

UNITED STATES
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

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USNRC

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OFFICE OF SECRETARY
DOCKETING & SERVICE
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In the Matter of)
)
HOUSTON LIGHTING AND POWER)
COMPANY)
(South Texas Project, Unit 1))
_____)

Docket No. 50-498 OL

10 C.F.R. 2.206
(DD-88-3)

APPEAL OF DIRECTOR'S DECISION ON THE SOUTH TEXAS PROJECT

The Government Accountability Project (GAP) hereby appeals the decision of Thomas E. Murley, Director of the Nuclear Regulatory Commission's Office of Nuclear Reactor Regulation, to deny the January 28, 1988, Petition of GAP filed pursuant to 10 C.F.R. 2.206 regarding the inspection and investigation of allegations regarding the South Texas Nuclear Project.^{1/}

GAP also requests that the Commission stay the licensing vote, currently scheduled for Monday, March 21, 1988, until it has had time to review the 2.206 Petition.

Should the Commission deny this appeal and refuse to consider the Petition and the Director's decision prior to the licensing vote, GAP requests that the Commission stay the

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1/ GAP also filed a February 12, 1988, letter on this subject which is being treated as a supplement to the petition.

effectiveness of its decision for forty-eight hours and provide GAP the opportunity to seek a temporary restraining order in the Court of Appeals.

BACKGROUND

On January 26, 1988, GAP filed a petition with the NRC Commissioners requesting specified relief in response to the obvious inadequacy of the ongoing staff inspection to reach a determination on the condition of the South Texas Nuclear Project (STNP) in light of the allegations about the plant raised by concerned individuals.

The petition requested that the NRC delay voting on a full power operating license for the South Texas Nuclear Project (STNP) until a complete investigation and disposition of all allegations regarding STNP had been conducted and the report of the inspection/investigation effort had been released to the public.

The basis for GAP's request was its belief that the efforts of the NRC's Safety Significance Assessment Team (SSAT) were inherently inadequate to serve as a basis for any assessment of the programmatic implications of the allegations. Additionally, the petition asserted that the results of the inspection efforts were predetermined by NRC management staff in Washington without the benefit of factual input for the SSAT's review process, and prior to their development of a position.

On March 8, 1988, the NRC published a notice in the Federal Register that GAP's 10 C.F.R. 2.206 Petition was under consideration. (53 Fed. Reg. 7449) Late Friday, March 18, 1988,

after the close of business, the Director issued his decision, and referred it to the NRC Commissioners for review pursuant to 10 C.F.R. 2.205(c).

Although the decision claims that it was available for public inspection at several public locations in Washington, D.C., Austin, Texas, and Wharton, Texas, the decision was not published in the Federal Register nor made available in a timely enough manner to enable members of the public, the allegers, or GAP as petitioners, to respond to the decision prior to the licensing vote on the plant. Therefore, as a practical matter, the relief GAP requested from the agency has been denied since the Commission cannot possibly conduct a review of the request and the decision prior to the March 21, 1988, scheduled vote on licensing.

I. THE DIRECTOR'S DECISION IS NON-RESPONSIVE
AND THEREFORE ARBITRARY AND CAPRICIOUS

The Decision is not responsive to the request, is not based on substantial evidence before it, and is therefore, in GAP's opinion, an arbitrary and capricious decision of the agency.

The Director's Decision (hereinafter "Decision") relies almost exclusively on the results of the SSAT's examination of the allegations, as reported in NUREG-1306, to deny the petitioner's request to delay the licensing vote. The Decision also apparently relies on the results of previous staff inspections and evaluations as contained in previous SERs to determine that "STNP Unit 1 was built in conformance with

applicable regulatory requirements and that the systems in the facility would, if called upon, perform their intended safety function." (Decision at 3-4)

A. The Petition Asserts a Programmatic Breakdown in Quality.

The petition alleged that the NRC's limited review of the STNP allegations jeopardizes public health and safety. (Petition at 6-7). The petition, as GAP has repeatedly stated, asserts that the information provided to GAP by the allegers "points to a major quality assurance breakdown at STNP." (Id., at 6). The petition provides examples of allegations which indicate a failure in the quality program. (Id. at 6-7).

The petition asserts that it is impossible for the agency staff "to disposition the partially significant generic concerns reflected in the allegations in a four day site inspection." (Id. at 7). The petition provides an example of the inadequacy of the team's effort as related to one of GAP's witnesses, John Corder. (Petition at 7-9).

The assertion of inadequacy, i.e., that it would be impossible for the NRC staff to do any type of independent analysis of the the allegations in a four day site visit and a limited document review, is the heart of GAP's petition. The Director's Decision does not respond to that allegation, and therefore the decision is not supported by substantial evidence sufficient to justify a staff decision to recommend licensing for the South Texas plant.

