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REGULATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

1 March 1985¹
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Glenn O. Bright
Dr. James H. Carpenter
James L. Kelley, Chairman

SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

CAROLINA POWER AND LIGHT CO. et al.
(Shearon Harris Nuclear Power Plant,
Unit 1)

Docket 50-400 OL

ASLBP No. 82-468-01
OL

Wells Eddleman's Response to Interrogatories and
Request for Production of Documents on 41-G

Response to request for production of documents: I have no control over Chan Van Vo, but I understand that documents in his possession (or copies thereof) have already been made available to Applicants; I believe all other documents referred to in these responses are already in possession of Applicants.

Answers to Interrogatories

G-1(a) Robert Guild, c/o 2135 1/2 Devine St., Columbia SC 29205; documents were provided by Carolina Power & Light Co. and I&E reports by NRC Staff. (b) see specific responses (c),(d) N/A it appears.

G-2(a) see specific responses (b) see (a).

G-3(a) There is no interrogatory 4 in the general set; see response to general interrogatory 1(a) above; see also specific responses. (b) see (a).

1(a) Yes. (b) I have not yet completed my review of the voluminous documentation produced by CP&L on discovery -- it's about a 10-ream paper box full. However, even thus far along I can draw the following conclusions:

1 Extension of time to file today OK'd by Applicants atty O'Neill

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(A) Chan Van Vo received very positive evaluations, including skipping a grade in promotion, and promotion to Engineer after minimum time in grade, before about early 1983. For Van Vo's promotion to Engineer, a note on the speed letter or similar form concerning this (from Alex Fuller to (?name) Lucas) states that (the addressee) had checked with Ed Willet and he has "no reserv." which I would read to mean "no reservations". Fuller evidently recommended the promotion. Previous evaluations point out Van Vo's doing work "at the engineer level" before he was in the Engineer job classification; praise his accuracy, thoroughness, ability to get along with others, and point out that he handled a large volume of work and continued to improve his abilities. They also mention that in addition to his regular duties he had been invaluable in training new employees concerning codes, procedures and the like, including which ones to use. Few (none that I observed) reservations are expressed on any of these evaluations, which appear to be the only documents in his ^{personnel} file from the time period between his hiring and early 1983, except for transfers and assignment records. (There may be other items; review is not complete). (I don't have the documents at hand right now, but they can be as easily located and read to find these references by CP&L as by me.)

Van Vo was also evidently considered to be quite well qualified (perhaps a bit overqualified) in experience and education (etc) for the job at which he began work for CP&L.

However, all this changes in the spring of 1983 as far as documentation in his personnel file is concerned. Memos are written after the fact on alleged past problems Van Vo had had on the job (problems nowhere noted in contemporaneous job performance evaluations of Van Vo, and evidently not documented contemporaneously with their alleged occurrence). Records of counseling sessions and meetings,

mostly prepared by the person Van Vo says was an incompetent boss, Alex Fuller, proliferate. Although Fuller states in some of these documents that he, Ed Willett, et al. were only trying to help Van Vo, these statements are clearly their interpretation of sessions which by their own statement did not go well and were tense. Since they are writing the memos to the files, common sense tells me they would not blame themselves for any of the problems. Rather, these memos are consistent with both an after-the-fact and a continuing effort to fabricate or produce some excuse for getting rid of Chan Van Vo. Likewise, the numerous notes and short memos to file concerning times of coming to work and leaving (aside from some apparent inconsistencies like Van Vo being warned for coming in at 6:50 a.m. instead of 6:45 with a warning that he should be on the job by 7:00 a.m. indicate that for the most part, even an intensive effort to document problems (obviously something that would put an employee under pressure) mostly only turned up minor ones. Likewise, the documentation that proliferates after early 1983 concerning Van Vo's "errors" in work, first do not take seriously Van Vo's complaints that he was overworked (recall that he had been praised in past evaluations for doing a lot of work, working overtime as necessary to avoid backlogs), and secondly find mistakes of the type that evidently were rampant in the hanger program at the Harris plant, e.g. not having all the details right in an evaluation, misreading a blueprint or specification, etc; further, there are not a large number of these errors and Van Vo's error rate compared to other engineers is not a factor so far as my review has yet revealed.

These documents and their appearance pattern (in time) are quite consistent with a concerted effort to harass, intimidate and fire Chan Van Vo. Fuller evidently spent a large amount of time putting together notes and memos to file on Van Vo after early 1983.

