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**GOVERNMENT ACCOUNTABILITY PROJECT**

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Peter B. Bloch, Chairman  
Atomic Safety & Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
4350 East-West Highway, 4th Floor  
Bethesda, MD 20814

Dr. Walter H. Jordon  
Administrative Judge  
881 West Outer Drive  
Oak Ridge, TN 37830

Dr. Kenneth A. McCollom  
Administrative Judge  
1107 West Knapp  
Stillwater, OK 74075

RE: Texas Utilities Electric Co.  
(Comanch Peak) Dkt. Nos. 50-445,  
446-OL, Dkt. No. 50-445-CPA

Gentlemen,

Enclosed are the statements of NRC employees, H. Shannon Phillips and George A. Mulley, Jr. given under oath before the Senate Committee on Governmental Affairs on April 9, 1987.

All of the representatives of CASE believe that the testimony of these witnesses has significant implications on the ongoing proceeding. We are still evaluating what actions CASE needs to take regarding the Investigation 86-10. However, we felt that the Board should be immediately provided copies of the testimony.

Respectfully submitted,

*Billie Pirner Garde*

Billie Pirner Garde, Esq.  
Attorney for CASE

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STATEMENT OF H. SHANNON PHILLIPS  
BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS  
APRIL 9, 1987

My name is H. Shannon Phillips. I am the Nuclear Regulatory Commission's Senior Resident Inspector (SRI) for Construction at the Comanche Peak nuclear power plant in Texas. I am part of the Region IV staff.

I am testifying today pursuant to a letter from the Committee to Commissioner Zech requesting my attendance here today. My loyalty is to the NRC. I did not seek to testify but am here pursuant to the Committee's request.

I have been asked to testify about recent events regarding Region IV's regulation of Comanche Peak and particularly how these events have destroyed my career.

I have been an NRC inspector for over 10 years; before that I worked as a materials scientist and quality assurance division manager in the aerospace industry. I am a materials engineer by training and degree.

As a Senior Resident Inspector at the Comanche Peak nuclear power plant, it is my responsibility, by law, to conduct inspections for purposes of determining whether Texas Utilities is constructing the plant in accordance with NRC regulations and other legal requirements.

In 1985 I reported to the Chief of the Region IV Comanche Peak Task Group, Thomas F. Westerman, and his assistant, Ian Barnes. Westerman and Barnes reported to the Division Director, Eric Johnson, who in turn reported to the Region IV

Administrator, Robert D. Martin.

According to the NRC's operating regulations if my inspection reveals that legal requirements have been violated or commitments have otherwise not been met my job is to write up the negative findings. Such findings are classified by the inspector as either a violation, a deviation or an unresolved item according to the criteria and standards set forth in the regulations. In practice the NRC inspector's decision on classifying negative findings is rarely questioned.

I was initially assigned to the Comanche Peak plant in mid-1984 to work with a special inspection team. This team was constituted by NRC headquarters to assess the severity of the numerous reported problems in the plant's design and construction. The former Region IV Division Director, Richard Denise, told me that I had been chosen for the Comanche Peak team because of my experience with other troubled construction projects.

The head of the inspection team, Thomas Ippilito, told me to do a thorough and detailed job so that the NRC could decide if the plant was safe, and therefore, ready to load fuel. It was well known that Texas Utilities (TU), the plant's owner, had applied for permission to load fuel in the fall of 1984.

The special inspection team completed its field inspection work in early fall of 1984. The NRC published the team's conclusions and findings in a series of letters beginning in September 1984 and ending January 8, 1985. The January 8, 1985 letter summarized the NRC's observations on the quality assurance



program at Comanche Peak:

Although the TUEC QA program documentation met NRC's requirements, the weaknesses of its implementation demonstrate that TUEC lacked the commitment to aggressively implement an effective QA/QC program in several areas. (List of specific areas omitted.)

(January 8, 1985 letter from Darrell Eisenhut to Michael Spence, President, Texas Utilities.)

That month Texas Utilities withdrew its request for fuel loading.

From late 1984 to September 1985 I and other inspectors were permitted the organizational freedom to identify deviations and violations at the plant, and did so. During this time period I was under the direct supervision of Doyle Hunnicutt, Section Chief, who reported to Dorwin Hunter, the Branch Chief, and Mr. Hunter reported to Richard Denise, the Division Director.