B. The Petition Asserts that the Team Was Subject to Cost and Scheduling Pressure in Violation of Federal Regulations.

The petition also alleged that the team's efforts were inadequate because of the time pressures and scheduling constraints placed on the NRC team in violation of 10 C.F.R. 50 Appendix B, Criterion I, which prohibits "cost and schedule" pressure to override quality review efforts. (Id. at 9).

The Director's Decision is silent as to whether the Commission itself is in violation of 10 C.F.R. 50 Appendix B, Criterion I, and asserts instead its overall duty is only to ensure that there is "reasonable assurance" that the plant is designed, constructed, and can operate without endangering public health and safety. (10 C.F.R. §50.57) (It should be noted that the requirements of 50.57 are much broader than stated in the Decision as to "whether power operation will present an undue risk to the public.")

C. The Numerical Treatment of the Allegations Is Misleading.

Given the amount of time and resources needed to fully investigate nearly 700 allegations, it became clear that the SSAT could not accomplish the task in the time provided by NRC management. Therefore, it was necessary for the SSAT to reduce the number of allegations it was required to investigate to manageable size by eliminating as many as possible before the site visit. The SSAT accomplished this feat with some bureaucratic sleight-of-hand.

The SSAT begins with a base number of about 700 allegations from which it deducts 120, claiming these are duplicates. The SSAT never refers to the allegations or allegation numbers it

claims are duplicates, so there is no way to review its assessments. However, assuming that 120 were duplicates or repeats, then 580 are left. From this number the SSAT deducts 240 allegations of wrongdoing, leaving 340. It should be noted that most of the wrongdoing allegations reviewed by GAP were determined to have a safety-related component. Some wrongdoing allegations may have had more than one safety-related component. As a result, there are likely to be at least 240 safety-related allegations developed from any investigation of the wrongdoing allegations.

After subtracting the wrongdoing allegations, the SSAT deducts 140 allegations, which it refers to as non-safety-related. In its review GAP only identified 27 non-safety-related allegations. Unfortunately, the SSAT does not define what is safety-related, nor does it identify the allegations in this category. Following this deduction the SSAT is left with 200 allegations to investigate.

The SSAT reduces 200 allegations down to 71 by saying that they are representative of the original 200. Again, the SSAT's reasoning lacks the specificity required to evaluate the basis upon which any allegation is eliminated from review or encompassed by another.

Furthermore, GAP identified at least 333 distinct safety-related allegations for the SSAT to investigate. Of these allegations the SSAT chose to actually investigate only 61. Having not received enough information to evaluate the SSAT's allegation review process, GAP has no choice but to conclude that

the team's actions were arbitrary and capricious.

It is critical to note that the SSAT eliminated 639 of 700 allegations (91%) before even interviewing one single alleged, despite the fact that GAP advised the SSAT that the team should not rely solely on GAP's investigative files to determine if an allegation had merit. GAP's investigative files were prepared under severe time and resource constraints and could not take the place of a complete investigative interview. (See, Letter from Richard Condit to Jose Calvo dated December 4, 1987.) The SSAT was apprised of this limitation repeatedly, yet it relied solely upon GAP's files to make a determination on over 9 out of 10 allegations.

This numbers game approach does not provide an adequate response to the assertion that the SSAT was subjected to time constraints which are, by regulation, illegal. The Decision included no affidavit by Jose Calvo or other members of the team that stated that their work was free of scheduling pressures and that they were free to take as long as necessary to complete thorough and adequate inspections with all of the allegations. It is GAP's position that the staff could not, and would not, be able to sign affidavits to that effect and that, in fact, they were continually subjected to time pressure by their management to complete their work and issue the report.

D. The Petition Asserts That Allegations of Wrongdoing Have Not Been Investigated.

Finally, the petition asserts that none of the 240 allegations of wrongdoing have been investigated by NRC. (Id. at 9). The Decision concedes that 240 wrongdoing allegations have

not been investigated by the NRC's Office of Investigation (OI). The Decision mischaracterizes the facts regarding the wrongdoing allegations.

GAP provided OI investigators access to the alleged files containing "wrongdoing" allegations. This initial review of the allegations resulted in the SSAT identifying 240 concerns that should be reviewed by OI. However, OI investigators have identified only 9 issues it was interested in pursuing. (Letter from Don Driskill to Richard Condit, March 1, 1988).

Most important, however, is the fact that to date no investigations at all have been commenced, no allegeders have been debriefed, and no other actions have been taken to determine if the issues raised under the umbrella of wrongdoing could impact the ultimate safety of the reactor and endanger the public.

Since the SSAT members would not even allow the allegeders to discuss wrongdoing allegations, and therefore had no base of information to pursue, it would have been impossible for the staff to assess the safety significance of the allegations for licensing impact.

