

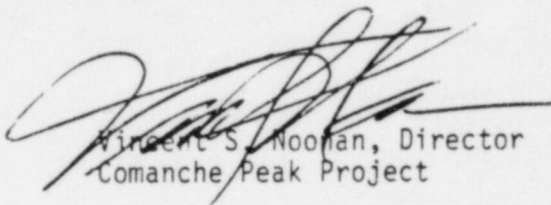
JAN 28 1985

Note to: Jim Gagliardo

Subject: Allegation of Improper Disclosure of  
Confidential Information by an OI  
Investigator - Deposition of Evert Mouser

During an ASLB deposition of Evert Mouser on January 5, 1985, Mr. Mouser alleged that an OI Investigator improperly disclosed confidential information to the Applicants. OELD has asked that this information be provided to the Intimidation Panel. This type of disclosure could potentially lead to the perception that NRC persons may not always honor requested confidentiality and thus constitute a form of intimidation. I have also been informed by the Office of Investigation that they have turned this matter over to the Office of Inspector and Auditor.

Accordingly, I am enclosing pertinent sections of the transcript (22, 936-939; 23, 090-100).

  
Vincent S. Noonan, Director  
Comanche Peak Project

cc: J. Scinto  
B. Hayes  
R. Fortuna  
S. Connely

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PDR FOIA PDR  
GARDE85-799

ABSTRACT

Supplement 13 to the Safety Evaluation Report for the Texas Utilities Electric Company application for a license to operate Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50-445, 50-446), located in Somervell County, Texas, has been prepared by the Comanche Peak Intimidation Panel of the U. S. Nuclear Regulatory Commission. This Supplement provides the results of the evaluations of approximately ~~35~~ cases of alleged intimidation and harassment of QA/QC employees at the Comanche Peak facility. Many of these have been addressed at recent Atomic Safety and Licensing Board hearings. The Comanche Peak Intimidation Panel and a study team which served as consultants to the panel have reached ~~a~~ conclusion regarding individual incidents of alleged intimidation, the climate of intimidation at the Comanche Peak site, and the management implications of the intimidation issues.

DRAFT

FOIA-85-799  
B/17

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John L. ...  
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# 1 INTRODUCTION

On July 14, 1981, the U. S. Nuclear Regulatory Commission (NRC) issued a Safety Evaluation Report (SER) (NUREG-0797) related to the application by the Texas Utilities Electric Company (TUEC) for a license to operate Comanche Peak Steam Electric Station (CPSES) Units 1 and 2. Subsequently, twelve supplemental Safety Evaluation Reports (SSERs) were issued by the staff. This report, Supplement No. 13, is an SSER dealing with various allegations of intimidation and harassment of QA/QC employees at Comanche Peak. This report addresses approximately 35 allegations of intimidation and harassment. Appendix P to this report provides details of the evaluation and findings of these allegations by the Comanche Peak Intimidation Panel. *A-8?? and findings.*

The allegations of intimidation and harassment at Comanche Peak were part of the regulatory issues that remained outstanding as construction of the Comanche Peak facility neared completion. The Atomic Safety and Licensing Board presiding over the proceedings related to the CPSES operating license application had determined in March 1984, that it must address and resolve the allegations of intimidation and harassment in order to resolve the only remaining contention (Contention 5) in the proceeding. The Board began its proceedings on the intimidation and harassment issues in the summer of 1984.

In July 1984, consultants were retained by the Project Manager of the Comanche Peak Technical Review Team (TRT) to assemble a study team and review the record of *allegations* intimidation and the work climate at the CPSES site, and to develop an expert opinion as to the existence of a climate of intimidation among QA/QC personnel.



at the site. Attachment 1 to Appendix P is the report, issued in September 1984, in which the study team concluded that a climate of intimidation did not exist at CPSES. Since the study team's effort did not include an independent assessment of individual incidents of alleged intimidation and did not include a review of all of the depositions, testimony and investigation reports relating to alleged intimidation incidents at CPSES, <sup>not NRC management involvement?</sup> NRC management decided that the report would not constitute an overall assessment of the intimidation and harassment issue for CPSES, but that this report <sup>would</sup> ~~will~~ be used as one input into the <sup>resolution</sup> ~~deter-~~mination of the intimidation and harassment issue.

The study team was subsequently <sup>directed</sup> ~~asked~~ to expand <sup>its</sup> ~~their~~ effort to include all available information related to the intimidation issue. In a parallel effort the NRC's Executive Director for Operations (EDO) issued a directive on December 24, 1984, establishing a panel <sup>the</sup> (Comanche Peak Intimidation Panel) to provide a position on the intimidation question to NRC upper management. The study team was subsequently brought into close communication with the intimidation panel and became consultants to the panel. Attachment 2 to Appendix P is a listing of the allegations of intimidation reviewed by the panel and the study team.

