their jobs. I hope that my concerns will be fully investigated and that effective action will be taken to ensure that the public health and safety is protected before the Harris plant is allowed to operate.

2. I was born in South Vietnam and became a U.S. citizen after I came to this country in 1975. I hold a degree in Math, Science and Physics from the French College and a Bachelor of Science degree in Mechanical Engineering with a specialty in Fluid Mechanics from Phutho Higher Technical University, Saigon, South Vietnam. In order to supplement my education for engineering certification in this country, I have taken courses in civil and mechanical engineering from Fayetteville Technical Institute and International Correspondence Schools. I am currently an MBA candidate at Campbell University, Buies Creek, North

Carolina, where I am concentrating in Production Management. I expect to receive my degree in May 1985. I am an Associate member of the American Society of Mechanical Engineers.

3. I was first employed by CP&L at the Harris site on April 10, 1979, as an Engineering Aide I, in the Mechanical Department under E.M. "Ed" McLean, where I was responsible for preparing requisitions for site material procurement and for performing inspections of mechanical installations in all parts of the plant. On October 10, 1979, I was promoted to Engineering Technician II where I was assigned responsibilities for piping and pipe-hangers. After I finished the ICS program for equivalence with a 4 year degree in mechanical engineering and based on my "outstanding" performance, I was promoted to Associate Engineer, effective October 4, 1980. In this position I performed material take-offs, prepared purchase specifications and material purchase orders for piping; and was in charge of field support for radwaste piping in the Waste Processing Building. In April, 1982, I was transferred to work for the Lead Hanger Engineer, A.G. "Alex" Fuller, where I was responsible for providing technical support to the hanger crafts including the preparation and interpretation of design documents and work procedures, investigation of field problems, preparation of field changes such as Field Change Requests/Permanent Waivers (FCR/PW), and the resolution of nonconformances.

4. Alex Fuller and his immediate superior, Resident Mechanical Engineer E.E. "Ed" Willett, particularly demonstrated a lack of commitment to nuclear safety and a general lack of knowledge and competence to perform their important engineering and management responsibilities. The Resident Engineering Unit carries responsibility for all site engineering functions at the Harris Plant, under the direction of a CP&L employee, the Senior Resident Engineer, a position held by A. Lucas until his removal for poor performance in early 1983. Under Lucas were the various engineering disciplines and the Construction Inspection (CI) organizations. Ed Willett took over the Mechanical Engineering group in 1980. He originally supervised activities in the piping, hangers, equipment and heating-ventilation-air conditioning (HVAC) areas; until equipment installation and HVAC were taken away from him in early 1983, and hanger work was taken away in October, 1983, because of mounting problems and growing recognition of Willett's lack of ability to effectively manage his work. Willett brought in his friend, Alex Fuller, to supervise the hanger program in late 1981, despite Fuller's lack of qualifications for this work. Fuller's training was in civil engineering and his only previous work experience was in dam construction with CP&L. As problems mounted in the hanger area, Al Rager was brought in over Alex Fuller. This did not help at all since Rager lacked any engineering experience. Rager has

since been placed in charge of the Construction Inspection program. This recent move will do nothing to improve the Quality Assurance program at the Harris Plant.

5. In mid-August 1982 I was performing my normal duties checking the installation of pipe-hangers in the Turbine Building. While doing so I observed several pipefitters attempting to fit a 24" carbon steel piping line to the discharge nozzle of Steam Generator Feed Water Pump 1A-NNS. This piping system is of large diameter pipe through which feedwater is pumped back from the turbine condensor to the steam generator which is located inside the Reactor Building containment. The system, including the piping and associated valves and pumps, is classified as Secondary System, Safety Category 4, Seismic Category 1. The integrity of reactor temperature and pressure control is dependent upon the effective function of these pumps, valves and piping, which are, therefore, nuclear safety significant. The 24" carbon steel pipe in question extended on a horizontal run in the direction of the length of the Turbine Building until it reached a position above the discharge nozzle of the pump in question where it dropped vertically toward the pump. Since the pipe-to-pump flange connection was the last remaining fit-up to be made in the pipe run, I was particularly concerned that proper alignment of the pipe to the flange was maintained in order to assure that no improper stresses were imparted to the pump.

6. To assure proper fit-up, I identified the fitters' Foreman and requested that he ask his General Foreman, Danny McGhee, to request Millwright assistance in fitting this connection. Millwrights are responsible for the installation of mechanical equipment such as this SGFW pump. The Foreman did as I requested, but reported back that McGhee had said go ahead without the Millwrights. I returned to my office where I called Piping Engineer D.M. Dasburg to whom I related the problem.

7. Several days later I encountered the same crew of pipefitters in the Turbine Building in the process of actually fitting up this pipe to the pump nozzle. The fitters had rigged a horizontal "come-along" from the pipe to a nearby beam and were "cold pulling" the pipe using extreme force which I would estimate at several thousand pounds in order to force fit the connection. When I encountered them they had almost completed the entire weld. No Millwright was present, nor did I observe any Quality Control, Construction Inspector, or supervisory authority present to witness the "cold pull" fit-up of this pipe.