The allegation that OI had difficulty in attempting to gain access to the allegeders and their information is disingenuous, inaccurate, and irrelevant. In fact, the willingness of the staff to stand on this excuse is prima facie evidence that the staff is willing to forgo proper procedures in order to meet a licensing deadline.

The Director's Decision provides no information in its decision to support the conclusory statements that "[T]he safety

significance aspects [of wrongdoing allegations] have been included within the allegations assessed for licensing impact." No cross-reference is made to NUREG-1306, and no evidence is proffered to indicate that the staff considered intentional management actions with regard to their impact on quality, or that they considered the effects of an atmosphere of harassment and intimidation on the actual quality of the work and reliability of the site documentation.

II. ANALYSIS OF THE RESULTS OF THE NRC'S INSPECTION EFFORT

A. The SSAT Effort Was Inadequate To Determine the Safety Significance of the Allegations.

Between January and October, 1987, the NRC staff was aware of the fact that GAP was receiving allegations of faulty workmanship, mismanagement, violations of site procedures, and specific breakdowns in isolated areas of construction which rendered the condition of the plant indeterminate. The NRC attempted to gain access to the information through a compulsory legal process which ultimately failed. Thereafter GAP, representing concerned individuals, embarked on a voluntary relationship with the NRC that was designed to protect the public health and safety by ensuring that any allegations that affected public health and safety were reviewed, and also to protect the concerned individuals who feared reprisal for cooperating with the NRC.

There is no dispute that by the time the NRC staff was actually in a position to have access to the information and/or have access to the sources of information about flaws in the South Texas Project, the main instruction from staff management

was to find and fix specific "technical" or "hardware" allegations. Further, it is not in dispute that the instruction to the staff was to process all allegations in accordance with the agency's policy for investigating "late filed allegations," as defined in NRC Manual Chapter 0517.

The results of the efforts by the SSAT, therefore, present the NRC staff's best efforts at accomplishing a monumental task in an extremely short period of time. The staff report admits that the majority of the time that was spent by the staff was processing information.^{2/} (NUREG-1306, Appendix A at 3). Of the 3,335 staff and contractor hours expended on this effort, only 1,010 hours were spent in inspection activities, and as is clear from a review of the inspection efforts, the majority of that time was spent reviewing inspections of the allegations by others, interviewing the allegers, and pulling together documentation.

To compare the size of the project GAP draws the Commission's attention to three other similar undertakings in the history of the NRC -- Zimmer, Comanche Peak, and Diablo Canyon.

In 1982, at the William A. Zimmer plant, the NRC staff conducted an inspection and investigation of nineteen allegations raised by one whistleblower over a period of eleven months. The principal inspection effort occurred from December, 1980, through November, 1981, with principal on-site inspections from January

2/ The Staff spent 8 weeks reviewing allegation files, transcribing and categorizing information, collating and collecting information available from other sources.

through July, 1981. The team consisted of approximately twelve inspectors and investigators at various times. The inspection resulted in the requirement of a comprehensive fact-finding corrective action program to confirm the quality of the entire facility.

In 1984, at the Comanche Peak facility, allegations of poor workmanship, engineering defects, and an atmosphere of harassment and intimidation plagued the plant for four years before the GAP filed a 2.206 petition requesting the NRC staff conduct a major inspection of only eighteen initial allegations from three allegers.

After a four-day preliminary inspection by a team of eight inspectors in April, 1984, the NRC staff found no significant safety-related defects that would dictate an immediate stop work order. The staff then took three months to write its report of the inspection, issued on July 13, 1984. However, the inspection revealed several procedural errors and undetected deficiencies that led the staff to form a comprehensive inspection team of 60 consultants and inspectors that spent four to six months on site, and ultimately reviewed and dispositioned over 1200 allegations by requiring the utility to do a comprehensive reinspection of the entire facility. That comprehensive inspection has lasted over four years and resulted in major repair and rework of virtually every system at the Comanche Peak facility.

Finally, at Diablo Canyon, an initial inspection effort into approximately twenty allegations raised by one whistleblower resulted in an NRC inspection effort that spanned three months

and resulted in imposition of seven conditions for issuance of the low power operating license. As a result of those conditions the licensee had to prepare a comprehensive review of its engineering adequacy over the next four months.

Thus, the notion that, as compared to other inspection efforts, this inspection effort was significant in terms of time or resources is not accurate. The inference here apparently is that 3,300 hours spent on this effort is enough.

Indeed, the NUREG is a nice piece of work which describes and digests a discrete body of information provided to the staff in relatively raw form several months ago. Yet, the report is not a comprehensive or independent inspection effort that sheds much light on the status of the safety of the plant. Further, taking credit for the amount of time spent by telephone operators to put telephone calls together, court reporters to transcribe tapes, and administrative staff to type reports is not the type of staff effort that raises an argument for allaying fears about the safety of the plant.