Attachment 3 to Appendix P provides a supplement to the initial report of the study team and includes <sup>its</sup> ~~their~~ evaluation of each alleged incident of intimidation. The Comanche Peak Intimidation Panel has reviewed the results of the consultant's evaluation and concurs with <sup>its</sup> ~~their~~ findings. The recommendations of the intimidation panel are discussed in Section 4 of Appendix P.

Management and coordination of all the outstanding regulatory actions for Comanche Peak are under the overall direction of Mr. Vincent S. Noonan, the NRC Comanche Peak Project Director. Mr. Noonan may be contacted by calling 301-492-7903 or by writing to the following address:

Mr. Vincent S. Noonan  
Division of Licensing  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Copies of this Supplement are available for public inspection at the NRC's Public Document Room at 1717 H Street, NW, Washington, D. C. 20555, and the Local Public Document Room, located at the Somervell County Public Library On The Square, P. O. Box 1417, Glen Rose, Texas, 76043. Availability of all material cited is described on the inside front cover of this report.

The Comanche Peak Intimidation Panel and the Advisors and Consultants to the Panel are listed below:

Panel Members

Axelrad, J.	-	Enforcement Staff, IE, NRC
Gagliardo, J.	-	Technical Training Center, IE, NRC
Hunter, D.	-	Reactor Projects Branch - 2, DRP, RIV, NRC
Lieberman, J.	-	Regional Operations Enforcement Division, ELD, NRC

Panel Advisors

Griffin, B.	-	OI Field Office, RIV, OI, NRC
Ipollito, T.	-	Office for Analysis and Evaluation of Operational Data, NRC
Kaplan, B.	-	EG&G
Noonan, V.	-	Comanche Peak Project, NRR, NRC
Scinto, J.	-	Hearing Division, ELD, NRC
Treby, S.	-	Hearing Division, ELD, NRC

Consultants

Andognine, G.	-	Independent Consultant
Bowers, D.	-	Rensis Likert Associates
Kaplan, B.	-	EG&G
Margulies, N.	-	Graduate School of Management, University of California at Irvine
Rice, C.	-	LRS Consultants
Stratton, W.	-	Idaho State University



APPENDIX P

*AAW*  
*Resolution 12*  
STATUS OF STAFF EVALUATION  
AND ~~RESOLUTION OF~~ ALLEGATIONS OF  
INTIMIDATION AND HARASSMENT OF  
QA/QC PERSONNEL AT  
COMANCHE PEAK STEAM ELECTRIC STATION  
UNITS 1 AND 2

## 1. Introduction

As construction of the Comanche Peak Steam Electric Station was nearing completion, issues that remained to be resolved prior to the consideration of issuance of an operating license were complex, resource intensive, and spanned more than one NRC office. To ensure the overall coordination and integration of these issues, and to ensure their resolution prior to licensing decisions, the NRC's Executive Director for Operations (EDO) issued a memorandum on March 12, 1984, directing the NRC's Office of Nuclear Reactor Regulation to manage all necessary NRC actions leading to prompt licensing decisions, and assigning the Director, NRC's Division of Licensing, the lead responsibility for coordinating and integrating the related efforts of various offices within the NRC.

The principal areas needing resolution before a licensing decision on Comanche Peak can be reached include: <sup>of</sup> (1) the completion and documentation of the staff's review of the Final Safety Analysis Report (FSAR); (2) those issues in contention before the NRC's Atomic Safety and Licensing Board (ASLB); (3) the completion of necessary NRC regional inspection actions; and (4) the completion and documentation of the staff's review of technical concerns and allegations regarding design and construction of the plant.

*3 remain or remained*  
Only one contention (Contention 5) remained unresolved in the CPSES operating license application proceeding. Contention 5 alleges:

The Applicant's failure to adhere to the quality assurance/quality control provisions required by the construction permits for Comanche Peak, Units 1 and 2, and the requirements of Appendix B of 10 CFR Part 50, and the construction practices employed, specifically in regard to concrete work; mortar blocks; steel; fracture toughness testing; expansion joints; placement of the reactor vessel for Unit 2; welding; inspection and testing; materials used; craft labor qualifications and working conditions (as they may affect QA/QC and training and organization of QA/QC personnel), have raised substantial questions as to the adequacy of the construction of the facility. As a result, the Commission cannot make the findings required by 10 CFR § 50.47(a) necessary for issuance of an operating license for Comanche Peak.

The ASLB decided in March 1984, that in order to resolve Contention 5, it must address the allegations of intimidation and harassment. Prehearing conferences were held in June 1984; depositions were taken in July and August 1984; pre-hearing testimony was filed in August 1984, and the hearings commenced on September 10, 1984. The hearings will continue after the issuance of this SSER.