8. About one week later I observed two Millwrights, a Mr. Strickland, Company No. 50-183 and Mr. Bass, Company No. 50-105, performing an alignment test on the subject Feedwater Pump. One of them said to me, "Mr. Chan they really screwed up this pump!" The Millwrights were measuring the pump shaft alignment using an instrument called a "Dial Indicator" which measures in thousands of an inch. Procedure calls for an alignment tolerance of +/- .005. The Millwrights reported to

me the results of alignment measurements over a three-day period under hot and cold temperature conditions. Their notes reflected a severe misalignment measurement of as much as + .108", - .078" under hot conditions; and + .108", - .075" under cold conditions!

9. On August 25, 1982, I explained this problem to my Supervisor, Alex Fuller. I asked him how I should document and report this safety deficiency; and whether I should inform Resident Mechanical Engineer Ed Willett. Fuller told me to document the problem on a "Speed Letter" which he said he would route to Willett. "Speed Letters" are commonly used at the Harris site for not only routine internal communication, but also in place of prescribed Quality Assurance documentation. Use of "Speed Letters" is not prescribed in any procedures for the documentation of construction deficiencies, nor are "Speed Letters" controlled documents which are normally part of the Nuclear Plant's permanent quality records. I documented the cold pulling misalignment of the Steam Generator Feedwater Pump as I was instructed in such a "Speed Letter" to Alex Fuller, "Subject: Loads Imposed on the Steam Generator Feed Pump 1A-NNS," which detailed my observations and attached a diagram showing the Dial Indicator alignment readings and the Millwrights' names and Company numbers. I closed my message: "Please investigate." The very next day I happened to find my "Speed Letter" with attached diagram discarded in Fuller's trash can!

10. The following day I spoke with R.T. "Roy" Settle, a Daniel Construction employee who serves as Equipment Installation Supervisor. I told him of the problem and showed him my discarded "Speed Letter". Roy said that he had told Ed Willett of the problem three times. He quoted Willett as cursing him and adding: "I don't want to hear any more about that problem. If something happens I will fire you first!"

11. Several months later on October 14, 1982, I observed Millwrights re-checking the alignment of the subject pump. They gave me a note reflecting the results of their Dial Indicator readings: + .098", - .075". I showed this note to Alex Fuller. He said nothing. The following day I showed it to Ed Willett. He said tell Daren Dsaburg the Piping Engineer. I already had. I gave a copy of the note to Dasburg.

12. Since I first raised my concern regarding the cold pulling of this pipe and its effect on the feedwater pump, I became aware of increasing pressure from Fuller and Willett. I sought a transfer out from under Fuller and Willett thinking that a change in supervision would ease this retaliation. Willett refused to approve my transfer request. I pursued my concern regarding the mishandling of the pump deficiency and my request for transfer to avoid the mistreatment. Both Senior Resident Engineer A. Lucas and Harris Project Manager Parsons showed no interest and offered no help. They sent me back to Willett.

13. In November or December 1982 I went to see CP&L Vice President, M.A. McDuffie. I told him that I was just trying to serve my Company. I explained to him all about my report of the pump deficiency. I showed him my "Speed Letter" and diagram and the Millwrights' notes; I told him of Roy Settle's comments. He showed no reaction and asked no questions. I told him of the retaliation and pressure from Fuller and Willett. He told me that I was a good man, that the Company needed me. He said he would help and that I should go back and request a transfer. I did as he told me; but my transfer was refused. Mr. McDuffie did not help me, nor did he investigate my safety concerns.

14. In March, Alex Fuller increased the level of pressure on me and threatened me with termination of my job. He subjected me to "formal counseling" regarding my job performance, including a requirement that I improve my "understanding and explanation of problems." After I requested Project Manager Parsons' help in allowing me to rebut Fuller's allegations, Fuller and Willett backed down and dropped their charges.

15. In April, 1983, I went to see Vice President McDuffie again for help. This time he sent me back without any action or help. Mr. McDuffie said, "This is the U.S. This is CP&L, not Vietnam. Here Ed Willett is your Lieutenant and you are only a soldier. You must obey orders." During the Spring the pressure from Fuller continued to increase. I was assigned more and more work: hangers in the diesel generator building, the turbine

building, the reactor building, the auxiliary building and the waste processing buliding. Much more work than my fair share.

16. In June, 1983, the NRC began to identify serious problems in the hanger installation program at Harris. In a June 10, 1983, exit meeting with site management, NRC Senior Mechanical/Welding Engineer J.W. York noted problems in the hanger inspection area with particular regard to missed deficiencies and material control problems. Several weeks later Alex Fuller assigned me to work with the QA Surveillance Group under the direction of OA Engineer "Buck" Williams. Our task was to begin an evaluation of the adequacy of the existing pipe hanger installation program. Fuller instructed me to select, at random, about 50 hanger packages for review, with particular emphasis on material substitutions, use of surplus materials, and identification of Construction Material Requisitions (CMR's) that did not match the hanger materials actually installed. These areas represented significant problems which the NRC had observed and which indicated the potential need for costly and time consuming reinspection and rework.