The fact is that the SSAT's efforts were only focused on identifying some specific technical and hardware deficiencies which had been used as examples of programmatic deficiencies by the allegers. While it is true that the SSAT needed a high level of specificity to enable them to immediately identify defective components and determine if the symptom had been resolved, the staff's repeated assertion on the lack of specificity asserted throughout the report confirms its weakness.

Quite simply, if an allexer was aware of the specifics of a

hardware deficiency, he or she undoubtedly raised that issue with management, which has long since resolved the issue by reviewing the problem, replacing the component, or making some other technical fix. It is not these discrete issues that the workers are concerned about as much as the implications for the rest of the plant. This phenomenon is inherent in the process undertaken by the SSAT.

An example of this phenomenon is given below:

One of the allegers identified an issue that twenty percent of the valves in the plant were installed backwards. The issue is characterized on page 5-19 of the NUREG. The NUREG further states that "the allexer provided no additional information about the location or type of valves." The report also includes the statement that "(t)he only information that the allexer provided was that in an unnamed plant construction progress report, a statement was noted that twenty percent of overall equipment items (pumps, valves, instruments, etc.) had not been completely installed at the time.

The SSAT asked the allexer in a transcribed interview about the report, and the allexer told the NRC that the report itself was available to the NRC on the site and that a copy of the report was in his file in the GAP office. That file had been made available to the Staff throughout its review process, and is included as an attachment to this report. (Exhibit 1)

As is obvious from the attached April 25, 1986, "Summary of Final Inspections Report for Unit 1" there were incredibly high reject rates for Instrumentation; the reject rate was 67 percent.

Significantly, the report indicates that valves were installed reversed 20 percent of the time. It is also notable that this same report indicates that 100 percent of the engineering inspection point for the small bore hangers was missing or incorrect.

Yet the SSAT did not look at Instrumentation Valves, they only looked valves in other systems. (NUREG at 20) They never looked at this report, and never looked at the supporting data.

Another example is the concern that installed equipment is not properly reflected by the as-built design drawings. (NUREG, at 5-84) The SSAT claims that they resolved this issue by reviewing the Reactor Makeup Water (RM) system and the Essential Cooling Water (ECW) systems.

However, there are two problems with that resolution. First, the NRC physically looked at only a minute section of a start-up system which is inadequate to reach conclusions about the entire plant; but, more importantly, the section of pipe that the staff looked at had already been subjected to various inspections and reviews while the allegor was working according to the original procedures. Therefore, any problems that would have existed were already identified and corrected.

The facts as explained by the allegor are that on December 4, 1985, EBASCO issued a memorandum which terminated the responsibilities of the final quality review for the N-5 group and changed it to a straight accounting task, eliminating the requirement for verification of correctness, completeness, and the as-built walkdown. (A copy of the memorandum, which was made

available to the NRC staff is attached as Exhibit 2). Thus, the SSAT did not reach adequate conclusions on the alleged concerns about how, if, or when existing problems were identified.

As noted from these examples, the SSAT efforts were consistent with their charter of only performing a preliminary overview, not a comprehensive investigation.

B. The SSAT Relied On Documents Which Are Unreliable.

The staff concedes at page three of the Decision that the bases for its conclusions regarding the allegations are 1) the SSAT review, 2) the results of previous inspections, and 3) evaluations that have been documented previously in safety evaluation reports.

NUREG-1306 confirms that the basis for much of the SSAT's conclusions was the review of the work of SAFETEAM investigations, Quality Assurance inspections and investigations, and other documentation prepared by the site owner. Given the time constraints described above it is understandable that wherever possible the NRC Staff would seek to rely on the efforts undertaken by others to put various allegations to rest.

Yet the actions by the staff in so relying on such internal information defeats the very purpose for which the concerned individuals sought out GAP and the NRC in the first place. As repeatedly stated since the beginning of its efforts on STNP, the workers who brought allegations to GAP did so because they were dissatisfied with the results of the inspection or investigation efforts of the internal or external inspection efforts.

A good example is the case of Ronald Goldstein. Mr. Goldstein had been a supervisor in the Instrumentation and Control Department of Unit 1 of STNP from 1984 through late 1985. During the summer of 1985 he identified a pattern of activity in the I&C department that placed attention to quantity over the attention to quality, cut corners, damaged expensive and critical safety equipment, and generally revealed a management attitude that Goldstein believed was dangerous to the ultimate safety of the plant.

Goldstein complained internally up the chain of command to the site EBASCO supervisor, but was not listened to. After his discovery of falsified documents to accept a critical safety-related thermoweld instrument installation, Goldstein took his concerns to the EBASCO Quality Assurance Department. Thereafter, Goldstein was systematically downgraded, harassed, and ultimately terminated in a layoff made to look legitimate. In the meantime Goldstein had also gone to the SAFETEAM and made his complaints about the falsification of records, the downgrading of quality-minded management, and the harassment and intimidation that he had suffered.

