



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Handwritten: PDR-016

DEC 26 1985

Docket No. 50-413/50-414

Mr. Albert V. Carr, Jr.
Duke Power Company
Legal Department
P.O. Box 33189
Charlotte, NC 28242

IN RESPONSE REFER
TO FOIA-85-584

Dear Mr. Carr:

This is the third partial response to your letter dated August 19, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), copies of all records related to and underlying Enforcement Action No. EA-84-93 regarding the Catawba Nuclear Station.

The documents identified on the enclosed Appendix H are already available for public inspection and copying in the NRC Public Document Room (PDR). The PDR accession number is noted next to the description of each document. Additional records related to your request have been identified in NRC's response to a previous FOIA request. This response is maintained in the PDR in folder FOIA-84-722 under the name of Bell. You may obtain copies of those records by referring to the above FOIA folder.

The four documents identified on the enclosed Appendix I and certain documents identified on the enclosed Appendix K are being placed in the PDR in Washington, DC, and at the NRC Local Public Document Room in South Carolina.

The documents identified on the enclosed Appendices J, L, M, and certain documents on Appendix K, are being withheld. The applicable FOIA exemptions are noted on the Appendices.

The information withheld pursuant to Exemption (5) consists of advice, opinions and recommendations of the staff. Disclosure would inhibit the frank and candid exchange of communications in future deliberations and thus would not be in the public interest. This predecisional information is being withheld pursuant to Exemption (5) of the FOIA (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations. There are no reasonably segregable factual portions.

Information withheld pursuant to Exemption (7)(A) consists of an investigatory record compiled for law enforcement purposes which is being withheld from public disclosure pursuant to Exemption (7)(A) of the FOIA (5 U.S.C. 552(b)(7)(A)) and 10 CFR 9.5(a)(7)(i) of the Commission's regulations because disclosure of the information would interfere with an enforcement proceeding.

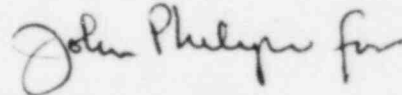
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Pursuant to 10 CFR 9.9 of the NRC's regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial of all of the documents identified on Appendices J, L and M and certain documents identified on Appendix K are the undersigned and Mr. James M. Taylor, Director, Office of Inspection and Enforcement. The persons responsible for denial of documents identified on Appendix K are the undersigned and Dr. J. Nelson Grace, Regional Administrator, Region II, as noted on Appendix K.

This denial may be appealed to the NRC's Executive Director for Operations within 30 days from the receipt of this letter. As provided in 10 CFR 9.11, any such appeal must be in writing, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

We will communicate with you further regarding additional records related to your FOIA request.

Sincerely,



Donnie H. Grimsley, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

APPENDIX H

RECORDS ALREADY AVAILABLE IN PDR

1. 04/29/83 Memorandum for James J. Cummings from Ben B. Hayes, (1 page)
PDR # 8410190382
2. 09/14/83 Government Accountability Project Petition to Commission with
attachments including Duke Power Company's Construction Project
Evaluation for Catawba nuclear Station Units 1/2, September 27-
October 14, 1982. (523 pages) PDR # 8309190025
3. 09/14/83 Ltr to the Commission from Garde (50 pages) PDR # 8410190388
4. 09/16/83 Memorandum for Sandra Showman from Edwin G. Triner,
w/miscellaneous documents. (7 pages) PDR # 8504150615
5. 10/14/83 Ltr to Garde from DeYoung, w/enclosure (3 pages)
PDR # 8310240245
6. 10/21/83 Memo for the Commission from Messenger (23 pages)
PDR # 8508120315
7. 11/01/83 Ltr to Palladino from Udall (2 pages) PDR # 8401100133
8. 11/01/83 Ltr to Garde from DeYoung (3 pages) PDR # 8311100365
9. 05/22/84 Memo from Messenger to Palladino and Commissioners, subject:
Catawba Nuclear Power Station--Review of NRC Handling of
Allegations (3 pages) PDR # 8410190376
10. 05/22/84 Report of Investigation, title: "Catawba Nuclear Power Station--
Review of NRC Handling of Allegations" (14 pages)
PDR # 8410190379
11. 06/22/84 Partial Initial Decision, ASLBP-81-463-06 OL (284 pages)
PDR # 8407030223
12. 06/27/84 Ltr from Guild to DeYoung (3 pages) w/attached Partial Initial
Decision (3 pages) PDR #8407170537
13. 07/20/84 Ltr from DeYoung to Guild (2 pages) w/enclosure: Receipt of
Request for Action Under 10 CFR 2.206 (2 pages) PDR #8407270055
14. 10/10/84 Memo and Order, Atomic Safety and Licensing Appeal Board
regarding in-camera testing on Foreman Override (3 pages)
PDR # 8410110161

