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May 15, 1986

Ms. Jane Axelrad, Director
Enforcement Staff
Office of Inspection and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Ms. Axelrad:

Your letter, undated but received in this office late last week, stated that Citizens Association for Sound Energy (CASE) should submit any information supplementing the April 9, 1986, letter regarding Enforcement Action 83-64 from Texas Utilities by May 10. We were not able to complete our comments by that time, and in fact still are unable to complete those comments, in part because we have not yet received the latest enforcement package from the NRC detailing the NRC's proposed penalty on three more incidents of harassment and intimidation.

However, this letter is intended to provide you with an abbreviated version of our response. A more detailed version will be submitted after we have finished our analysis of the alleged reform plan at the site. Since TUEC was provided with an opportunity to provide supplemental responses to the NRC, we assume that CASE will be provided with a similar opportunity.

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Preliminary Comments

TUEC's response to the civil penalty issued regarding Charles Atchison's termination was that his discharge was proper and that the proposed civil penalty be withdrawn.

The basis of their argument that the civil penalty should be withdrawn is because (1) things have changed at Comanche Peak since 1982, which should compel the Staff to reevaluate the propriety of this enforcement action; (2) no policy reasons remain to emphasize the need to assure that the QA program is being executed properly; (3) there has been a "substantial turnover in management organization for quality assurance since the time of the alleged violation ..."; (4) TUEC has put into place programs to insure that all employment decisions are made on objective, job-related bases; and (5) these programs have been implemented to reassure that all employees with quality assurance responsibilities are encouraged and free to identify non-conforming conditions.

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TUEC asserts that this reform has all taken place in the glare of national publicity and therefore the NRC's need to "make an example" out of TUEC has been fulfilled.

All of this self-serving rhetoric bears little or no resemblance to the truth:

- (1) & (3) The changes at Comanche Peak have been cosmetic at best.

In 1982 Charles Atchison was terminated by or at the direction of C. T. Brandt (see Findings of Administrative Law Judge, Atchison v. Brown & Root, 82-ERA-9, June 10, 1983, and CASE's Preliminary Proposed Findings of Fact on Harassment and Intimidation, September 4, 1984, pp. 129-147). Mr. Brandt was also identified as a perpetrator of harassment by QC paint coatings inspectors Bill Dunham and Cory Allen (see Transcript of Cory Allen's testimony, in operating license hearings). He was identified as a key supervisor in the liner plate falsification incident by QC inspector Sue Nuemeyer. He was also involved in the resolution of numerous other substantive issues which have been found to require reinspection and rework by the TRT.

Mr. Brandt not only remains employed at Comanche Peak; he has received a promotion to supervisor of Quality Engineering. In that position Mr. Brandt is responsible for dispositioning all NCRs and overriding the identified deficiencies of site QC inspectors and the "independent" QC inspectors.

Mr. Ron Tolson, former Site QA Management and another individual identified by numerous witnesses before the ASLB as a harasser and a person who would not tolerate dissent or professional disagreement about QA/QC deficiencies, remains at the site as a consultant. Also, although Applicants have created the inference that they now regard Mr. Tolson's past behavior as unacceptable, documents obtained in discovery under a protective order indicate otherwise.

Mr. Gordon Purdy, identified by two Department of Labor judges as not credible, remains on site in virtually the same position he occupied for Brown and Root. (Atchison, supra, and Dunham v. Brown & Root, 84-ERA-1, Recommended Order and Decision, Nov. 30, 1984.) Other supervisors identified as having unacceptable responses to the identification of deficiencies who have been promoted and remain at the site include Fred Powers, W. I. Vogelsang, Robert Siever, Dwight Woodyard, Greg Bennetzen, and others.

These managers set the tone for the work environment. Their survival and promotion sends a clear message to the work force that loyalty, not honesty, is what is rewarded at Comanche Peak.

- (2) The policy reasons for the original civil penalty remain valid.

Comanche Peak is clearly the prime example of a company that still needs to have emphasized the importance of implementing a proper QA program.

Texas Utilities' position, as stated to the ASLB, is that it doesn't need to comply with Appendix B criteria. (See Applicants' Memorandum in Response to Board's Memorandum (Statistical Inferences from CPRT Sampling), Jan. 31, 1986, pp. 18-23, in which Applicants state that "compliance with the construction QA/QC program required by Appendix B is not, either in terms or as applied, a condition of an operating license" (p. 18).

In fact, TUEC's entire reinspection program is not being done in compliance with Appendix B requirements, apparently with the acquiescence of the staff, or at least staff management.

There is a greater need now to require compliance with Appendix B than there was in 1982.

- (4) & (5) New programs will not guarantee that the experience of Chuck Atchison will not be repeated.

It is simply neither true nor logical that the new programs at the plant will replace the reality of TUEC's actions. Workers at Comanche Peak "know the score." Whistleblowers are scorned, demoted, terminated, and laid off; harrassers are promoted and rewarded. All the workers who identified problems are gone, unemployed or underemployed, have gone through ugly and lengthy litigation, are virtually destitute, and have very little chance of improving their situation. On the other hand, the perpetrators of the incidents remain employed, continue to move up the corporate ladder, and are financially and professionally successful.

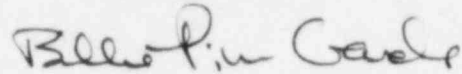
The SAFETEAM program for allegation management is in -- supervised by a career TUEC employee with no employment, personnel, or investigative background -- and supervised by a review panel of three top TUEC officials: TUEC's lead counsel, TUEC's head of public relations, and the site head of QA.

More importantly, the SAFETEAM is not controlling, and has no authority to control, situations that involve harassment and intimidation, nor do they make independent engineering judgments on substantive issues. A good example of that is the ongoing Section 210 complaint of Joe Macktal. Since the case is in litigation, we do not herein identify the facts and circumstances that demonstrate that the SAFETEAM is ineffective and, in fact, perpetuates the past misconduct of Brown & Root managers responding to identified deficiencies. However, we assure you

that there is solid evidence in this case that it is business as usual at Comanche Peak. In another recent example, the company itself concluded that production pressures were being placed on independent inspectors instead of quality concerns being paramount. (See January 13, 1986, Summary of Meeting and transcript of Dec. 18-19, 1985, meeting between Applicant and the NRC.)

In short, as the record and facts demonstrate, the reform plan is not what it is being portrayed to be.

Sincerely,



Billie Pirner Garde

BPG/bp

Pls send to PDR