Moreover, although CP&L documents maintain Van Vo had some problems (not alleged to be his fault) in his personal life, & job supervisors other than Fuller the "counseling" (so called) by Fuller ~~was~~ displays little if any evidence of sympathy or help. Rather, it appears that Fuller and others put Van Vo's actions under the kind of microscope that would turn up something wrong with virtually any human being (all of us being imperfect). With the hanger program in serious difficulty, and Fuller and Willett having management jobs in that program, their extreme attention to the most petty matters concerning Van Vo stands out as unusual. While they try to cast it as part of an effort to help a troubled employee, and claim Van Vo could not handle the extra responsibility of being an Engineer, the record of contemporaneous evaluations of Van Vo's earlier performance shows he was doing work at the engineer level, and doing it well, to a high standard, well before he was named an Engineer. The excess of observation, coupled with sporadic "counseling" (not monthly as it "should have" been) in tense conditions, is perfectly consistent with a campaign to get rid of Van Vo. Since it is very unusual for a supervisor to simply state in a person's file "I decided I don't like this guy raising safety concerns, so I fired him", a pattern of excessive attention as is displayed in Van Vo's personnel file is a logical way for a person having an illegal motive (firing or harassing for safety concerns) to proceed to carry out that objective (getting rid of the person who raises safety concerns).

It is obvious also, from common sense, that "counseling" or "we're only trying to help you" strategies can be effective in harassment, intimidation, and making a case to get rid of an employee. It puts the employee in a double bind. If she or he does not reveal personal weaknesses and fully discuss problems, the "counselor" can say "you're not being cooperative" and put memos about the employee's

"bad attitude" or "unwillingness to try to improve" or the like, into the person's personnel file. But if the person cooperates with those who are trying to cause him or her problems, that's helping to dig the employee's own grave on the record. So the employee can't win and can't escape except by quitting the job (which accomplishes the harasser's goal). It appears that Van Vo's "counseling" may well have been of this type. Certainly the "counselors" display no sensitivity to the influence of Vietnamese culture on Van Vo's attitudes or ways of relating to people or ways of doing his job. While there is some other documentation, re talks with Van Vo by persons other than his supervisors, who attempt to understand him more, there is no evidence this information was used to good effect. The effect of probation and supervisory "counseling" of this type is obviously to increase the pressure on Van Vo, but the supervisors appear to display no sensitivity to this pressure or its effect. Since that pressure compounds Van Vo's difficulties, a competent and truly sympathetic supervisor would either seek to reduce the pressure, or seek advice on how to reduce that pressure. All this can be readily deduced from the Van Vo personnel file and common sense about how organizations attempt to build a case against anyone they have decided to get rid of (by firing, resignation, etc).

Please note this investigation is continuing and also that answers below may provide additional information responsive to interrogatory 1(b) (this interrogatory being responded to now).

2(a) No. (b) N/A; however I have received information from Van Vo through his counsel, Robert Guild. So far as I am aware, this information is reflected in the affidavits by Van Vo already produced in this case, and in the deposition of Van Vo by CP&L to some extent (I am not sure of that extent).

&(b) I believe
3(a) They certainly have been. See, for example, the FOIA document appended to the February 4 reconsideration motion I filed on 41-G etc. Van Vo also has stated, I understand, that Alex Fuller told him (Van Vo) not to go to the NRC without Fuller's approval. (Van Vo evidently obeyed this instruction during his employment with CP&L) (To the extent this info re Van Vo is not in his affidavit, it was provided by Robert Guild.) Also there is the matter of getting a message across without an obvious instruction. For example, the treatment of Van Vo for raising his concerns about safety within CP&L could and very likely would deter others from raising such concerns even within CP&L, much less to the NRC. Also, a document produced by CP&L on discovery, Parks Cobb's 10-22-84 letter to CP&L, refers to allegations of harassment made by quality inspectors at Harris, and it appears that in fall 1984 or thereabouts, a n "Inspector Review Panel" was set up to deal with this. Cobb's attachments to this letter, specifically his plan for investigating Van Vo's concerns, appears to predetermine his conclusions on this issue. CP&L's internal investigation plan leaves many issues to the legal department only (no technical evaluation). Cobb's plan uses words to the effect that investigation of some issues should support the results of other investigations. That sounds like he's planning to find "facts" or conclusions in support of other conclusions already made. Because Cobb destroyed his notes and interview documents (see CP&L answer to my interrogatory 41-G-1(c)) it is reasonable to infer he wanted no one looking into the process by which he got to his conclusions. This is at least suspicious.

(c) It is not necessary to have CP&L ordering people not to talk to the NRC (or issuing written instructions to that effect) for there to be harassment, intimidation, or an obvious atmosphere of discouraging employees from communicating with the NRC. The example of what

happens when the NRC makes even casual contact with CP&L employees (CP&L has a high-level memorandum which is intended to insure that higher management is notified whenever any such contact occurs and especially on sensitive matters, the "sensitivity" of things being a repeated consideration in the brief memo signed by numerous senior CP&L officials and approved by E.E. Utley) indicates that CP&L definitely wants to know when the NRC makes any contact with anyone in their organization. This high degree of sensitivity could well lead employees to infer that if they want to contact the NRC, they would be expected to let management know, or that if they did not inform management of CP&L of the contact, they had best make the contact in secret because otherwise the contact might well be reported to management by someone else.