In July 1984, the Director of the Comanche Peak Project, who was also the Manager of the Technical Review Team (TRT), retained the services of a group of consultants to form a study team. The study team was asked to investigate the work climate at the CPSES and develop an expert opinion as to whether or not a climate of intimidation was created by CPSES management among the QA/QC personnel. Attachment 1 is the study team's report (September 1984) which concluded that a climate of intimidation did not exist at CPSES.

Since the study team's effort did not include an independent assessment of individual incidents of alleged intimidation and it did not include a review of all of the depositions, testimony and investigation reports relating to



intimidation issues at CPSES, NRC management decided that the report would not constitute the agency's position on intimidation and harassment issues at CPSES. The report would, however, be used as one of the inputs into the agency's determination of the intimidation and harassment issues.

The study team was subsequently <sup>1</sup>asked to expand their effort. ~~The expanded effort would have the study team~~ review all of the documentation available on the known cases of alleged intimidation. The additional documentation to be reviewed included depositions taken in July and August 1984, prehearing testimony filed in August 1984, transcripts of the hearings which began on September 10, 1984, and OI investigation and inquiry reports.

Attachment 2 is a listing of the allegations of intimidation reviewed by the study team.

As the Comanche Peak TRT neared the completion of its efforts, a decision was made by NRC management to establish a panel to evaluate the TRT findings and the findings of other inspection, review, and investigation efforts at CPSES and to determine the relationship between these findings and Contention 5 issues. Management also decided to have a panel of senior managers review and evaluate all intimidation and harassment issues to establish an agency position on intimidation at the CPSES site.

On December 24, 1984, the EDO issued directives establishing a Comanche Peak Contention 5 Panel and a Comanche Peak Intimidation Panel. The intimidation panel was tasked with providing NRC upper management with a position on the

intimidation question at CPSES. The intimidation panel and the study team were subsequently brought together to discuss their respective findings. Because the efforts of the two groups were duplicative, and the findings of the two groups were identical for those cases which were reviewed by both groups, it was decided to use the study team as consultants for the intimidation panel and to use the study team's findings as the basis of this report.

Attachment 3 is the study team's supplemental report. This report supplements the original report (Attachment 1) and documents the results of the study team's review of the additional material provided to them after their initial effort.

*Advisory*

This report is the product of the Comanche Peak Intimidation Panel's efforts to satisfy its charter (Attachment 4). The intimidation panel's charter required that the panel, (1) provide NRC upper management with a position on the intimidation question at CPSES, and (2) provide input to the Comanche Peak Contention 5 Panel. The panel's findings regarding individual incidents of intimidation are discussed in Section 3. The panel's findings regarding the climate of intimidation at CPSES and the management implications of the findings are provided in Section 4. Section 4 also addresses the actions required by the applicant to improve the confidence of CPSES employees in their management and dispell the detrimental effect of past actions which were either outright intimidating or were of a management style that would provide the right chemistry for future acts of intimidation.

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The incidents of intimidation may constitute potential violations of NRC rules and regulations. These potential violations have not been addressed in this SSER, but will be reviewed by the NRC ~~Region IV~~ staff. ~~The Region IV staff~~ ~~will initiate the~~ appropriate followup actions.

↓  
for



## 2. Allegation Review Process

### 2.1 Definition

The ~~number one~~ <sup>first</sup> action item in the Intimidation Panel's charter was to define the criteria for determining if an incident involved actions that constitute intimidation or harassment. The panel ~~looked for definitions of intimidation~~ <sup>examined several</sup> and harassment which may have been used for other cases. Definitions of intimidation ~~that were~~ <sup>that include 15 cases</sup> offered by the parties to the hearing during the pre-hearing conference; ~~the Enforcement Staff of the Office of Inspection and Enforcement had developed~~ <sup>the panel examined</sup> a definition for harassment and discrimination in a previous enforcement action (EA-83-132) involving Comanche Peak;

3) The study team <sup>15</sup> ~~had also defined~~ <sup>action of</sup> intimidation in its September 1984 report (Attachment 1); ~~the panel also obtained~~ <sup>and 4)</sup> the definition of intimidation used by the Office of Investigation in their investigations. (The panel found that none of the above definitions appeared to collectively satisfy the judgment of the panel members as to what elements must exist to have an act of intimidation.)

After ~~much~~ <sup>ing the various definitions</sup> discussion and deliberation the panel agreed to the following definitions of intimidations, harassment and discrimination:

Intimidation or Harassment: Incidents, statements or other actions that are reasonably likely to influence employees to refrain from performing safety-related work in accordance with requirements or identifying or reporting quality discrepancies or safety problems. In determining whether the incident, statement or actions was reasonably likely to influence employees.