17. At Buck Williams' request I pulled 50 hanger packages for seismic hangers on safety-related systems which were supposed to be Phase II complete: installed, inspected, and found acceptable for turn over to operations with only the final Phase III stress analysis yet to be performed. Of these, the QA Surveillance Group inspected 12 at random. In

the course of this review numerous serious deficiencies were noted which had not been identified, documented or corrected although these hangers had all received final approval by CI and CP&L QA/QC.

18. By "Speed Letter" of July 18, 1983, I transmitted to Alex Fuller and Ed Willett my completed "Hanger Phase II Verification Checklists" for these sample hanger packages. Fuller was very angry that such a large number of deficiencies had been identified, and he blamed me for documenting all of these problems. In particular he focused on the problem of material traceability which we had identified on many of these hangers. For example on pipe hanger A-2-236-1-CC-H-105, a "Speed Letter" of 4/25/80 indicates that a 1" x 10" x 10" plate was obtained from Purchase Order 21022 and installed as per drawing. PO 21022 was cited as the source for material in many of the hangers we examined. I explained to Fuller that I had researched this PO with QA Inspector Jay Vincent and another man on the Surveillance team. We could find no documentation of this PO in the QA records vault. In the Purchasing Department, Robert Babb informed us that the Purchasing Log showed that PO 21022 had been voided and that no materials had ever been received through that order! We could not determine where these hanger materials had come from or document that such materials were of acceptable quality for nuclear safety application.

19. Later that afternoon Fuller called me into his office. He called me "a liar" and said that he had found documentation for PO 21022 in the warehouse. He accused me of not doing my job properly. I asked him to wait for the issuance of the Deficiency and Disposition Report (DDR) by the QA Surveillance Group which would confirm my report of material traceability problems and, in particular, the apparent falsification of documentation involved in the repeated use of void PO 21022 to supply traceability for hanger materials of unknown origin. I returned to my work.

20. DDR 1775 was issued by Buck Williams on July 26, 1983, documenting the QA Surveillance findings, as well as my report to Fuller and Willett regarding the void PO. That DDR states that "PO # 21022 was voided and no documentation exists that material was received." It also states: "A further investigation of PO # 21022 revealed that material from this PO was used on pipe hanger 1-CC-H-1242, 1-RH-H-183, and numerous other pipe hangers not listed here, although PO # 21022 was voided" DDRs 1776, 1784, 1795 and Nonconformance Report (NCR) QA-255 also document problems we found in the hanger verification.

21. In response to my report to Fuller and Willett of QA failures, Willett issued a Memo July 29, 1983, "Subject: Shearon Harris Nuclear Power Plant - Compliance with Project QA Programs and Procedures", which emphasized that compliance with QA procedures is "mandatory" and provided examples of "DO's and Don't's".

22. On August 1, 1983, Assistant Project General Manager P.F. Foscolo responded to our Phase II hanger surveillance and the NRC concerns by providing for significant changes in the hanger program. A stop work order had been issued on July 29, 1983, halting all work and inspection on seismic hangers. Phases I and II were eliminated; work and QA procedures were substantially changed, including particularly WP-110, and TP-34, which provided for hanger installation and inspection. In particular, CP&L noted that hanger documentation should be checked to insure "that the surplus hangers number/purchase order number is legitimate". At that time only about 300 of the 18,000 seismic pipe hangers had successfully passed inspection. I remain concerned about the use of false documentation on such safety grade materials. Has any effort been made to investigate the cause or extent of this problem at the Harris Plant?

23. On August 22, 1983, Alex Fuller presented me with a Memo signed by himself and Ed Willett reflecting their decision to place me on probation due to what was described as a decline in my performance "over the past year and one half". Of course, Fuller himself had promoted me to Engineer less than a year earlier! I believe that this action was in retaliation for my expression of safety concerns. I refused to acknowledge Fuller's false charges, and, instead I wrote: "I do not agree with this statement", on the memo. Ironically one of the actions required of me over the next 6 months was: ". . . problems that are detected must be reported accurately and timely.". CP&L management

demonstrated time and time again that they wanted us to look the other way when we encountered deficiencies. "Problems" were the last thing they wanted reported.