In the fall of 1985 Mr. Denise resigned, and Hunter and Hunnicutt were replaced by Westerman and Johnson, respectively. The effect of the new appointments was immediately apparent. Westerman and Johnson began to challenge my inspection findings and those of other inspectors and consultants assigned to Comanche Peak. Westerman consistently suggested that we remove certain negative findings about the plant or that we "downgrade" violations to the category of findings called "unresolved items."

Westerman's motivation for these actions was, according to his own statements, that he was there "to license the plant." It is my belief that the basis for the intimidating conduct was my management's concern that negative inspection findings might reflect unfavorably on the licensee's performance and reduce



their chances of getting a licens.

This is most obviously demonstrated by what happened to one major inspection report, 85-05/07. The inspection field work was completed between April and June 1985. The report was submitted to the Region IV office with the concurrence of all the inspectors and the supervisor, Dorwin Hunter.

However, the report was not issued at that time. Instead, after the management change, Westerman pressured me to make substantive changes to the inspection report. I did not succumb to such pressure.

During the fall of 1985 other inspection reports were subjected to the same treatment. Over a 6-7 month time period from the fall of 1985 to February of 1986, I and other inspectors were subjected to increasing pressure to downgrade negative findings to lesser categories or delete them entirely. The findings which were being deleted were significant. During this time frame at least 30 proposed violations and findings were the subject of dispute between site inspectors and Region IV management.

These findings included:

- o The proper installation of the reactor vessel could not be verified because no installation specifications or procedures were available;
- o There was totally inadequate control of design and construction records for piping and reactor containment liner plate, millions of pieces of paper had been shipped off-site in cardboard boxes with no controls, no inventory,

and no duplicates;

o A trend analysis of all Region IV negative inspection findings from 1974 to 1984 showed adverse trends in Texas Utilities' quality assurance program for design and construction of Comanche Peak, which TU should have been required to analyze.

Some of the harassment during this time period was subtle, such as comments by my supervisors that "Don't you make quite a bit of money, don't you?...." I took that statement to mean that if I did not buckle under to Westerman's instructions I could lose my job. On another occasion Westerman made the comment that Region IV "would never forget" inspection report 8432, an inspection into the failures of the management of TU's corporate QA program. I was also told by Westerman that it would be better if I found another job, outside of Region IV.

Region IV management officials also began to "nit pick" me. For example, I was asked for strict accounting of my whereabouts and my time on the site. This is out of the ordinary for a resident inspector. I was also asked for explanations and justifications on the most minor details of the inspection work I was able to do.

Throughout the fall of 1985 Tom Westerman conducted a series of meetings on inspection reports in which he pressured, badgered and ultimately threatened me if I did not remove negative findings from inspection reports. One meeting in late November 1985, on control of design and construction records, lasted approximately five hours. I was directed to change many of my

findings.

The entire atmosphere demoralized and frustrated me. By this time Westerman had told me to "quit digging". I began to question whether identifying problems at Comanche Peak was worth the hassle. Finally, in January 1986, I told Westerman that I would only put in information he wanted. I told him that I would identify problems according to the NRC procedures, and he could classify them and tell me how to write them up.

However, in February 1986 I learned that the Region had issued a report of a major inspection without including several of the violations cited in the draft report, including damaging information concerning the reactor vessel. Significantly, Westerman and Johnson, in releasing the report publicly, used the draft inspectors' signature sheet as part of the final report.

I knew I had to report the matter and my overall concerns to someone independent of Region IV management. I also knew I could not report this to Region IV management because recent actions had convinced me that Region IV officials condoned or directed the misconduct of Westerman and Johnson; for example, Westerman and recently been promoted. I was aware of the NRC's Office of Inspector and Auditor, but knew of its reputation of being unable or unwilling to investigate the type of serious management issues that I was raising. In March 1986 I decided to take my concerns to Commissioner James Asselstine. I understand that other inspectors and consultants also contacted Commissioner Asselstine with similar complaints.

I told Commissioner Asselstine that I would agree to talk to



George Mulley of OIA because of his personal reputation for professionalism, but that I doubted the ability of the office to probe the full extent of the management problem and to recommend necessary corrective actions.

In April 1986 I met with Mr. Mulley and provided him with detailed information and substantive evidence about my original findings, the actions of Region IV management in removing the findings, and the harassment and intimidation to which I was subjected.

I also told Mr. Mulley of incidents of harassment, intimidation and other negative personnel actions taken against other Region IV staff who had raised serious quality design and/or construction questions about other Region IV plants.