Discrimination: The showing of prejudice in the treatment of employees for performing safety-related work or reporting quality discrepancies or safety problems to their management or to the NRC. The showing of prejudice may include adverse actions such as discharge or other actions that relate to the terms, conditions, and privileges of employment.

These definitions were used by the panel in determining incidents of intimidation. *whether specific*  
The study team also used this definition in their supplemental review of the alleged incidents of intimidation. *its*

*The*  
~~It is noted that the~~ major point of departure of these definitions from those of other sources is that under the above definition, ~~for an act of intimidation to have occurred, it is not necessary for the intimidated person to actually do~~ something contrary to requirements, or ~~to~~ refrain from performing an action in accordance with requirements. The criteria call for a judgment ~~as to whether~~ *whether* ~~the action is~~ reasonably likely to influence an employee to take an action that ~~is~~ *is* contrary to a requirement. Under other definitions the "thick skinned" employee ~~may~~ *may* never be influenced to violate requirements, but the same actions ~~may~~ *could* cause another reasonable employee to violate requirements because of fear of reprisals.

*defined*  
The other definitions ~~are~~ *only* restricted acts of intimidation, ~~and those against only~~ *in terms of* QC inspectors. The intimidation panel's definition ~~expands the definition of~~ *includes* ~~intimidation to~~ actions directed toward any individual who performs quality activities. Therefore, actions which would influence a craftsman to do quality related construction activities that are contrary to requirements (procedures or specification) or to refrain from reporting known deficiencies ~~has been~~ *may be defined* intimidation. *ing*

## 2.2 Documentation Reviewed

*How many?*  
The intimidation panel and the study team reviewed *all* the documentation available for ~~the~~ alleged incidents of intimidation. The documents that were reviewed included:

- a. Transcripts of the ASLB hearings on intimidation issues,
- b. Selected transcripts of ASLB hearings on technical issues related to the alleged intimidation incidents,
- c. Depositions taken in July and August 1984 prior to the intimidation hearings,
- d. Prefiled testimony of witnesses called into the intimidation hearings,
- e. Selected transcripts of followup interviews conducted by the TRT staff,
- f. OI investigation and inquiry reports related to the alleged intimidation incidents,
- g. Department of Labor Transcripts related to the alleged discrimination against a CPSES QC inspector.

## 2.3 Review Format

In performing the review of the alleged intimidation events the intimidation panel considered a number of factors related to the event. These factors included:

- a. The position/s and duties of the person or persons subject to the alleged intimidation event;



- b. The position/s and duties of other persons involved in the alleged intimidation event such as fellow workers or observers;
- c. The position and duties of the person or persons alleged to have intimidated the subjects and the relationship (supervisor - employee, etc.) between the alleged intimidator/s and the recipient/s of the intimidating action;
- d. The date and place of the alleged intimidating event and the area of work involved (welding, coatings, etc.);
- e. The perceived or implied intent of the person or persons taking the alleged intimidating action; and
- f. The perceptions of the recipient (person/s being intimidated)  
~~the recipient (person/s being intimidated)~~ of the alleged intimidating action.

For each of the alleged intimidation events reviewed by the panel members, the above factors were ~~individually determined~~ <sup>examined</sup> as part of the evaluation of the event.

#### 2.4 Panel Review and Discussion

After the intimidation panel had been formed and the definitions and review format had been established, the panel began its efforts to determine the scope of the overall task. In the Section of the Charter (Attachment 4) entitled, "Action Items", the appropriate data base for the review was listed and included:

- a. The study team report (Attachment 1);
- b. Enforcement packages issued by IE that related to the alleged intimidation events;

- c. Depositions taken by the parties to the hearings;
- d. The proposed finding on the Comanche Peak intimidation issues that were filed by the parties to the hearings;
- e. Transcripts of the ASLB hearings related to the intimidation issues;
- f. OI reports of investigations and inquiries into alleged intimidation events; and
- g. Transcripts of the Department of Labor hearings into issues of intimidation, harassment and discrimination.

To assist in this effort the Senior Council for the NRC Staff in these proceedings provided the panel with copies of the proposed findings of fact that had been filed by each party to the proceedings and with a listing of the deposition, transcript and other references related to each of the intimidation issues before the ASLB.

The panel was also briefed by the OI investigator involved in the investigation of CPSES intimidation issues. He ~~also~~ provided each of the panel members with a copy of the investigation and inquiry reports that had been issued on the alleged intimidation events that were investigated by OI.