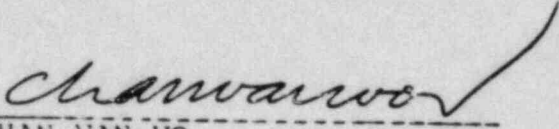
24. In the Fall of 1983 I met with CP&L Executive Vice President E.E. Utley in Raleigh. I carried with me all my documentation of safety concerns and deficiencies, including those described here. I explained these concerns to Mr. Utley and the responses to them by my supervision. He showed little interest in anything I said or any document I showed him. He did not ask questions regarding my concerns or my treatment. He said I was a "good man" and that I should go back to work. He promised to help. He did not. I performed all work assigned to me over the next 6 months, and have retained documentation of my satisfactory performance under increasing pressure and intimidation by my supervisor, Alex Fuller. All my requests for transfer were refused. At the end of 6 months, I was called before Messers Foscolo, Rager, Ferguson and Fuller who told me that if I did not resign I would be terminated. They urged me to make it easier on myself by resigning; and said I would have a hard time getting another nuclear industry job if I did not resign. I told them I had done nothing wrong and would not resign. That afternoon, February 29, 1984, Fuller escorted me like a prisoner out the gate without even a chance to exchange farewells with my colleagues and friends.

25. I have very serious concerns regarding the breakdown of Quality Assurance at the Shearon Harris Nuclear Power Plant. There is a great deal of pressure on the Construction Inspection (CI) organization which lacks the freedom and independence from cost and scheduling considerations to effectively perform their QA duties of identifying and documenting deficiencies. As an Engineer I was always aware of the conflict between production and quality. Both CI and Construction Engineering reported to the Senior Resident Engineer.

26. CP&L and its prime contractor Daniel employ a confusing and ineffective array of different documenting systems for controlling nonconformances such as DR's, DDR's, NCR's FCR/PW's and such commonly used uncontrolled paperwork as Memos and "Speed Letters". Few of us were trained in which procedures were to be used when. Mostly we wrote things down informally. I doubt that the QA vault contains even a fraction of the deficiencies in safety systems which have been identified. In order to ensure that I communicated effectively in my work - particularly since English is my second language - I made it a practice to retain full documentation of work in my areas. I have "Speed Letters" reflecting numerous deficiencies which I am sure have been discarded by CP&L. I also have retained copies of many quality documents which I believe have not been properly controlled by CP&L.


I hope that someone will seriously investigate my safety concerns. I know that many other present and former Harris employees, including craft and other engineers, share my concerns. However, they are not eager to share my experience in order to voice those concerns, since they have every reason to fear the same kind of retaliation that I have experienced. I hope that this statement of mine will make it easier for the others to speak more freely.

I am willing to assist in identifying and correcting quality assurance and workmanship problems in any manner necessary to ensure that the Shearon Harris Nuclear Power Plant does not harm the public.



CHAN VAN VO

Sworn to and subscribed before me
this the 6 day of Oct-----, 1984.



NOTARY PUBLIC

My Commission expires: 8/12/86-----

CONSERVATION COUNCIL'S LATE FILED CONTENTIONS BASED ON THE AFFIDAVIT OF
CHAN VAN VO--October 30, 1984

WB-1 The Quality Assurance program at Shearon Harris is deficient in that the nuclear safety material traceability documentation was falsified and other QA documents relating to safety were falsified or destroyed. This is in violation of 10 CFR 50, Appendix B, Criteria II (the QA program "shall be documented by written policies...and shall be carried out...") (emphasis added), Criteria VI, Criteria VII, and Criteria VIII. Basis is provided for this contention by the affidavit of Chan Van Vo and other related documentation, as well as other similar material from other current or former workers at the Harris Plant.

WB-2 The piping line to the discharge nozzle to the Steam Generator Feed Water Pump 1A-MNS was improperly installed thus causing improper stresses to the pump (see Chan Van Vo Affidavit, page 5 et seq., for details). The safety significance of this improper installation is that the integrity of the reactor temperature and pressure control is dependent upon the effective function of these pumps, valves, lines, etc.

The five factors applying to late-filed contentions was supplied upon oral arguments by Wells Eddleman and John Runkle, Counsel for the Conservation Council, during the hearing on safety issues, October 25, 1984.

John Runkle

EXHIBIT 2

Eddleman

10/25/84 WE
Contentions
(based on Chan Van Vo affidavit made public 10/22/84)
(& NRC regulations/requirements)

41C - CP&L Quality Assurance procedures and records violate NRC requirements because falsification of Nuclear Safety Material traceability records has occurred and there is inadequate assurance it is not continuing or undetected so far in Harris Plant QA records). This violates 10 CFR 50 Appendix B Criteria, e.g. #'s 17, 6, 1, 2, 7, & 15, 16, 8, 9. For initial basis, Refer, e.g. to Chan Van Vo affidavit (available to me as of 10/22/84), e.g. paragraphs 18, 17, 16, 3, 4, 22, 23, 24.

41-D The Harris plant is in violation of the material traceability requirements of 10 CFR 50 Appendix B Criteria 8, 4, 6, 7, 1, 2, 15, 16 & 17, because of inadequate or nonexistent documentation of material used in safety related equipment, e.g. as stated or described in Chan Van Vo affidavit (dated 10/06/84, first available to me 10-22-84) #'s 20, 16, 17, 3, 4, 13, 18, 19, 22, 24 & 26.