Over the next few months Mulley, working alone, conducted his investigation. During this time period I felt isolated, my secretary was reassigned and I was excluded from most Region IV staff meetings.

In May 1986 a consultant at Comanche Peak hired by the NRC came to me and complained that, among other things, Westerman had steered the consultant group away from quality assurance issues and that certain NRC inspections were deficient. I told him that he should talk to OIA.

Soon thereafter I learned I was going to be removed from my job at the site for asking the NRC consultant to provide information to OIA. I went to Mr. Mulley and although he was able to stop my transfer off-site, the intimidation and isolation increased. I was told not to talk to NRC consultants, and I was

left alone in a trailer apart from the rest of the NRC staff, and I was repeatedly called upon to defend my findings previously cited in draft inspection reports.

Between July and November 1986 I knew that Mr. Mulley was writing the report of his investigation. I also knew that he had not pursued many of the incidents of harassment and pressure to remove findings at other Region IV facilities, including Wolf Creek, Fort St. Vrain, and Waterford. It was clear to me that Mulley was under pressure to downplay the significance of the evidence that he had obtained.

The report was released in late November 1986. Within days it was distributed throughout the agency. All of the witnesses who had talked to Mulley were identified. This was an outrageous breach of confidence. The faith that Mr. Mulley had painstakingly established was shattered. It was clear to us that OIA had no independence and their findings received little respect, if any, from NRC headquarters.

In fact, the following week the Regional Administrator Martin gave a monetary award to Tom Westerman for his work at Comanche Peak. I, on the other hand, received from Barnes the first derogatory comments on my performance appraisal in my NRC career. I believe the action was in reprisal for my having gone to OIA with my concerns. I filed a grievance and subsequently the agency agreed to withdraw the comments.

This entire situation is wrong. NRC inspectors must have the freedom to identify findings about the utilities that the NRC regulates and to write the truth about what they find, regardless

of the impact that the truth will have on the licensing of a plant.

Unfortunately, my experience is that OIA has very little, if any, credibility among NRC employees, and that something must be done to give employees an avenue to bring up these types of concerns. I think an independent inspector general is necessary to monitor the NRC management system to assure the integrity of the regulatory process, including the protection of inspectors like myself.

This concludes my testimony. I am prepared to answer questions the Committee may have on my experience at Comanche Peak.



STATEMENT OF GEORGE A. MULLEY, JR.

BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

APRIL 9, 1987

My name is George A. Mulley, Jr. I am the Assistant Director for Investigations at the Nuclear Regulatory Commission's Office of Inspector and Auditor (OIA). OIA investigates to ascertain the integrity of all NRC operations and, among other things, investigates allegations of NRC employee misconduct.

I am testifying today pursuant to a letter from the Committee to Commissioner Zech requesting my appearance at this hearing. On March 20, 1987 I was deposed under oath by counsel to the Committee. My presence at the deposition was a result of a written notice from the chairman. Subsequently, I had the opportunity to review the transcript of my deposition. This testimony is a summary of sworn statements made at the deposition.

I have been asked to testify today about an investigation that I conducted last year concerning allegations of intimidation and harassment of NRC employees by their superiors in Region IV (Dallas) for reporting safety problems. The particular nuclear plant involved was Comanche Peak, which is owned by Texas Utilities Electric, has been under construction for 14 years. The Comanche Peak plant is not yet licensed to operate. I have also been asked to testify about the process by which the results of my investigation were reported to the Commission.

As background information I have been an investigator for 17 years. Prior to coming to the NRC I worked as an investigator for the military. I have worked at the Office of Inspector and Auditor since October of 1982, first as a criminal investigator and then, in April 1984, I was given the responsibility of overseeing all of the OIA investigations involving nuclear power plants. In April 1985 I made the Special Assistant to the Director, and in July 1986 I was promoted to my present position. I supervise six other investigators.

In March 1986 OIA was contacted by Commissioner James Asselstine regarding allegations that he had received from a number of personnel working in Region IV, including Senior Resident Inspector Shannon Phillips, about harassment and intimidation from certain Region IV managers for identifying safety concerns. Gary Edles, then-Acting Director of OIA, told me that Commissioner Asselstine requested that I personally be assigned to conduct the investigation. Asselstine told Mr. Edles that Shannon Phillips had indicated a confidence in me personally, although he had no confidence in OIA. The Commissioner instructed that during this investigation all interviews I conducted be transcribed. This was unusual for OIA, but I thought it was a good procedure because it would provide a complete and accurate record.