Since the volume of the data base was much too large to be reviewed by ~~each~~ of the panel members <sup>in its entirety within</sup> a reasonable time, the panel decided to divide the review <sup>responsibility for the</sup> among ~~each~~ the panel members. Each member was assigned a number of alleged intimidation events and was <sup>given</sup> ~~assigned~~ the responsibility to review all of the available material applicable to their assigned events using the format in Section 2.3 as guidance. Upon completion of the reviews, each panel member

was to discuss with the panel during a scheduled panel meeting<sup>of</sup> the details of each assigned event, the result of his/her review, and any issues associated with the events. The panel was then to make a collegial decision as to whether or not the event constituted an act of intimidation as defined in Section 2.1.

The panel began its review of the provided data in late December 1984 and began the collegial review of the findings in February 1985.

#### 2.5 Interaction With Study Team

As the review and evaluation of the data proceeded, the panel became aware of the parallel efforts of the study team which was now operating under its expanded charter. A decision was made to have a combined meeting of the intimidation panel and the study team to compare preliminary findings.

The intimidation panel and the study team met on February 15, 1985. At that time, the intimidation panel had completed about one-third of its reviews and the study team had essentially completed <sup>its</sup> ~~the~~ review of the material assigned to them. During the discussions between the two groups, it was found that for those events which had been reviewed by both groups, identical conclusions were drawn.

When this fact was communicated to the NRC management having responsibility for the efforts of the intimidation panel and the study team, it was decided to discontinue the duplication of effort and to have the study team function as consultants to the intimidation panel. The study team's effort was to be further



expanded to include a review of additional intimidation data (they had not reviewed all of the OI reports) and their supplemental and initial reports would be used as the basis for this SSER.

The study team was provided with the additional OI reports on intimidation that had not been reviewed by them. This material was reviewed and the results of the review were included in their supplemental report.

*times that  
I can remember*

The study team and intimidation panel met on several occasions (in person or by conference call) to discuss the findings and review the study team's reports. The product of these efforts is Attachment 4 and represents the collective position of the study team. The intimidation panel's reviews and discussions regarding the report were for the purposes of clarifying the study team's conclusions. The panel made no efforts to influence a change in any study team conclusion.

### 3. Conclusions

#### 3.1 Study Team Conclusions

*redundant to above*

The study team performed a detailed review of all of the data available for each of the alleged intimidation events listed in Attachment 2. The conclusions of the study team for each of these events is documented in Appendix B of the Study Team's Supplemental Report (Attachment 3). As noted in Section 2.5 above, the intimidation panel had several discussions with the study team regarding their findings. For those events which had also been reviewed in detail by the panel, the panel's conclusions were identical to those of the study team.

The discussions enabled the intimidation panel to have an understanding of the other events and the basis for the study team's conclusion. It is noted that although the intimidation panel did not review the "other events" in detail, the panel members had reviewed enough of the material related to these events to have a working knowledge of the events. The intimidation panel fully endorses the findings of the study team.

### 3.2 Events/Documents Not Reviewed by the Study Team

#### 3.2.1 Discussion

There were five alleged or suspected incidents of intimidation that were reviewed by the intimidation panel and not by the study team. Three of these events were reviewed by only the intimidation panel because they were forwarded to the panel late in the review process, and the preliminary review by the panel chairman resulted in his determination that the alleged or suspected events were not significant enough to require a review by the study team. These events were subsequently reviewed and discussed by the panel which concurred in this decision.

The other two events were documented in OI investigation reports. Because of the sensitive nature of the material in the OI reports, it was decided that copies of these documents would not be provided to non-NRC employees, but could be reviewed in the OI offices in Bethesda, MD. Since the study team was composed of consultants, they were not provided with copies of these documents, and since the study team members lived and worked in the western half of the country, it was not practical to bring them in to Bethesda for the review.

The intimidation panel reviewed the investigation reports. The results of that review are discussed below. The panel also reviewed an investigation report that had not been provided to the study team, but involved an intimidating event which had been reviewed by the study team using the other available data. The results of the panel's review of this report is also discussed below.

### 3.2.2 Intimidation Panel Conclusions

A description of each event and the findings of the intimidation panel are discussed below.

- a. On January 16, 1985 the Comanche Peak Project Director forwarded to the intimidation panel a portion of the transcript of the deposition of a former CPSES QC inspector (Mr. Mouser). The material was forwarded to the panel at the suggestion of the Chairman of the ASLB. During the deposition Mr. Mouser stated that he had informed Mr. Tolson (TUEC QA Manager) as to how he and his fellow workers were going to review and verify individual DCAs (Design Change Authorizations) and CMCs (Component Modification Cards). Mr. Tolson became upset and told them, "No. That's not the way I want it done." Mr. Mouser and his supervisor went back to Tolson, and Tolson agreed to allow them to do the review as they had originally proposed.