41-E There has been a breakdown in Harris QA/QC programs for safety-related pipe hanger recordkeeping, installations, and inspections, violating all 17 requirements of 10 CFR 50 Appendix B. Basis is as described in Chan Van Vo affidavit (1st available to me 10/22/84) #'s 17, 18, 1, 3, 4, 14, 15, 16, 19, 20, 21-(past noncompliances not corrected*), 22, 23, 24 &

Exhibit 3

Eddima

26) This also includes the wholesale discarding of documents including pipe hanger documentation or packages,* to Mr. Chan Van Vo's belief.

*These amplifications of CVV affidavit conveyed to me by his counsel by phone - 8 pm 10/24/84.

41-F: QA concerns not documented properly at Harris in violation of 10 CFR 50 APP. B Criteria 6, 7, 8, 17, 1, 2, 3, 10, 11, 13, 14, 15, 16 & 17. See Chan Van Vo affidavit of 10-6-84 at ¶s 26, 9, 10, 13, 15, 16, 17, 18, 20, 19, 22, 24. These violations mean that the safety & quality of Harris safety - related systems cannot be established

41-G. There exists a pattern of harassment, intimidation, & failure to respond positively to employees bringing forward QA/QC concerns at the Harris plant (see, e.g. Chan Van Vo affidavit of 10-06-84 e.g. ¶s 26, 25, 24, 23, 19, 15, 14, 13, 12, 11, 10, 9, 6, 4, 3, & 1. This prevents concerns from being brought forward & dealt with properly in compliance w/10 CFR 50 App B e.g. criteria 15, 16, 14, 1, 2, & 3

41-H CP&L's failure to give sufficient independence to Construction Inspection (CI) & other QA personnel to perform their duties without pressure or harassment, prevents proper QA/QC on the plant, particularly all parts/systems/items inspected by CI when it did not have sufficient independence of cost/schedule concerns, and other parts/systems inspected by QA/QC personnel w/o the independence required to comply w/10 CFR 50 App B. See e.g. Chan Van Vo affid. ¶ 25, 26, & as cited in 41E & G above

Yellow

JUN 30 1983

Carolina Power and Light Company
ATTN: Mr. E. E. Utley
Executive Vice President
411 Fayetteville Street
Raleigh, NC 27602

Gentlemen:

SUBJECT: REPORT NOS. 50-400/83-20 AND 50-401/83-20

This refers to the routine safety inspection conducted by Mr. J. W. York of this office on June 6 - 10, 1983, of activities authorized by NRC Construction Permit Nos. CPPR-158 and CPPR-159 for the Shearon Harris facility. Our preliminary findings were discussed with Mr. R. Parsons, Project General Manager, at the conclusion of the inspection.

Areas examined during the inspection and our findings are discussed in the enclosed inspection report. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations by the inspector.

During the inspection, it was found that certain activities under your license appear to violate NRC requirements. This item and references to pertinent requirements are listed in the Notice of Violation enclosed herewith as Appendix A. Elements to be included in your response are delineated in Appendix A.

We have examined actions you have taken with regard to previously reported unresolved items. The status of these items is discussed in the enclosed report.

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

The responses directed by this letter and the enclosures are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Carolina Power and Light Company

2

JUN 30 1983

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

Sincerely,

D. M. Verrelli, Chief
Project Branch 1
Division of Project and
Resident Programs

Enclosures:

1. Appendix A, Notice of Violation
2. Inspection Report Nos. 50-400/83-20
and 50-401/83-20

cc w/encls:

R. M. Parsons, Project General Manager

bcc w/encls:

Document Management Branch
State of North Carolina
NRC Resident Inspector

R11
JSEtake
6/27/83

R11
ARHerdt
6/27/83

R11
DMVerrelli
6/27/83

Exhibit 4

APPENDIX A
NOTICE OF VIOLATION

Carolina Power and Light Company
Shearon Harris

Docket No. 50-400
License No. CPPR-158

As a result of the inspection conducted on June 6 - 10, 1983, and in accordance with the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982), the following violation was identified.

10 CFR 50, Appendix B, Criterion V, as implemented by PSAR paragraph 1.8.5.5 requires that activities affecting quality be prescribed by documented instructions, procedures, and drawings and be accomplished in accordance with these instructions, procedures and drawings. Shearon Harris WP 110 Rev 8 states the procedure and acceptance criteria for inspection of seismic pipe hangers.

Contrary to the above, between June 6 - 10, 1983, activities affecting quality were not being accomplished in accordance with documented procedures and drawings in that a reinspection of ten hangers revealed three hangers with deviations from documented requirements.

This is a Severity Level V Violation (Supplement II).

Pursuant to the provisions of 10 CFR 2.201, you are hereby required to submit to the Commission within thirty days of the date of this Notice, a written statement or explanation in reply, including: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted; (3) the corrective steps which have been taken and the results achieved; (4) corrective steps which will be taken to avoid further violations; and (5) the date when full compliance will be achieved. Consideration may be given to extending your response time for good cause shown.