Soon thereafter I interviewed Mr. Phillips and determined that the allegations he raised were significant. As the Senior Resident Inspector for Construction at Comanche Peak, it was his job to investigate Texas Utility's compliance with federal

regulations in the construction of Comanche Peak. It was his belief that the condition of the Comanche Peak plant was indeterminate and that Region IV had not properly inspected the plant or enforced federal regulations over the plant's 14-year construction history.

Additionally, Mr. Phillips stated that he had been harassed, intimidated and pressured to remove proposed findings from draft inspection reports by downgrading them to a less serious issue or deleting them entirely from the report. Mr. Phillips provided evidence that when he and other inspectors resisted downgrading or deleting at least 30 proposed findings, the Director of the Comanche Peak Task Group, Thomas Westerman, and another manager, Eric Johnson, removed violations from the inspection reports or substantially changed the report without the inspectors' knowledge and other times without their concurrence. In one case the Region issued a final inspection report using the signature page from a draft version of the report. This made it appear that the inspection report was approved by the inspectors involved --when actually the inspectors were neither informed of the changes nor told of the issuance of the report.

I believe Mr. Phillips' allegations were exactly the types of concerns that should be thoroughly investigated by an independent investigator within the NRC without regard to the potential consequences of the investigation on the licensability of a nuclear power plant.

The evidence showed that the attitude of Region IV management was to create no further problems for Texas



Utilities. The evidence also indicated that another Region IV manager, Dorwin Hunter, had been transferred off the Comanche Peak project and later demoted as a result of his strong regulatory enforcement attitude toward Comanche Peak. In addition, I learned of other instances of harassment and intimidation of NRC inspectors at other plants regulated by Region IV, such as Fort St. Vrain and Wolf Creek.

However, after having heard Mr. Phillips' evidence and interviewing other inspectors and consultants who raised similar allegations, I became concerned that if NRC managers, both in Washington and at the Region, learned the full scope of the management problems being raised in Region IV, my investigation would be interfered with.

I did my best to see to it that no one connected with NRC headquarters or Region IV knew the extent of my probe into the allegations concerning Region IV's attitude toward regulating nuclear power plants within its jurisdiction.

Unfortunately, even my best attempts to assure an independent investigation, including putting my personal credibility on the line, were not enough to overcome the overall distrust of OIA. It was clear to me that other NRC employees and other witnesses I wanted to interview did not believe that OIA could or would protect them from retaliation. I even had to use Shannon Phillips to get individuals to talk to me because those individuals did not trust any representative of OIA.

In June 1986, soon after I asked Mr. Phillips to help convince other witnesses to talk to me, I learned that the

Administrator of Region IV was going to remove Phillips from the plant site. Mr. Robert D. Martin, Regional Administrator, stated during a conference call with me and Sharon Connelly, the Director of OIA, that he was going to remove Phillips from the site because Phillips was getting other people to cooperate with the OIA investigation, and had therefore lost his objectivity. I believed that this proposed action constituted a reprisal for Phillips initiating the OIA investigation and I got NRC headquarters to stop the transfer. However, at that point the confidentiality of the investigation was compromised.

From that point forward I was under pressure from Victor Stello, the Executive Director of Operations, to complete the investigation and then to write the report.

Given this pressure I felt that I had no choice but to limit this investigation to the specific concerns originally raised by Phillips and ignore, for the time being, the other witnesses' complaints of Region IV's regulatory mismanagement of other plants and the evidence of harassment, intimidation, and pressure on other inspectors.

The pressure came not only from the Executive Director of the NRC staff, but also from my supervisor, Sharon Connelly. In late July of 1986 I finished the field work. In September and October 1986, while I was trying to write the report, the pressure being put on me by Connelly was so great that I asked her for a meeting with Chairman Zech to determine if the pressure was actually coming from the Chairman's office, as she said it was. Chairman Zech assured me that there was no reason

to be hasty in the course of either the investigation or the writing of the report. He stated he wanted a thorough and complete investigative report. I then finished pulling together the 3,000-page investigative record into a draft report-length document which included what I knew to be negative conclusions about the management of Region IV in general, and certain individual managers in particular. I gave the draft portions of the report to Sharon Connelly in October 1986.

The conclusions that I reached were that:

(1) Region IV managers acted inappropriately to limit violations assessed at Comanche Peak; and that Phillips was harassed and intimidated by Region IV management in an effort to get him to downgrade or delete his inspection findings.