Re: FOIA-85-584
(Third Response)

APPENDIX H
(Continued)

15. 10/26/84 (Proposed) Supplemental Partial Initial Decision by Duke Power Company (36 pages) PDR # 8410300319
16. 12/06/84 Memo to Files--Patricia Davis (2 pages) PDR # 8412070341
17. 12/20/84 Order re DD-84-16 PDR #8412240132
18. 12/27/84 Ltr requesting staying PID immediate effectiveness, Guild to Commission (3 pages) PDR # 8502150664
19. 12/28/84 Ltr on Immediate Effectiveness, Duke Power Company Attorneys to Commission. (42 pages) PDR # 8502150681
20. 01/10/85 Ltr from Duke Power Company Attorneys to Commission regarding Intervenor Requests to make presentation at Commission meeting on licensing of Catawba (5 pages) PDR # 8501110489
21. 01/28/85 Memo from Chilk to Dircks - Staff Requirements re Catawba 1, PDR #8502050237
22. 03/01/85 Memo, Chilk to Board and Parties regarding Commission declination of review of ALAB-794 (1 page) PDR # 8503050469
23. 04/22/85 Duke Power Company's Response to GAP's September 27, 1984 Enforcement Action Request (26 pages) and Note from Shapar to Commissioners, subject: SECY-78-308 - Protection of Informants - Response to Commission Questions Regarding Section 7 of S. 2584 (7 pages) and Attachment B (3 pages) PDR #8504250162
24. 06/04/85 Ltr from Taylor to Guild w/attached: Director's Decision Under 10 CFR 2.206 (28 pages) PDR #8506130458
25. 08/13/85 Ltr from Taylor to Duke Power Company, subject: Notice of Violation and Proposed Imposition of Civil Penalty (6 pages) PDR #8508160156
26. Undated Occurrence (PNO-II-83-74). (2 pages) PDR # 8309160241

Re: FOIA-85-584
(Third Response)

APPENDIX I

RECORDS BEING PLACED IN PDR AND LPDR

1. 09/27/84 Ltr from Garde to DeYoung and Axelrod, re: Enforcement Action Request, Duke Power Company (9 pages)
2. 12/19/84 Routing and Transmittal slip from Holler to Puckett, with attached copyrighted decision, Brown Root, Inc. v. Donovan, Civil No. 83-4486 (5th Cir. 1984). (10 pages)
3. 01/03/85 Notation Vote Response Sheet from Comm. Asselstine (1 page)
4. 01/09/85 Memo from Chilk to Plaine, subject: SECY-84-467 - Director's Denial of 2.206 Petition (In the Matter of Duke Power Company) (1 page)

APPENDIX J

RECORDS WITHHELD IN ENTIRETY
EXEMPTION (5)