JUL 30 1983

ENCLOSURE 830812
ADOCK 05000400
PDR

Exhibit 4



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION III
 191 MARIETTA ST., N.W., SUITE 9100
 ATLANTA, GEORGIA 30303

Report Nos.: 50-400/83-20, 50-401/83-20

Licensee: Carolina Power and Light Company
 411 Fayetteville Street
 Raleigh, NC 27602

Docket Nos.: 50-400, 50-401

License Nos.: CPPR-158, CPPR-159

Facility Name: Harris 1 and 2

Inspection at Harris site near Raleigh, North Carolina

Inspector:

[Handwritten signature]
 for J. W. York

June 24, 1983
 Date Signed

Approved by:

[Handwritten signature]
 J. J. Blake, Section Chief
 Engineering Program Branch
 Division of Engineering and Operational Programs

June 25, 1983
 Date Signed

SUMMARY

Inspection on June 6-10, 1983

Areas Inspected

This routine, unannounced inspection involved 32 inspector-hours on site in the areas of licensee action on previous enforcement matters, safety-related pipe support and restraint systems (Unit 1)(50090B), and weld heat treatment of steel structures and supports (Unit 1)(55156B).

Results

In the three areas inspected, no violations or deviations were identified in two areas; one apparent violation was found in one area. (Criterion V - Failure to follow procedure for hanger inspections - paragraph 5).

8308230456 830812
 PIA ADCK 05000400
 Q PDR

Exhibit 4

REPORT DETAILS

1. Persons Contacted

Licensee Employees

- *R. Parsons, Project General Manager
- *N. Chiangi, Manager QA/QC Harris
- *P. Foscolo, Assistant Project Manager
- *M. Thompson, Jr., Senior Resident Engineer
- *E. Willett, Resident Engineer Mechanical
- *G. Forehand, Director QA/QC
- *D. McGaw, Superintendent, QA
- *M. Vernon, Superintendent, QC
- *G. Simpson, Principal Construction Specialist
- *Haney, Senior Construction Specialist
- *A. Fuller, Principal Engineer Mechanical
- *D. Whitehead, QA Supervisor Surveillance

Other licensee employees contacted included construction craftsmen, technicians, and office personnel.

Other Organization

- *D. [unclear], Construction Manager, Daniels Construction Company
- *L. Pardi, Regional Manager, Daniels Construction Company

NRC Resident Inspectors

- *P. Bemis, Section Chief Region II
- *R. Prevatte, SKI Construction
- *G. Maxwell, SRI Operations

*Attended exit interview

Exit Interview

The inspection scope and findings were summarized on June 10, 1983, with those persons indicated in paragraph 1 above. The licensee was informed of the inspection finding listed below. The licensee acknowledged the inspection finding with no dissenting comments.

(Open) Violation, 400/83-20-01: "Failure To Follow Procedure for Hanger Inspections" - paragraph 5.

Exhibit 4

3. Licensee Action on Previous Enforcement Matters

(Closed) Unresolved Item, 400/83-05-01: "Ground Areas On Pipe Support/Restraint No. 1-SW-H-376". This item involved two ground areas located on a tube steel member above and adjacent to fillet welds. At the time of the initial inspection, it was uncertain whether the minimum wall of the tube steel (0.225") had been violated in the ground areas. A violation of the minimum wall would have necessitated a QC discrepancy report. Subsequent measurements with a UT thickness measuring device revealed that the minimum wall had not been violated. This item is considered resolved.

4. Unresolved Items

Unresolved items were not identified during this inspection.

5. Safety-Related Pipe Support and Restraint Systems - (Unit 1)(50090B)

The licensee divided the installation and inspection of pipe supports/restraints (hangers) into three phases. Phase I involves the installation of the piping and support/restraint. Phase II also involves the performance of some QC inspections on hanger components. Phase II involves the adjustment of struts, placement of shims in box frame restraints, and the inspection of the support/restraint after it has been totally completed. Phase III involves the comparison of the stress isometric to the as-built locations of the supports/restraints to insure that the analysis was performed for as-built conditions.

There were approximately 8,000 hangers in various stages of Phase I and approximately 100 hangers in Phase II at the time of the inspection. The inspector selected hangers for reinspections in the Phase I condition because of the larger sample population and the greater variety of safety-related systems.

Procedure WP-110, Revision 8, "Installation of Seismic Pipe Hangers And Support For Seismically Analyzed Pipe", was reviewed before the reinspection of the following Phase I hangers:

<u>Hanger No.</u>	<u>System</u>
CT-H-309	Containment Spray
SI-H-29	Safety Injection
CS-H-2457	Chemical and Volume Control
RH-H-165	Residual Heat Removal
CS-H-1985	Chemical Volume Control
SI-H-5	Safety Injection
SI-H-57	Safety Injection
RH-H-245	Residual Heat Removal
CS-H-1380	Chemical and Volume Control
CS-H-933	Chemical and Volume Control

Exhibit 4



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

AUG 1 1984

Report No.: 50-400/84-22

Licensee: Carolina Power and Light Company
411 Fayetteville Street
Raleigh, NC 27602

Docket No.: 50-400

License No.: CPPR-158

Facility Name: Harris Unit 1

Inspection Dates: July 16-20, 1984

Inspection at Harris site near Raleigh, North Carolina

Inspector: C. M. Upright
L. H. Jackson

8/7/84
Date Signed

Approved by: C. M. Upright
C. M. Upright, Section Chief
Quality Assurance Branch
Division of Reactor Safety

8/7/84
Date Signed

SUMMARY

Scope: This routine unannounced inspection involved 34 inspector-hours on site in the areas of procurement, receiving, and storage; 10 CFR Part 21 requirements; and onsite design activities.