And of course what happened to the ~~allegor~~ in the FOIA document attached to my Feb 4 1985 motion for reconsideration, what happened to Chan Van Vo, and what appears to have happened to other people at the Harris plant sends a powerful message through the plant "grapevine". Actions speak louder than words, and it is common knowledge on many jobs that an official commitment to safety, etc. may be just for external consumption, not to be taken literally by employees. Actions which are taken against employees who express safety concerns, either within CP&L or to NRC, obviously have the effect of "educating" observant employees not to talk to the NRC or raise safety concerns, regardless of "instructions" about safety. The employee who has a concern for safety and is not fully satisfied with what CP&L or its contractors do about that, is in a serious bind given that anyone has been instructed (e.g. ¹ in the allegations ¹ in the FOIA document referred to Feb 4; Applicants' response gives a summary of actions on these allegations that appears to include nothing about making it easier to speak to the NRC unseen or to

be free of harassment if one does; nor to keep CP&L from stopping people from going freely to NRC).

xi 4(a) The question does not make sense. Evidently, there are missing or destroyed quality control documents at Harris. Van Vo mentions seeing a large number of them discarded in a warehouse. Page 3 of NRC investigation report (I&E) 84-43 states that CP&L ("licensee") noted that it considered "the missing records to be in-process records". However, I note that 10 CFR 50 Appendix B item XVII says "Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following ... The records shall also include closely-related data ... Records shall be identified and retrievable. ..." (emphasis added). None of this allows any exception for missing records. A missing record is not being "maintained", is not "retrievable" and cannot "furnish evidence".

CP&L goes on to say (page 3 of I&E report 84-43) that "The missing records may have been stolen". During the inspection (it ran from November 27-30, 1984), CP&L "changed the process for handling pipe support quality documentation" Clearly Van Vo's concern had a basis if there were documents missing, and the basis must have been valid for CP&L to change its procedure. There may be missing documents in many other areas besides pipe supports, and these may include QA documents under criterion XVII or 10 CFR 50 Appendix B noted above.

(b) see above "not limited to the substance of any such instruction" -- it is the documents being missing that is the problem. Instruction to destroy or get rid of documents would just compound the problem.

(c)(see (b) above also) the contention does not require that CP&L instructed someone to destroy documents. CP&L is responsible for maintaining the documents, so if they are missing

or destroyed, CP&L is failing its safety responsibilities under 10 CFR 50 Appendix B criterion XVII. Please note that there may be other criteria etc which CP&L is failing to comply with when they have missing or destroyed quality documentation. I have not completed my inquiries into this matter or my checking of the applicable rules and regulations and requirements.

5(a) I am not aware that CP&L has any such policy. But see responses to parts of (1) above: a person intending to harass or intimidate or fire or pressure (e.g., to resign) an employee could well use "counseling" as a vehicle; any employee may have some problems (none of us are perfect) so documenting a real or fabricated problem could then be a convenient excuse for harassment. To the extent "CP&L's practice" refers to what was actually done to Chan Van Vo as "counseling" by his supervisors, I believe it did constitute harassment; I have set forth my reasoning and information so far detailed and available to put into this response, above (see, e.g., pp 4,5 above).

(b) see (a)

(c) The question appears to misstate the contention unless CP&L's "practice" means what CP&L did to Van Vo. Certainly it is consistent with harassing and firing Van Vo to use "counseling" to help build up some record against him -- especially since he was evidently such a good employee before CP&L evidently decided to get rid of him in early 1983. To overcome the past record, his supervisors would need to resort to every means available, and "counseling" in the manner they did it appears to be one of those means of harassment, pressuring Van Vo and putting him in a bind. See, e.g., pp 4-5 above re how "counseling" can be harassment.

6(a) Van Vo had a concern for safety regarding this pipe. This concern is logical because the pump supplied feedwater to the steam generator. A failure of a "non-safety" component can still cause an accident, especially since the nuclear industry and NRC classify so much equipment non-safety. Van Vo evidently believed this system was classified as safety -- a basis for such a belief is shown at pp 3-4 of I&E inspection report 84-43, all other piping being said to be Seismic Class I. While Van Vo may not have had this in mind, his concern was for safety. The piping was classified Seismic I until at least 6-30-78 according to CP&L document #000896, drawing CAR-2165-G-071 Rev 5 (6-30-78) footnote 4. Evidently the hangers had also been classified seismic I and were reclassified later as Van Vo discusses in his affidavit(s) (hangers for this pipe). Seismic I is clearly a nuclear safety classification (classed as safety-related, I believe), but downgrades from it may also be safety-concerns. Van Vo evidently was concerned with the ability of the pump to perform its function, which could be important to safety (in the event of other equipment failures, it might be the necessary backup to avoid a serious accident).