1. Undated Draft Director's Decision Under 10 CFR 2.206 (21 pages)
2. Undated Draft Director's Decision Under 10 CFR 2.206 (26 pages)
3. Undated Draft Ltr from O'Reilly to Tucker (3 pages)
4. Undated Draft Ltr from Taylor to Owen (3 pages)
5. Undated Draft Ltr from Taylor to Guild (3 pages)
6. Undated Draft Ltr from Taylor to Garde (3 pages)
7. Undated Draft Ltr from Taylor to Garde (4 pages)
8. Undated Draft Ltr from Taylor to Garde (3 pages)
9. Undated Draft Ltr from Taylor to Garde (3 pages)
10. Undated Draft Ltr from Taylor to Garde (2 pages)
11. 11/26/84 Facsimile Transmittal Sheet from Axelrad to O'Reilly with Notation Vote Response Sheet (3 pages)
12. 05/23/85 Memo from Taylor to Grace subject: Proposed Enforcement Action and 2.206 Decision on Discrimination at Catawba (2 pages)
13. 06/04/85 Draft Ltr from Taylor to Guild (7 pages)
14. 08/07/85 Routing and Transmittal Slip from Taylor to Grace (3 pages)

APPENDIX K

1. 07/16/85 Facsimile transmittal sheet from Holler to Jenkins
(1 page) Released-Attachments:
 - a. Draft Letter from Taylor to Garde (1 page) withheld-Ex.5
(Office of Inspection and Enforcement (IE))
 - b. 6/28/85 Ltr from Garde (unsigned) to Taylor-Released
w/handwritten notations (2 pages) - Annotations
withheld-Ex.5 (Region II)
2. Undated Draft Director's Decision under 10 CFR 2.206 (21 pages)
with handwritten notations - Exemption (5) (IE and RII)
3. Undated Draft Letter from O'Reilly to Tucker w/handwritten notations
(3 pages) with attachment:
 - a. Undated Notice of Violation and Proposed Imposition of
Civil Penalty (3 pages) - Exemption (5) (IE and RII)
- 4 06/28/85 Ltr from Garde unsigned to Taylor (2 pages) - Released in
Document #1.b. above. Annotations withheld - Exemption (5) -
(IE)

APPENDIX L

RECORDS WITHHELD IN ENTIRETY
EXEMPTION (5) AND (7)(A)

1. 07/11/84 Memo from Burns to DeYoung, subject: Section 2.206 Request on Catawba Filed by Robert Guild (2 pages)
2. 11/28/84 Memo from Burns to Axelrad, subject: Effect of Licensing Board's Decision in the Catawba Proceeding on Staff Enforcement Action (5 pages) w/attachment:
 - A. Parties Positions and Boards Remarks on Discrimination and Harrassment Incidents (6 pages)
3. 03/19/85 Note to Jane Axelrad, IE, from Burns, ELD re: Draft Catawba 2.206 Decision (2 pages)
4. Undated Letter from DeYoung to Guild (2 pages) w/attachment:
 - A. Receipt of Request for Action under 10 CFR 2.206 (2 pages)

APPENDIX M

RECORDS DENIED IN ENTIRETY - EXEMPTION (5)

1. Undated Three draft responses to B. Garde, GAP, 9/27/84 Letter. (10 pages)
2. Undated Draft enforcement package for EA 84-93 labeled "Rev. 3". (8 pages)
3. Undated Draft enforcement package for EA 84-93 labeled "Rev 8" (7 pages)
4. Undated Draft Catawba 2.206 decision dated 4/1/85. (23 pages)
5. Undated Draft Catawba 2.206 decision. (23 pages)
6. Undated Draft Catawba 2.206 decision w/notations. (29 pages)
7. Undated Draft Catawba 2.206 decision dated 5/7/85. (26 pages)
8. Undated Draft Catawba 2.206 decision dated 5/8/85. (26 pages)
9. Undated Draft Catawba 2.206 decision dated 5/13/85. (39 pages)
10. Undated Draft Catawba 2.206 decision dated 5/14/85. (38 pages)
11. 05/14/85 Draft letter from James Taylor, IE, to Robert Guild, forwarding Catawba 2.206 decision. (6 pages)
12. 05/23/85 Memorandum from Taylor, IE, to Grace, RII, subject: Proposed Enforcement Action and 2.206 Decision on Discrimination at Catawba. (2 pages)