Results: Of the three areas inspected, no violations or deviations were identified.

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REPORT DETAILS

1. Persons Contacted

- *T. C. Bell, Construction Document Control Senior Specialist
- C. W. Chavis, Jr., Lead Receiving Inspector
- *N. J. Chiangi, Manager QA/QC Harris Plant
- A. Cockerill, Resident Electrical Engineer
- J. Disoway, Electrical Engineer
- *G. L. Forehand, Director QA/QC
- *P. F. Foscolo, Assistant General Plant Manager
- M. S. Gassman, Receiving Inspector
- *J. M. Given, Senior QA/QC Specialist
- T. Harrington, Purchasing Agent
- E. M. Harris, Principal Mechanical Engineer
- C. P. Irving, Receiving Inspector
- *B. Langlois, Construction Inspector Unit Supervisor
- *L. I. Loflin, Manager Engineering Harris Project
- *D. A. McGaw, Superintendent QA
- *R. M. Parsons, Project General Manager
- R. V. Pederson, Senior QA/QC Specialist
- *M. F. Thompson, Jr., Manager Engineering Management
- *H. F. Wagner, QA/QC Specialist
- *M. G. Wallace, Construction Specialist
- *R. A. Watson, VP Harris Nuclear Project
- *E. E. Willett, Resident Engineer Mechanical
- *C. V. Wright, Specialist Regulatory Compliance

Other licensee employees contacted included engineers, construction craftsmen, technicians, and office personnel.

NRC Resident Inspector

- *W. Maxwell, Senior Resident - Operations
- *P. Frevatte, Senior Resident - Construction

*Attended exit interview

2. Exit Interview

The inspection scope and findings were summarized on July 20, 1984, with those persons indicated in paragraph 1 above. The licensee acknowledged the inspection findings.

3. Licensee Action on Previous Inspection Findings

(Closed) Severity Level V Violation 400/P3-25-04: Failure to Properly Store Records

The licensee responses dated November 4, 1983, and 18, 1983, were considered acceptable by Region II. The inspector toured the construction and

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permanent record storage vaults and confirmed that records are now being stored in accordance with CP&L procedure CQA-8, R5, QA Records. The inspector concluded that the licensee had determined the full extent of the violation, taken action to correct current conditions, and developed corrective actions stated in the licensee response have been implemented.

4. Unresolved Items

Unresolved items were not identified during this inspection.

5. Procurement, Receiving, and Storage (35065)

a. Inspection Objective

This inspection was conducted to determine that procurement, receiving, and storage specified design parameters are in accordance with the architect-engineers specifications, identify applicable technical requirements, impose requirements of 10 CFR 21 for basic components, suppliers are on the approved list, Vendor's quality assurance programs have been approved by the licensee, certificates of conformance or certified material test reports are required, and that adequate protection, handling, and control of procurement documents were being implemented.

b. General

The safety-related equipment and materials received at the site are either MSSS supplied or CP&L procured from specifications prepared by Ebasco, the A-E, and reviewed and approved by CP&L. Site procurement is made from EBASCO and CP&L pre-approved specifications.

The inspector reviewed the following site purchase orders:

'53273A, Guyon Alloys, Harrison N. J. for SA312/376TP/304/316 stainless steel pipe.

P39013, ITT-Grinnell for Diaphram Valves

H54183, Gould Incorporated for breaker type HE3B050

H51317, Wilmington Electric for Burndy connectors type YA-261

c. Material Receiving and Storage

The inspector toured several of the warehouses to confirm that materials and equipment were being stored in accordance with the accepted QA program. Chapter 1.8 of CP&L PSAR endorses ANSI N45.2-1971, Quality Assurance Program Requirements for Nuclear Power Plants. The warehouse storage program appears to meet the intent of ANSI N45.2.2. The storage of equipment in the power block appears acceptable.

The inspector selected material purchased from Wilmington Electric on Purchase Order H51317 to confirm that the licensee required control of off-the-shelf items purchased for use in quality systems. The inspector with the assistance of a CP&L receiving inspector confirmed that Burndy connectors were marked in accordance with approved drawing SKD9756 R3, that the connectors were stamped and color coded in accordance with the approved drawing, that the material was being stored properly, and that QA had accepted the material for use based on it being relatively simple and standard in design and manufacture.