This incident ~~A~~ does not constitute an act of intimidation, because ~~there is no evidence that~~ Mr. Tolson's action <sup>was not likely to</sup> ~~might~~ have caused a reasonable individual to do something that was contrary to existing requirements, and he changed his position at the urging of his employees.



b. On January 28, 1985 the Comanche Peak Project Director forwarded to the intimidation panel a portion of the transcript of Mr. Mouser's deposition in which he alleged that an OI investigator had apparently disclosed confidential information to the applicants. There was nothing in this material that could be linked to an event of intimidation *by CPSES.*

c.

*(Darwin Inpt)*

d. OI Investigation Report 4-83-013 was the report of an investigation to determine if QC inspectors were intimidated by the termination *of* by Brown & Root *of* a former QC inspector (Charles Atchison). The investigator interviewed 76 past and current QC inspectors at CPSES. Only one of the inspectors said that he had been intimidated at CPSES, but none of them indicated having failed to report a deficiency or document a nonconforming condition. Three of them did indicate that they were more careful in their inspection and *NR* writing after Atchison's termination. The QC inspector who indicated that he had been intimidated said there had also been attempts to intimidate him directly, and he named other QC inspectors who had been intimidated. The QC inspectors he named were interviewed and denied that they had been intimidated. The results of the other interviews tended to *reflect evidence for* ~~question the credibility~~ *of* the QA inspector who said he had been intimidated.

The intimidation panel concludes that the facts presented in this investigation report do not support a finding of intimidation by the firing of Mr. Atchison.

*Atchison  
itself  
was  
intimidated*

- e. OI Investigation Report 4-84-006

*(Darwin impd)*

*William*

- f. OI Investigation Report 4-83-001 documented the OI investigation of the alleged intimidation of Mr. Bill Dunham's supervisor (Harry Williams) who had threatened to terminate QC painting inspectors who continued to "nit pick." The investigation report added nothing to the other information that was made available to the study team regarding this event. The study team and the intimidation panel have concluded that this event did constitute an act of intimidation and the above investigation report supports that conclusion.

*be  
miss  
peruse  
on the  
one*

### 3.3 TRT Finding<sup>9</sup> In The Area Where Intimidation Occurred

On March 21, 1985 the intimidation panel met with the team leaders and other selected members of the TRT to determine if technical concerns had been found in those areas in which the panel had found intimidation events to have occurred. The following is the list of identified events of intimidation as reported in Attachment 3 followed by the TRT findings for each of the areas in which the intimidation occurred:

- (1) D. Stiner - Weave Welding on Pipe Supports.

This area was examined by both Region IV and the TRT. Neither group could substantiate the <sup>technical</sup> allegations made by Ms. Stiner.

- (2) D. Stiner - Circuit Breaker Article

There is no technical area associated with this intimidating event.

- (3) W. Dunham - Intimidation of Coatings Inspectors

The TRT Coatings Group found that the inspection procedures in this area were inadequate and that the QC inspectors had missed the big picture and were not finding the pinholes in the coatings.

They did find a higher than normal percentage of faulty coatings, but could not conclude that it could be attributed to the inspectors having been intimidated.

- (4) W. Dunham - Termination

The higher than normal percentage of faulty coatings at CPSES may be linked to this intimidating event, but there is insufficient information to indicate that this was a major or contributing cause.

Can we  
get this?

- (5) S. Neumeyer - Liner Plate Traveller Incident

The QA/QC Team of the TRT did find a concern in the documentation of this area (see writings on AQ-55 and AQ-78 in SSER-11), but the Civil/Structural Group found no significant problem in liner plate welds (see AC \_\_\_ in SSER-8).



(6) C. Allen - ALARA and DCA Reviews

This issue was addressed in AQO-36 of SSER-9. The Coatings Team of the TRT found approximately eight discrepancies were significant. The generic implications of the allegation <sup>are</sup> being reviewed as part of the applicant's corrective action plan for TRT findings.

(7) C. Allen - Detergent on Coated Surface

The TRT Coatings Team reviewed this issue and determined that the detergent on the coatings was not a detriment to the coatings.

(8) C. Allen - Cigarette Filter Incident

This issue was reviewed by the TRT Coatings Team (see AQO-17 in SSER-9) and they concluded that small amounts of water and oil in the paint would have had no impact on its adherence properties. Large quantities of water and oil would have been obvious to a trained QC inspector.

(9) T-Shirt Incident

The T-Shirt incident was addressed by the QA/QC Team (see AQ-46 in SSER-11) and the Electrical Team (see Electrical Category No. 5 in SSER-7). Neither team could find any indication that the incident had a negative impact on their areas.

? Were there  
problems  
in the  
area?  
Cause of  
the  
problem

(10) S. Neumeyer - Stanford Incident

The TRT found no problem with the documentation of the welds in question in this allegation, but there was a question as to whether or not the non-destructive testing of the welds had been performed.