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GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202
Washington, D.C. 20036

(202) 232-8550

September 27, 1984

Mr. Richard C. DeYoung
Director
Office of Inspection and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Ms. Jane Axelrod
Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Enforcement Action Request, Duke Power Company

Dear Mr. DeYoung and Ms. Axelrod:

The Government Accountability Project (GAP) requests the issuance of a \$250,000 civil penalty against Duke Power Company (Duke) for its deliberate and persistent harassment of quality control (QC) inspectors at its Catawba nuclear power plant from approximately 1978 through 1984. Harassment and intimidation of nuclear workers who engage in protected activities is prohibited by criminal law, 42 U.S.C. §5851, and administrative law, 10 C.F.R. §50.7. The employees' right to engage in protected activities is also protected by the Energy Reorganization Act of 1974, as amended.

The harassment and intimidation which necessitates the issuance of a civil penalty is substantiated and documented in the Atomic Safety and Licensing Board's (ASLB) Partial Initial Decision (PID) regarding Catawba, issued June 22, 1984, which states:

...the Board finds that some welding inspectors were subjected to harassment by craft workers and craft foremen for doing their job. This varied from insult and shunning to threat of injury. The existence of these incidents indicates that other similar incidents probably occurred in areas other than welding.

as well as in the Office of Investigation (OI) report.

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FOIA 85-524

Encl 3-15

Reliance
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Ms. Jane Axelrod
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As you know, the allegations of harassment and intimidation were raised in the licensing proceedings by the citizen intervenor organization, Palmetto Alliance (Palmetto), and to OI by GAP. (See Exhibit 1 of OI report).

We recognize that requests for enforcement action for matters such as these normally are received from the Regional Director. However, for the reasons stated below, we believe that all harassment and intimidation enforcement actions should be issued by the Nuclear Regulatory Commission (NRC) headquarters.

- I. Current corporate policies toward harassment and intimidation, "blackballing" within the nuclear industry requires strong enforcement action.

As nuclear power plants under construction across the country near completion, a growing number of construction project employees are bringing their concerns to GAP, to the media, to the citizen intervenors, and, occasionally, to the NRC. The effect of these "come lately" allegations of quality assurance (QA) breakdowns, construction inadequacies, and harassment and intimidation is devastating for the Commission's resource management, can cause significant delays in the construction project, and produce catastrophic financial burdens on the licensee.

By and large, these allegations are known to the sources (current and former quality control (QC) inspectors, engineers, crafts persons, etc.) for a comparatively long period of time. The reason cited by these individuals consistently for their failure to bring the concerns forward prior to the near-completion of the project is their fear of reprisal, overt harassment and intimidation, or fear of the direct loss of their job.

The fear of these actions has a great potential for reducing the motivation of QA/QC inspectors and thereby affecting the overall QA/QC program, and, ultimately, the quality of the construction. Faulty construction ultimately threatens public health and safety. These workers are the front-line people responsible for the safe construction of the plant. They must be free to voice their concerns about construction problems or deficiencies that they believe exist within the plant's construction.

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We believe that the allegation "crisis" is a direct result of your office's failure to send any message to utility companies that the harassment, intimidation, blacklisting behavior towards its workforces will not be tolerated.

Any findings of harassment and intimidation by either the Department of Labor (DOL) or your agency itself should result in automatic penalty substantial enough to be an incentive for licensees to stop engaging in the well-established industry practices of expelling those members who dare to raise concerns about a power plant. Such a penalty is justified because of the impact that harassment can have on the overall integrity of the nuclear industry and the safety of the particular plant in question.

Therefore, there must be a penalty issued in this case, and it must be a severe one to insure that there can be no recurrence of this type of harassment.

II. Harassment and intimidation at the Catawba nuclear power plant violates 10 C.F.R. 50.7 and §210 of the Employee Protection Act.