The inspector confirmed that purchase order H54183 required the breakers to be in accordance with approved specification E-108 R11, that the supplier have a QA program which meets 10 CFR 50 Appendix B and ANSI H45.2-1971, that CP&L required right of access for inspection, that the supplier was required to report items under 10 CFR Part 21, and the supplier was required to furnish a COC with the breakers.

The inspector confirmed that purchase order H53273A from Guyon alloys contained appropriate specifications, was reviewed and approved by site QA, required 10 CFR Part 21 requirements, access for inspection, required certified material tests reports and heat-treatment records, and the vendor is on the approved vendor list.

Within this area, no violations or deviations were identified.

6. 10 CFR Part 21 Inspection (36100)

a. Inspection Objective

This inspection was performed to determine whether organizations and individuals subject to 10 CFR Part 21 regulations have established and are implementing procedures and controls to assure the reporting of defects and noncompliances.

b. Inspection Requirements

The inspector reviewed the following:

Corporate QA Program
Section 15, Nonconformance Control and Corrective Action, R6

Nuclear Engineering and Licensing Department
3.11, Handling of Reportable Items Under 10 CFR 21, R11
3.12, Procedure for Evaluating Deficiencies in accordance with
10 CFR 50.55(e), R14

Harris Plant Engineering Section
3.4, Processing and Control of Nonconformances, R3
3.4-3, Nonconformance Control, R3

This review verified that:

- procedures require posting of 10 CFR Part 21
- measures are established for evaluating deviations
- measures are established to require vendors to report 10 CFR Part 21 deviations
- procedures require responsible officers to be notified of defects or failure to comply
- procedures designate the responsible officer to inform the Commission of a defect or reportable failure to comply
- procedures require procurement documents to specify that provisions of 10 CFR Part 21 apply
- procedures require maintenance of records concerning 10 CFR Part 21
- procedures require preparation and appropriate disposition of records

c. 10 CFR Part 21:

The inspector verified that 10 CFR Part 21 was posted in the engineering office on the bulletin board and in the conference room. The inspector selected two deviations which were not reported to NRC and verified that:

- the item was identified and evaluated in accordance with established procedures
- the information appeared to be factual and complete
- the deviation could not have caused a substantial safety hazard
- the documentation indicated that a proper evaluation had been performed

The inspector also selected NCR 84-0760 and NCR 84-0647 which have been reported to NRC and confirmed that:

- pertinent information relative to the nonconformances had been supplied to the QA group responsible for evaluating reportability under 10 CFR Part 21
- evaluation of these NCRs are still in progress

Within this area, no violations or deviations were identified.

3. Licensee Design Activities (37055)

a. Inspection Objective

This inspection was conducted to determine whether the licensee's design activities, including controls for architect engineering

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design change notices, is conducted in compliance with the technical and quality assurance requirements described in Chapter 17.2.4 of Harris FSAR.

b. General

The inspector reviewed Harris Plant Engineering Section (HPES) manual 3.1, Processing and Control of DCNs, and verified that DCNs initiated by EBASCO cannot be issued to construction for implementation until approved by HPES. DCNs are the mechanism used by EBASCO to revise drawings, design documents, or specifications. The original documents are later revised to incorporate the DCN.

CP&L approval or rejection of DCNs thereby controls the change process. Once CP&L has approved the DCN, it is issued to construction for implementation. After implementation and final QA/QC acceptance of the completed item, the DCN is closed and a completed copy forwarded to EBASCO. This chain of events is used to update the as-built drawings and account for incomplete and complete work activities.

c. Implementation

The inspector reviewed DCN-530-1140 which was rejected for implementation by HPES because the piping defined in this DCN was in conflict with DCN-FD-905. DCN-530-1140, RI, received conditional approval by CP&L. This DCN added essential service water pump and bearing water booster pump piping. The conditional approval eliminated the piping from the drawing.

The inspector verified that DCN-530-1140-RI was properly controlled, reviewed, approved, and distributed to appropriate personnel.

Within this area, no violations or deviations were identified.

d. Inspector Followup Items (IFIs) (92701B)

(Closed) IFI 400, 401/83-25-12: Potential for Inadequate QC Inspection. The inspector verified that the Construction Inspector (CI) group has been positioned directly under the Project General Manager as of October 1993, thereby eliminating the CI group from reporting to engineering. This change allows more freedom for independent QC inspections.

(Closed) IFI 400, 401/83-25-14: Multiple Formats for Identification of Similar Problems. The inspector confirmed that CP&L procedure CQA-3, 03, has been issued to require a single NCR form for the Harris Project. All disciplines must therefore report nonconformances on the same form.

(Closed) IFI 400, 401/83-25-16: Potential for Loss of Records. Emphasis has been placed on records control. The project now issues work packages that are required to be turned in at the end of each shift. This practice will provide better control of quality records.



Carolina Power & Light Company

bcc w/encl:
NRC Resident Inspector
Document Control Desk
State of North Carolina

PH
11/11/84
LH Jackson
11/11/84

RIT
11/11/84
CPL/pright
11/11/84
11/11/84

RIT
11/11/84
Gibson
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