4. Management Implications

4.1 Climate of Intimidation

In Attachments 1 and 3, the study team concluded that there was no climate of intimidation at CPSES. Based on the definition of "Climate of Intimidation" used by the study team, the intimidation panel agrees with that conclusion.

The panel agrees that with the small number of intimidation events <sup>at</sup> a large site like CPSES, ~~it would be difficult to argue that there was pervasive, incidents of intimidation.~~ <sup>suggests that intimidation was not</sup> ~~however,~~ The intimidation panel is concerned that the management style at CPSES (to be addressed in Section 4.2) established <sup>Q</sup> a work environment in which the right chemistry exists <sup>at</sup> for intimidation (actual or perceived) to occur given the right set of circumstances. This is an area that needs immediate attention and is addressed in Section 5.

4.2 Management Style

In Attachments 1 and 3, the study team addressed the management style and interface problems as indicated by the depositional data and the survey data. The intimidation panel is also concerned about the apparent autocratic/bureaucratic style in the behavior of CPSES management.

*Idley*

During the interchanges with TRT personnel (Section 3.3) the panel was informed that the TRT personnel observed an atmosphere characterized by the employees' fear of management at CPSES.

*of the*  
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*indicate*  
*that*  
*Unit 1*  
*has*  
*been*  
*safely*  
*constructed*  
*and*  
*can*  
*be*  
*licensed*  
*the*  
*intimidation*  
*panel*  
*recommends*  
*that*  
*action*  
*must*  
*be*  
*taken*  
*to*  
*assure*  
*that*  
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*the*  
*TUEC*  
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*which*  
*is*  
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*with*  
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*the*  
*most*  
*assurance*  
*of*  
*safety*

The concerns expressed by the TRT members, and the collective finding of the study team and the intimidation panel, dictate a need for action on the parts of TUEC management. If the findings of TRT, Region IV, ASLB, NRR, and others indicate that Unit 1 has been safely constructed and can be licensed, the intimidation panel recommends that action must be taken to assure that the management style of the TUEC organization which is charged with the operation of Unit 1, and the organization charged with the continued construction of Unit 2, ~~must~~ be changed to one which will provide the most assurance of safety.

#### 5. Action Required

*NRC still*  
The ~~Comanche Peak Intimidation Panel~~ cannot provide "the solution" to the concern of management style discussed in Section 4.2. There is no one solution, such as the replacement of one or more people, or a reorganization, that will turn around the problems of the past and instill a "safety first" attitude throughout the organization with no more fear or distrust of management. This cannot be done overnight. It will require a great deal of study of the organization itself, of the strengths and weaknesses of the people in the organization, and of the attitudes of the organization and the individuals in the organization.

*TUEC management must also recognize that it will take time to heal the wounds of the past and regain the mutual trust of all employees*  
The panel is not arguing for tying management's hands. Management has every right to expect performance from its work force. <sup>Management's</sup> ~~and~~ efforts to meet reasonable performance goals are also for the public good. But the achievement of a performance goal can never justify a shortcut that will impact on safety. <sub>= by pass as requirement and have a pot</sub>



Quality requirements and specifications are established to assure the safety of the public, and in this industry they cannot be ignored. The entire organization must know this and be reminded of this often. ~~and~~ Any actions of an individual or group of individuals which communicate another message must be dealt with promptly for all to see. <sup>7</sup> The intimidation panel recommends that an independent study be initiated to identify the long-range program for developing such an atmosphere at CPSES. In the interim, management must take an objective look at the past problems and take whatever reasonable steps are necessary to change the attitudes of management and employees alike and establish, and hold fast to, a "safety first" goal. These efforts must also be directed at establishing trust between the employees and management. There can be no fear of reprisals for anyone who identifies safety concerns. This is to be the case ~~not~~ only for the QC inspectors but also for the craftsmen who, because they are human, will occasionally make a mistake. They must know that they will not face reprisals because they admit their errors and take measures to correct them.

TVEC management shall provide in writing a plan which addresses the above issues and initiates the appropriate correct action.

# FACSIMILE TRANS

Date

17 Jul 85

Charles

(16)

This is the original of the summary statement that I FAX'd to you twice

TO:

Charlie Fommell  
(Name)

NRR Phillips Bldg  
(Location)

TELEPHONE

NO:

492-8110  
(Telecopier)

492-7371  
(Verification)

Rec'd JC  
12:15  
17 Jul

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2

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FROM

J E Haghardo

Please. Expedite delivery.

TECHNICAL TRAINING CENTER  
CHATTANOOGA, TN.

FOIA-85-799

B/18

# FACSIMILE TRANSMITTAL

Date July 9, 1985

TO: Charlie Trammell  
(Name)  
NRR Phillips Bldg  
(Location)

TELEPHONE

NO:

492-8110<sup>301</sup>  
(Telecopier)

492-7371  
(Verification)

*Rec'd 8c 1:35p*

PAGES

2

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FROM

J. Laguardo

TECHNICAL TRAINING CENTER  
CHATTANOOGA, TN.