The evidence is clear that Duke, in fact, did violate the above-named rules and regulations. Further, that the violations began in the mid-1970's and continued up to and including the time period of the ASLB hearings. This harassment included a range of actions taken by management to negatively influence the reporting of Nonconforming Item Reports (NCI) by QC inspectors. Some of these actions are listed below.

1. Workers being told or ordered to slack off on their inspections or there would be retaliation;
2. Filing of bad performance ratings and reports against inspectors who found problems with procedures and hardware;
3. An inspector who was threatened with a rifle for rejecting work as unsafe;
4. Threats to "knock an inspector's eyes out;"
5. An inspector being threatened with his job if he continued

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Ms. Jane Axelrod
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- to follow NRC procedures in his inspections;
- 6. Another inspector was threatened that he would have "his teeth knocked out" if he did not stop writing NCI's;
- 7. Some employees and welding inspectors were harassed for taking their concerns to the NRC;

The employees have also expressed the feeling of intimidation about their freedom to bring their concerns to the NRC under threat of some type of retaliation from the company:

- 8. A number of workers felt that they were reprimanded by management for bringing their concerns to the NRC;
- 9. A meeting at which QC inspectors were warned by top-level executives not to take their concerns to the NRC at a meeting between the Executive Vice President and welding QC inspectors;
- 10. Some inspectors were threatened, being told that if they did not "ease off" in their inspections, they would not advance in employment;
- 11. One inspector who was going to testify at a hearing was intimidated by a corporate official concerning his testimony at that hearing or future hearings;
- 12. An employee threatened to push a welding inspector off a scaffold for doing an inspection of his work;
- 13. Other examples of inspectors were threatened with transfer if they continued to conduct proper inspections;
- 14. Inspectors were repeatedly harassed by other employees after they brought their concerns to some of their supervisors;
- 15. Inspectors were repeatedly warned by management that they were over-inspecting;

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- 16. A number of inspectors were threatened with their jobs for conducting proper inspections; and
- 17. Inspectors were repeatedly harassed and hassled for doing their jobs.

Company management generally took no adequate response to these prohibited actions, instead characterizing the well-founded complaints of QC inspectors as complaints about pay cuts.

The foregoing facts clearly lay out a pattern of harassment, intimidation and discrimination, which fall within the definition^{1/} of the type of harassment which is prohibited. Further, the evidence of harassment in this case is much more severe and widespread than was found in two recent cases where civil penalties were imposed by the NRC against Texas Utilities Generating Company (TUGCO). In both cases at Comanche Peak, there was verbal harassment, intimidation and terminations of single QC employees for doing their jobs, and threats of removal of QC certifications. For these violations, TUGCO was assessed by your office two civil penalties totaling \$80,000. As you know, TUGCO has continued to resist the penalties. The incidents at Catawba go far beyond those which occurred at Comanche Peak and deserve a much more severe penalty than that imposed on TUGCO.

At Comanche Peak, Charles Atchison, a QC inspector, was terminated when he alone voiced objections to a single safety violation within the plant that had not been remedied. Yet at Catawba, the harassment was not an isolated event, it was of an entire crew. At Catawba, the harassment was condoned throughout the highest level of Duke management. It was promulgated by the Quality Assurance Manager and was the generic modus operandi of this supervisor toward a specific crew and their identification of nonconforming conditions for at least five years. The magnitude of the harassment at Catawba exceeds that of any other construction project.

^{1/}A good working definition of what constitutes harassment is contained in the Atomic Safety and Licensing Board's Partial Initial Decision. "...any action taken by another employee or superior intended to modify the behavior of an inspector so as to impede the proper performance of the assigned task. Harassment may involve use or threat of physical or violence or more subtle action or speech intended to intimidate, embarrass, or ridicule." (PID, In Re Duke Power Company, ASLBP No. 81-463-06 OL p. 36).