Interestingly, the EBASCO Quality Assurance Department conducted an internal investigation and concluded that Goldstein had been harassed and that there had been a failure to properly handle the breakdown in quality related to the thermoweld. Yet, EBASCO management did nothing about the matter. Goldstein then went to the SAFETEAM which investigated the same issues and concluded that there was no harassment and did not resolve the

issue of the falsified documents. Eventually, HL&P also received the investigation and concluded that SAFETEAM's report was not supportable.

After Goldstein was terminated he filed a Section 210 complaint with the DOL and contacted the NRC about his allegations, both OI and Region IV. OI has never conducted an investigation of the issue, notwithstanding the fact that GAP provided substantial evidence to them in Spring of 1987. After eight days of hearings last year the DOL Administrative Law Judge ruled on March 3, 1988 that Goldstein had been harassed, intimidated, downgraded, and ultimately terminated in violation of 42 U.S.C. §5851.

The NRC did not address any of the issues raised by Goldstein, but also relied only on the previous inadequate inspection and investigation efforts of Region IV and the SAFETEAM. And, although they interviewed Goldstein, did not permit him to expand the allegations beyond the issue they instructed him to address, and did not seek access to any of the documents available in his DOL litigation file.

Goldstein's harassment and intimidation was known throughout EBASCO. The supervisor responsible remained as the I&C Department Supervisor for the completion of Unit I. The "chilling effect" of Goldstein's termination was not only ignored by upper management, it was maintained by actions of Goldstein's supervisor, who put on a blackboard in his office a derogatory statement about Goldstein's whistleblowing so that all who entered his office would know what happened to those employees

who insisted on identifying quality problems.

Thus, in the only case where an independent judge has reviewed a worker's charges of impropriety toward him and the facility itself the judge agreed with the worker.

At a plant where there are over 240 allegations of harassment, intimidation, and falsification of records or other intentional violations of NRC regulations, the Goldstein opinion is significant.

A second §210 case has already gone to trial and is pending a decision. In that case a paint coating quality control inspector alleged that he had been deliberately terminated because he had reported complaints to the NRC about the failure to comply with federal requirements regarding paint coatings. The case of Daniel Miller follows three other paint coatings Quality Control inspectors who, in 1985, filed Section 210 complaints alleging improper termination after complaining to the NRC, which were never litigated in front of the DOL, and also never investigated by the NRC.

Neither the SSAT nor OI have yet probed the issue of the harassment and intimidation of paint coatings quality control inspectors. Nor did the SSAT ever probe the specific allegations that Miller, and others, had allegedly been terminated for raising. The SSAT claims that they "evaluated" all coatings allegations, and that "all the areas and concerns in the paint coatings area were addressed during the inspection of the coating issue." (NUREG-1360, at 5-74). Yet, the SSAT interviewed only one of the paint coating quality control inspectors with

concerns, and limited him to discussing only some of the supporting information he had.

This limited approach to the allegers' information was continued in spite of the following statements of the one allegor they interviewed:

A Well, you know, it's kind of an ongoing joke among the quality department out there that, you know, there is no quality assurance here. . . .

There is definitely a strong QA breakdown at STP, as far as I'm concerned from what I've seen and my own experiences. . . .

But, you know, a lot of the things that have been brought to STP's management attention lately has been swept right under the carpet, and it goes through the whole gamut of commodities and hardware. It's just a, you know, if you talked to some of the inspectors out there at this point you will really hear some horror stories. . . .

Finally, still awaiting hearings are the cases of three other South Texas employees who have alleged that they were terminated because they refused to "play ball" with a management that was sacrificing quality to satisfy the personal financial gains of a senior EBASCO manager. In the cases of John Rex, John Hodge, and Richard Garcia, the NRC staff has yet to probe the basis for their complaints or the significance of their allegations.

Yet in the \$210 case, ongoing discovery of documents has produced irrefutable evidence that Mr. Rex was laid off in September, 1986, on the basis of a recommendation by an HVAC superintendent whom he had complained about. An internal EBASCO investigation confirmed that Restor was violating EBASCO site procedures in regard to misuse of funds, but did not probe the

quality aspects of the allegations. The quality aspects of the HVAC allegations were allegedly investigated by the SAFETEAM, but the SAFETEAM did not probe the quality aspects either. Documents obtained through discovery -- and always available to the NRC -- confirm that no overview of the HVAC department work under Restor's supervision was ever conducted.

To illustrate the weakness of the SSAT's approach the following example is given.