(b,c) see (a) response above. I repeat that a concern for safety does not have to relate to an item classified "safety" especially when reclassification of items (e.g. piping and hangers) and safety-related functions (e.g. supplying feedwater) are involved. The steam-driven feedwater system is there as a backup against electrical failures (where the electrically-driven feedwater pumps might not work) for example. I would also note you don't have to be right 100% to have a nuclear safety concern. Exposing anyone to harassment or firing because they raise a concern that it not right or not 100% right obviously would and does have a chilling effect on the willingness of others to raise safety concerns. Since no one is perfect, it would be detrimental to safety to only allow perfect safety concerns.

7(a) I'm not sure. Cobb destroyed all his notes and I'm not sure I've seen all the documents on this.

(b,c) Answer is neither affirmative nor negative. Guild informs me that Van Vo told Alex Fuller that if he (Van Vo) didn't need to do anything about his observations re this improper installation, to just say so. Fuller, according to Van Vo, told him instead to write the speed letter concerning the installation. From Van Vo's affidavit, it appears that Applicants failed to properly identify the non-conforming setup for this installation when Van Vo and perhaps others questioned it. They evidently went ahead and put it in. Further, improper or insufficient action by Applicants is evident in

CP&L's failure to correct the improper installation until over 2 years after the problem occurred. CP&L evidently, according to discovery documents, did not commit to changing the installation (cutting it out and replacing it, apparently) until approximately 18 October 1984; the problem was said to have been found in 1982.

8(a) see response to 7(a) above. (b,c) I'm also not sure. If CP&L knew it and Fuller knew they knew, why did he tell Van Vo to write the speed letter about it? If he found out later and discarded the speed letter for that reason, why didn't he advise Van Vo by note or memo that the problem had been found before and was being taken care of? If Van Vo is right in his affidavit about being told to write the speed letter, and about it being visible to him on top of trash from Fuller's office (info supplied by R. Guild, beyond affidavit)), these questions are not satisfactorily answered by CP&L.

9(a). If you mean "does the FSAR require it", the answer appears to be no, although the FSAR is ambiguous as noted re Table 3.2.1-1 p.3.2.1-40, in paragraph 5(b) of I&E report 84-43. If you mean, should it be required to be safety-related or seismic 1, I'm not sure.

9(b) see (a).

10.(a,b) Yes, and there may be plenty of unidentified ones too.

The unidentified ones are more trouble, since the problem is not known.

Much careful checking for these should be required, since DD# 1775

(I&E inspection report 84-43, pp 5-6) identified "numerous problems

with material substitution and control". Evidently, 200 of 1000

finally-reviewed hanger material verifications had material

that could not be traced and which was sent to a "sampling program"

using permanent waivers allowing the use of unidentified material.

Although the NRC says "no deviations or violations were identified"

(p.6) this appears to me to be an obvious violation of 10 CFR 50 App B

item VII which requires that "purchased material shall ... conform

to the purchase specifications" and that evidence that this is so

"shall be retained at the nuclear powerplant ... and shall be

sufficient to identify the specific requirements ... met by the

purchased material"... When the material documentation does not

show where and to what specifications material used in the plant

was purchased, then that information has obviously not been retained.

To try to synthesize documentation after the fact does not excuse

the violation of the requirement to retain the information that

"shall be available at the nuclear powerplant ... prior to installation".

It appears to me that the NRC is being very lax about this, as

the words of criterion VII for quality assurance are clear. (c) N/A

11(a,b) Yes. It was falsification to put a P.O. number on the

QA documents other than the P.O. number for the material. Since Cobb

destroyed his supporting documentation, I can't trace his basis; CP&L

has not identified separately any documents used by Cobb; indeed they

do not separate any of the documents produced (a box full) by the

parts of the interrogatory they are responsive to. (c) N/A.

12(a,b) Yes. The inspector checked only one hanger (CC#H#105 that

has been inspected probably more than any other hanger in the plant).

See also responses to 10 and 11 above.

The inspector states that numerous hangers were labeled as made from P.O. 21022. Obviously whoever signed off on that had not checked P.O. 21022 or they'd have known it was voided. This raises questions of CP&L's QA reliability and the NRC's reliability in enforcing rules.

3/1/85
Eddleman
Affirm the above answers true to my present knowledge + belief. W. Cobb