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III. 10 C.F.R. 50.7 requires the Commission to take enforcement action

Federal Regulation 10 C.F.R. 50.7 states:

- (c) A violation of paragraph (a) of this section by a Commission licensee, permittee, an applicant for a Commission license or permit, or a contractor or subcontractor of a Commission licensee, permittee, or applicant may be grounds for:
- (1) Denial, revocation, or suspension of the license.
 - (2) Imposition of a civil penalty on the licensee or applicant.
 - (3) Other enforcement action.

In the Catawba case, the ASLB failed to find a pervasive QA breakdown on the site resulting from the harassment and intimidation of G. E. Ross and the welding inspectors on his crew. (PID, pp. 179-180). We disagree with that conclusion, and draw your attention to what Mr. Ross stated in his interview with OI:

I personally do not feel this lack of support, intimidation and harassment or the willful violation of procedures is limited to welding inspections. I have had other inspectors from other disciplines express similar comments about their experiences with QA management. It seems that most of the complaints came from civil inspectors. I am not sure why this has not been followed up more during these inquiries. Probably because people in other disciplines do not want to go through the same thing that the welding inspectors have had to endure. There were two civil inspectors, Jim Norris and Wrenn Wasse, who said they had similar problems. I do not know whether they would want to take to the NRC or not. They might fear for their jobs if they talk.

The failure of the ASLB at Catawba to find a pervasive QA breakdown sufficient enough to remove reasonable assurance that the plant has not been built to operate without endangering public health and safety does not remove your office's responsibility to enforce the Commission's regulations regarding harassment and intimidation of a QC supervisor and a crew of QC inspectors.

Federal regulations clearly speak to the need to punish employers for any employee intimidation which affects nuclear safety and, consequently,

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public safety. "Employees are an important source of safety information and should be encouraged to come forth with any items of potential significance to safety without fear of retribution from their employers." 47 C.F.R. 30, 453 (1982). Yet at Catawba, QA supervisors threatened their employees and warned them not to document blatant deviations from welding QC procedures.

The Secretary of Labor recognized the inherent danger in management's attempts to short circuit the identification of nonconforming items.

The Administrative Law Judge found that Atchison was fired for submitting NCR's. The NCR procedure whereby employees report problems to their employers is precisely the type of activity Congress intended to protect when it passed the Act.

Should the Secretary of Labor not recognize the intent of Congress to protect the activity Atchison engaged in, there is no doubt that employees could be deterred from reporting safety problems resulting in the existence of defective nuclear plants. Defects in nuclear plants may well endanger the well being of millions of Americans in the future. (Complainant's Response before DOL, Case No. 82-ERA-9, p. 12).

Moreover, as a result of the harassment in the Atchison case, the NRC Office of I&E issued a proposed imposition of a \$40,000 civil penalty. (December 16, 1983, EN83-82). Thus, the DIE was stating, in a case similar to the one before you now in Catawba, that in order for the legislative purpose to be fulfilled, strict sanctions must be imposed.

GAP is certain that any hesitancy on the part of the NRC to issue a civil penalty in this case would be contrary to Congressional intent and have a "chilling effect" on employee complaints about nuclear quality control, particularly at Duke. Conversely, the agency's failure to issue a civil penalty will have the effect of encouraging utilities to continue engaging in harassment and intimidation of its workforce.

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IV. New Evidence of An Atmosphere of Harassment and Intimidation

Yesterday an internal Duke investigation and its Region II counterpart was released to Intervenor Palmetto Alliance and GAP. Although the information is under partial seal ordered by Judge James Kelly we believe that your office has both a duty and a right to review it. The information contained in the Duke investigation comes from several hundred statements taken by Duke management officials of construction workers at the site. Although Duke's public explanation of this material is their standard "only a paper-work problem" we believe that it is a devastating indictment of what the NRC has failed to find. Workers complain of such things as being threatened to "have their brains blown out" for refusing to violate procedures, and fear of losing their job if it is ever discovered that they have talked to Duke management about their concerns. There is a consistent complaint of workers about certain foreman being on drugs, of pushing to meet construction schedules regardless of quality, of looking the other way when pipes are pulled into place by com-a-longs, and weld interpass temperature is violated. There is evidence that guards were posted to keep a "look out" for QC inspectors, and that there were so few QC inspectors on the night shift that it was impossible to inspect all fo the work. In all over two hundred workers gave statements. It is obvious by the language in the statements that many of the workers just nodded their heads to Dukes' shrewdly worded questions, one entire group of workers had exactly the same answer identically to each question.