In fall of 1986, an anonymous letter was sent to EBASCO and HL&P management. It contained, among other things, the following paragraphs.

"Gentlemen:

The success of the South Texas project depends on the combined honest team effort of many people and groups of people. When any team member for his personal gain manipulates and intimidates people, falsifies records, misuses STP supplied materials, equipment, and skilled craft labor, it is time the situation is brought to the attention of the Partners. This individual is the HVAC manager, Billy Rester.

In the past Rester has successfully directed his subordinates to falsify records, run through hold points, claimed as installed quantities of ductwork that was not installed, ignored project startup schedules, and violated project rules and procedures, and willfully involved his craft in covering up known violations.

In all cases, for reasons known only to themselves, Ebasco management has participated in whitewashing these flagrant violations, which are well known to many....

The letter then goes on to detail the abuse of corporate funds to make a personal profit from a personal catering service. According to evidence and testimony from depositions in the Rex case, HL&P conducted a superfluous investigating of the catering

issue only and allowed SAFETEAM to probe the quality allegations. Yet the SAFETEAM never interviewed the key individuals who were aware of the falsification of records and quality concerns. Shortly after this letter was received, most of the sources of quality complaints were transferred or terminated.

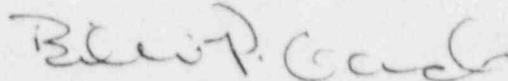
When the SSAT identified what allegations they were interested in pursuing they ignored the broadbased concerns of quality and mismanagement, did nothing about the allegations of intentional violations of procedures, and chose only to probe an allegation that the HVAC procedure book was confusing and difficult to interpret. (See NUREG-1306, at 5-25).

CONCLUSION

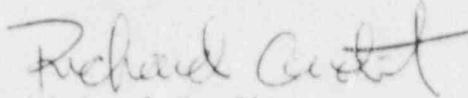
The information provided to the NRC was of sufficient detail to conduct an adequate inspection if time constraints had not been imposed on the SSAT. The SSAT did not even scratch the surface of the truth behind the experiences of these workers. Frankly, given the time constraints placed on the SSAT, it would have been impossible for the best intentioned team to appropriately undertake the investigation. However, the Commission has the responsibility to insure that a Director's Decision is supported by substantial evidence. This Decision is not.

Therefore GAP respectfully requests that the Commission consider this appeal and stay the licensing decision until such time as it has sufficient evidence upon which to base its final decision.

Respectfully submitted,



Billie P. Garde



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Dated: March 21, 1988

APR. 28, 1986

SOUTH TEXAS PROJECT
SUMMARY OF FINAL INSPECTIONS
UNIT # 1

	LARGE HANGERS	SMALL HANGERS	HVAC DUCT	HVAC SUPPORTS	TERMS	LARGE WELDS	SMALL WELDS	CABLE TRAY	RACEWAY SUPPORT	CONDUIT	W&C	INSTR	MECH EQUIP	ELECT EQUIP	HVAC EQUIP	TOTAL
TOTAL FINAL INSPECTIONS MADE	182	27	65	21	986	184	118	0	5	66	222	15	28	105	2	2026
FINAL INSPECTIONS ACCEPTED	151	19	65	20	961	158	116	0	4	43	215	5	24	102	2	1885
FINAL INSPECTIONS REJECTED	31	8	0	1	25	26	2	0	1	23	7	10	4	3	0	141
HARDWARE RELATED	20	5	0	1	24	22	2	0	1	23	7	5	1	3	0	114
PAPER WORK RELATED	11	3	0	0	1	4	0	0	0	0	0	5	3	0	0	27
PERCENT OF INSP. REJECTED	17%	30%	0%	5%	3%	14%	2%	0%	20%	35%	3%	67%	14%	3%	0%	7%
NOT READY FOR INSPECTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

GOALS	20%	15%	10%	15%	5%	10%	10%	5%	15%	5%	5%	5%	5%	5%	5%	5%
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SUMMARY OF IMPROCESS INSPECTIONS

	LARGE HANGERS	SMALL HANGERS	HVAC DUCT	HVAC SUPPORTS	TERMS	LARGE WELDS	SMALL WELDS	CABLE TRAY	RACEWAY SUPPORT	CONDUIT	W&C	INSTR	MECH EQUIP	ELECT EQUIP	HVAC EQUIP	TOTAL
TOTAL IMPROCESS INSP MADE	325	24	102	84	32	412	367	0	0	8	72	0	16	0	8	1450
IMPROCESS INSPECTIONS ACCEPTED	293	22	93	71	30	365	341	0	0	3	72	0	13	0	8	1311
IMPROCESS INSPECTIONS REJECTED	32	2	9	13	2	47	26	0	0	5	0	0	3	0	0	139
HARDWARE RELATED	14	0	8	9	2	13	11	0	0	5	0	0	1	0	0	63
PAPER WORK RELATED	18	2	1	4	0	34	15	0	0	0	0	0	2	0	0	76
PERCENT OF INSP. REJECTED	10%	8%	9%	15%	6%	11%	7%	0%	0%	63%	0%	0%	19%	0%	0%	10%
NOT READY FOR INSPECTION	5	0	0	0	0	21	1	0	0	0	0	0	1	0	0	28

STATUS AS OF 25-APR-86

PRINTED 30-APR-86

EXHIBIT 1

LARGE BORE HANGERS

Reject rate - 17% - Finals.