(2) The Region IV Quality Assurance Inspection Program, as implemented at Comanche Peak, could not be relied on as evidence of the safe construction of the plant.

(3) Because of the unreliability of the information entered on the automated inspection tracking forms (NRC Form 766) by Region IV inspection personnel concerning Comanche Peak, data obtained from these forms should not be used for any NRC licensing decision.

Sharon Connelly personally participated in substantially modifying the draft report. Connelly removed the conclusions I had written. Connelly focused the report on the merits of the technical issues underlying the violations the inspectors had found at Comanche Peak, which is an area outside the expertise of OIA.



I do not recall any prior occasion where Sharon Connelly took such an active role in the preparation of one of my reports. For the first time in my career as an OIA investigator, she assigned a group of OIA auditors to rewrite the report. She also removed many of the statements from Region IV managers whom I had quoted. The statements substantiated the conclusions I had reached and demonstrated the lax enforcement attitudes of Regional management. For example, when I asked Eric Johnson how the agency would go about at this late date trying to verify that Comanche Peak was built safely absent all the necessary quality assurance inspections and records, he responded, "We shouldn't worry about the past, and you just go out and kind of kick the tires and if it feels good, you go on from there."

Another example was the removal of the explanations made by Thomas Westerman about why he was being very "tight" on issuing violations at Comanche Peak, more so than at other plants. He said that proposed violations, unless "absolutely correct", would create a lot of "unnecessary paper work" and could lead to his credibility as a witness being questioned during NRC hearings.

I thought that these quotations reflected, more accurately than my words could, a misconception of their responsibilities as regulators. Connelly removed the quotations because she said they were "inflammatory", and OIA could be criticized for taking things out of context. However, I had been very careful to put both the context and the references in my draft report. I believe that by removing the conclusions and the quotations Connelly downplayed the severity of the Region IV management

problem. Her editing also prevented individual Region IV managers from being told that this type of lax enforcement attitude is not condoned by the NRC. Finally, it denied the Commissioners the opportunity to protect the integrity of the NRC's enforcement program.

The report, or what was left of it, was finally completed and sent to the Commission and Executive Director Stello on November 26, 1986.

It is my understanding that Mr. Stello then sought permission from the Commissioners to distribute the OIA report throughout the agency and, as far as I know, permission was given. This was a very unusual way of dealing with an OIA report. It was also, in my opinion, a very unsatisfactory way of treating the report because it disclosed throughout the agency the testimony of the persons who had put their faith in the OIA office and in me personally. I was not consulted when the internal distribution was made so that I could comment on the decision and inform the individual witnesses.

Within days of the release, I was contacted by witnesses who had given me testimony under oath and who were extremely distressed that their testimony had been disclosed throughout the agency. Most of these individuals felt that the distribution was done purposely to expose them to possible future retaliation.

It is my personal belief that the distribution of this report has destroyed the rapport that I had developed with these witnesses and that it will be extremely difficult, if not impossible, to get any NRC employees or others to cooperate with

other ongoing investigations of Region IV management.

I am not aware of any corrective action the NRC has taken to deal with the management problems in Region IV. On the other hand, within days of the report's release, Tom Westerman was awarded a monetary bonus for his work at Comanche Peak. I informed the EDO's office of my concerns about the inappropriateness of this action. It is my understanding that a stop-payment was placed on the check.

In conclusion, I would like to say that the problems brought to OIA by Shannon Phillips and others are extremely serious. The integrity of the regulatory process cannot be assured if the regulators become the defenders and protectors of the utility they are supposed to regulate. One former Division Director at Region IV I interviewed stated:

I did not consider that Region Four had a strong enforcement program, and I believe that a lack of a strong enforcement program has its roots in the attitudes of the senior managers.

He confirmed that the lack of negative inspection findings could be seen as the attitude of trying to help TUGCO get their license. He said,

...I personally believe that the attitude of Region Four management was not to do more work which would cause more problems for the utility.

The Commissioners needed to be informed of this attitude and its alleged specific consequences at Comanche Peak and other nuclear plants regulated by Region IV. Shannon Phillips tried to do that and is now fighting to save his career.

What happened to this investigation is an example that



points out the failure of OIA to bring serious management problems to the attention of the Commissioners. In my personal view OIA did not go far enough in this investigation to ensure the integrity of Region IV's program.

That is the end of my prepared statement. I am now prepared to answer questions from the Committee.