In spite of the gloss and weaknesses of this internal investigation, there are still many workers who apparently tried to tell their management the truth. Any inquiring investigator could have found the problems that these workers are now reporting years ago. But, instead of looking for the true condition of the Catawba plant the Region II investigators continue to be Duke's corporate "cheerleading squad." The Region II investigative file on this matter is a disgrace - once again Mr. O'Reilly has sat down with the utility company he is supposed to be regulating and instructed them on how to "beat the system" he is supposed to be implementing. He has disclosed the names of the accused and the accusers, given tips on how to defend themselves on these allegations, and failed to even notify your office of the allegations of deliberate violations of NRC regulations.

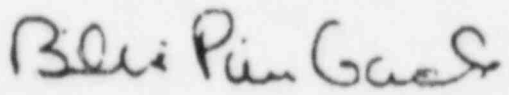
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CONCLUSION

We strongly urge you to take the first solid step toward breaking the industry's hold on the nuclear workforce. Your failure to do so will promulgate the allegation problem which has stymied your agency and is plaguing construction projects across the nation.

Upon my return from the harassment and intimidation hearings in Ft. Worth about similar abuses at the Comanche Peak site, I will contact Ms. Axelrod to set up a meeting regarding this matter.

Sincerely,



Billie Pirner Garde
Citizens Clinic Director

BPG:me

cc: William Dircks, EDO
Ben Hayes, OI
Harold Denton, NRR

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue N.W. Suite 202
Washington, D.C. 20036

(202) 232 8550

June 28, 1985

6/18/85 on 2nd
page

Mr. James M. Taylor
Director
Office of Inspection and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20558

Re: Director's Decision under
10 C.F.R. 2.206 re: Catawba

Dear Mr. Taylor:

Your June 4, 1985 decision to propose a \$64,000 civil penalty against Duke Power Company for violation of 10 C.F.R. 50.7 was a long awaited welcome. Your decision was laudatory and we hope that the NRC will not waiver from the well documented decision.

The decision to solely base the civil penalty on the findings of the Atomic Safety and Licensing Board panel was, however, unfortunate. The harassment and intimidation of Quality Control inspectors at Catawba was much more widespread than just the treatment of Mr. 'Bean' Ross.

The authority of the Director of Inspection and Enforcement is not constrained by ASLB proceedings in matters of enforcement, as you well know.

The weakness of the agency's decision to recognize only one incident of the harassment of Mr. Ross instead of looking to the real danger to the plant's Quality Assurance program as a result of the corporate attitude toward its conscientious Quality Control inspectors and managers is unacceptable.

Notwithstanding the debate on the proposed penalty, I must respond to your letter about Region II's handling of the Duke Catawba case.

Your letter was obviously written by Region II personnel and as such was unabashedly self-serving. I understand that as a matter of practice the Director refers complaints such as those I made in my September 27, 1984 letter to the region in order to get "the other side of the story." However, I am disappointed that your response contained no analysis of the charges that I raised. I agree that the allegations made against Region II were serious, and I continue to regard the actions of Region II in this matter as conduct which your agency should be ashamed of, not defend. In fact, your personal inability to recognize the serious nature of the misconduct of regional personnel is very disconcerting.

WWS
8509/20242
2PP

3 of 4 pages

K-1-b

Mr. James M. ...
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June 14, 1957

Perhaps my letter wasn't clear enough. I would like to be able to present GAP's view on this to your staff, or to the Office of Inspector or Auditor (OIA) if you feel it appropriate.

I look forward to your response, which shouldn't be delayed by either DOI or Duke interferences.

Sincerely,

Billie P. Garde