10% - In-Process

HARDWARE

Welding

- a.) Fit-Up
- b.) Defects
- c.) Missing
- d.) Base Metal
- e.) Undersize

42%

Configuration/Location

17%

Incorrect Material

25%

Hilti/Bolts

16%

SOFTWARE

Eng Info Incorrect/Missing

88%

Missing/Wrong Forms

12%

SMALL BORE HANGERS

Reject rate - 30% - Finals.

8% - In-Process.

HARDWARE

Welding
a.) Defects

33%

Base Metal

33%

Location/Configuration

33%

SOFTWARE

Engineering Inspection Point
Missing or Incorrect

100%

HVAC SUPPORTS

Reject rate - 15% - In-Process.

HARDWARE

Welding .	77%
Configuration	23%

SOFTWARE

No FCR	50%
Wrong Paper	50%
Missing Sign-Offs	

LARGE BORE WELDS

Reject rate - 14% - Finals.

11% - In-Process.

HARDWARE

Welding	78%
a.) Fit-Up	
b.) Final Prep	
c.) Defects	
d.) Counterbore	

Wrong Material

22%

SOFTWARE

PDC/MPDC Incorrect	38%
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Missing Dwg, FCR, FCN	28%
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Fab Checklist Errors	25%
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Engineering Info Incorrect	9%
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CONDUIT

Reject rate - 35% - Finals.

*63% - In-Process.

HARDWARE

Not Supported
No ID
No Bushings
Spring Nuts
Pull Boxes

Wrong Destination
No Term Blocks
Wrong Size
Wrong Flex
Damaged

SOFTWARE

0%

* Rejected while card was in QC hands but corrected on the spot and final accepted.

INSTRUMENTS

Reject rate - 67% - Finals.

HARDWARE

Valve Reversed

20%

Incorrect Installation

40%

Disconnected

20%

Hiltis

20%

SOFTWARE

Field Sketch Wrong

20%

Cleanness N/A

20%

AWS Weld Report

20%

Stud Anchor Report

20%

Report Errors

20%

MECHANICAL EQUIPMENT

Reject rate - 14% - Finals.

19% - In-Process.

HARDWARE

Missing Parts 100%

SOFTWARE

No Paper in Package 20%

No FE Sign-Off 60%

No Vendor Manual 20%

EBASCO

Interoffice Correspondence

DATE 12-4-85

FILE REF STP-N-5-0010

TO Distribution

OFFICE LOCATION STPEGS

FROM Ron Staymates *RS*

OFFICE LOCATION STPEGS

SUBJECT SOUTH TEXAS PROJECT
ELECTRIC GENERATING STATION
N-5 SOFTWARE RESPONSIBILITIES

The following guidelines are to be utilized when statusing documents for preparation of an N-5 Code Data Report.

1. Accountability of FW packages/FS packages (excluding Brown & Root). This includes accounting for, but not verification of the correctness/completeness of the following:
 - A. Code Data Reports
 1. Valves
 2. Instrument valves
 3. Equipment
 4. Hangers, including annotations thereof, based on SIRG review
 5. Spool pieces, including annotations thereof, based on SIRG review
 - B. Brown & Root CCSR's/CSR's, including annotations thereof, based on SIRG/N-5 review
 - C. Utilize MLCS 8590 and/or N5LOG001 reports for each commodity involved, and assign N-5 # to those added items not previously assigned.
2. Accountability of Bolted Flange Connection Reports.
3. Affix the "N-5 Review Stamp" and N-5 label to document packages as accountability is completed.
4. CMTR verification will not be performed since this was performed by SIRG.
5. Mark-up a P&ID to reflect the N-5 boundary, not the specific commodities involved. No verification as to the correctness/completeness will be performed.
6. Verify that all items listed in item 1A & 1C above appear on the drawing/amendments and certification of as-built/tabulation of materials (small bore spools/pup pieces must show heat numbers) supplied by resident engineering. The walkdown reconciliation shall be discontinued.

Distribution

December 4, 1985
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- A. Verify that heat numbers/heat codes on the Tabulation of Materials correspond to the PDC and/or The Fabrication Checklist.

The above guideline is to be considered as the scope of the N-5 software groups responsibility, and must be worked with the additional requirements of QAI-025, with respect to N-5 Code Data Report preparation.

RS:sl

cc: A Cutrona
J Narron
W Pardee
R Peck

DISTRIBUTION

A ~~...~~ Garg
J S Martin

Gentlemen:

The success of the South Texas Project depends on the combined honest team effort of many people and groups of people. When any team member for his personal gain manipulates and intimidates people, falsifies records, misuses STP supplied materials, equipment, and skilled craft labor, it is time the situation is brought to the attention of the Partners. This individual is the HVAC manager, Billy Rester.

In the past Mr. Rester has successfully directed his subordinates to falsify records, run through hold points, claimed as installed quantities of ductwork that was not installed, ignored project start-up schedules, and violated project rules and procedures, and willfully involved his craft in covering up known violations.

In all cases, for reasons known only to themselves, Ebasco management has participated in whitewashing these flagrant violations, which are well known to many. I believe it will be very difficult for Mr. Joe Taylor and Mr. Bob Zaist of Ebasco to cover up the activities of Mr. Rester relating to the recent Ebasco company picnic held at Celanese Park June 21st of this year. They engaged Mr. Rester to cater this event which Ebasco will pay for. That is their business. What becomes the business of others at STP and the owners is use of STP owned materials to erect Mr Rester's serving booth and its transportation to the picnic site in STP owned vehicles. Possibly Ebasco intends to reimburse the project for these materials. It is questionable that they intend to reimburse the project for wages paid to the 5 sheetmetal craftsmen who were transported from the Project site (in STP vehicles) to spend about 7 hours Friday night setting up Mr. Rester's facility, since the attached time sheets show these craft man hours are cost coded to FCR's, direct, and repair work. The attached time sheets bear the verification signatures of the HVAC superintendent, S. Schugardt and the Foreman, T. Swanson, who by so signing, involve themselves in this action to defraud the owners. This same abuse of authority was reported Saturday night (June 21) by dispatching 10 sheetmetal craftsmen to the picnic for cleanup. Even though it was for a shorter period of time, STP vehicles were again used for non-project work. Saturday work as at premium time rates. Time sheets for these craftsmen under the direction of Mr. Rester are also attached. Note also, that that these craftsmen were paid for "working thru lunch". The night HVAC General Foreman is Steve Potvin. I understand the picnic was a huge success. The one who benefited most, of course, is Mr. Rester. I do not have any back up data about on-site labor expended to fabricate his cooking serving aids. That was free to him also.

This is the same Billy Rester who caters lunches for Ebasco management 3 days each week. The food is brought to the site in the STP owned vehicle assigned to Mr. Rester. It is kept warm or reheated in his private office (or in the past in the sheetmetal craft laydown area) in violation of job rules about cooking on site, and is carried to the Ebasco conference room in a jobsite vehicle by either Ebasco sheetmetal craft or non-manual personnel. Afterwards the same people remove the refuse. It will be very difficult for Messrs Taylor and Zaist to claim they do realize they are eating hot food. How Ebasco pays for this food is not the point. STP job rules prohibit jobsite personnel from

selling anything on the project site. It is also known that HL&P's contracts with all companies doing work at STP contain a provision that employees are not to engage in commercial activities on site. Even if Ebasco may have selectively waived this job rule and obtained HL&P's approval for this particular commercial activity, it is a blatant misuse of STP furnished facilities and skilled craftsmen for private enrichment.

If the HVAC discipline can afford to divert skilled craft manpower in this way, why are they delinquent in turning over systems? Why has their overtime been running rampant in spite of this discipline being staffed at many times over the plan? (see attachments).

This is the same Billy Rester whose bet with Tom Robertson took precedence over scheduled work. To win "a case of beer and a fifth of whiskey" untold overtime man hours were spent to complete installation of certain fans that were scheduled for installation two months later, overrunning electrical and other installations. Other critical work was brushed aside by the Ebasco site manager in order to allow Rester to win his bet. The most despicable aspect was that crafts and "white hats" alike were told just what was at stake.

This is the same Billy Rester who has boasted throughout the job that he is "taking over" the Intermach shop for fabrication of duct. He also boasts openly that he has a special privileged relationship with HL&P's George Rogers.

Recently an audit of quantities of ductwork claimed for one week revealed that 50% of sheet metal claimed was still lying on the floor. A second audit revealed that of quantities claimed only one-fourth of the material was erected. This too was brushed under the rug with a "sorry, we made a mistake".

This information is presented to identify a serious problem at STP. Complete documented evidence is unavailable to me. Many HL&P, Bechtel and Ebasco people are working very hard to complete this project and are doing a good honest job. It is grossly unfair that a good team, going by the rules is to be judged by the antics of any individual who has made the project his personal playground. What this job doesn't need is another "60 Minutes".