SUMMARY OF COMANCHE PEAK INTIMIDATION PANEL MEETING

ON

JUNE 28, 1985

An open meeting was held on Friday, June 28, 1985 between the Comanche Peak Intimidation Panel and representatives of the CP Intervenor Group and representatives of the Applicants for the CP site. The purpose of the meeting was to enable each of the groups to provide final arguments regarding alleged intimidation issues at Comanche Peak.

The Applicants made the opening remarks and the Intervenor Group then made their statement. The Applicants representatives were then allowed a short rebuttal statement. The Applicants began their presentation with their definition of intimidation. They referenced the original Study Team Report and argued that there was no climate of intimidation at CP based on the small number of alleged incidents of intimidation. They also offered examples regarding management's efforts to detect intimidation at the CP site. The Applicants then addressed each of the alleged incidents of intimidation and provided their arguments as to why these alleged incidents did not constitute intimidation. Finally, the Applicants addressed the numerous efforts (SAFETEAM, Hotline, Supervisor Training, etc.) which had been implemented by the Applicants to improve the perceptions that employees had of management on the site.

The Intervenors Group stated that they continue to believe that the Intimidation Panel should meet with individual allegeders. They argued that the NRC's iterative process through SSER-11 shows that something is wrong at CP, and that Docket 2 shows where this came from. The Intervenors Group addressed specific cases of alleged intimidation and gave arguments as to how these cases show that CP is different from other sites, and that CP management failed to support complaints from their employees. They noted that many complaints had to be resolved by TRT because they had not been resolved by management.

The Intervenors Group, also stated that the Intimidation Panel's methodology was flawed because there was no indication that it was looking at the entire regulatory record, and they were concerned that it may not be looking at alleged intimidation of crafts personnel. They also indicated that the root cause of the intimidation issues must be addressed.

In rebuttal the Applicants representative argued that the TRT findings do not extrapolate back to intimidation; that of all the intimidation allegeders, only the Stiners testified that they did not do their job properly; and that even if one accepts all of the alleged incidents of intimidation as true, there are still not enough of them to infer a climate of intimidation.

SEPTEMBER 1985

REPORT OF THE REVIEW AND EVALUATION  
OF ALLEGATIONS OF INTIMIDATION AND  
HARASSMENT OF EMPLOYEES AT  
COMANCHE PEAK STEAM ELECTRIC STATION  
UNITS 1 AND 2

by

COMANCHE PEAK INTIMIDATION PANEL  
(NRC COMANCHE PEAK TASK FORCE)

FOIA-85-799  
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## 2. THE COMANCHE PEAK INTIMIDATION PANEL AND ITS ADVISORS AND CONSULTANTS

### Panel Members

Axelrad, J. - Enforcement Staff, IE, NRC  
Gagliardo, J. - Technical Training Center, IE, NRC  
(Chairman)  
Hunter, D. - Reactor Projects Branch - RIV, NRC  
Lieberman, J. - Regional Operations Enforcement Division, ELD, NRC

### Panel Advisors

Chandler, L. - Hearing Division, ELD  
Griffin, B. - OI Field Office, RIV, OI, NRC  
Ippolito, T. - Office for Analysis and Evaluation of Operational Data,  
NRC  
Kaplan, B. - EG&G  
Noonan, V. - Comanche Peak Project, NRR, NRC  
Scinto, J. - Hearing Division, ELD, NRC  
Treby, S. - Hearing Division, ELD, NRC

### The EG&G Study Team and Its Consultants:

Andognini, G. - LRS Consultants (September 1984 Report Only)  
Bowers, D. - Rensis Likert Associates  
Kaplan, B. - EG&G  
Margulies, N. - Graduate School of Management, University of California  
at Irvine  
Rice, C. - LRS Consultants  
Stratton, W. - Idaho State University

As construction of the Comanche Peak Steam Electric Station was nearing completion, issues that remained to be resolved prior to the consideration of issuance of an operating license were complex, resource intensive, and spanned more than one NRC office. To ensure the overall coordination and integration of these issues, and to ensure their resolution prior to a licensing decision, the NRC's Executive Director for Operations (EDO) issued a memorandum on March 12, 1984, directing the NRC's Office of Nuclear Reactor Regulation (NRR) to manage all necessary NRC actions leading to prompt licensing decisions, and assigning the Director, NRR's Division of Licensing, the lead responsibility for coordinating and integrating the related efforts of various offices within the NRC.

The principal areas needing resolution before a licensing decision on Comanche Peak could be reached included: (1) the completion and documentation of the staff's review of the Final Safety Analysis Report (FSAR); (2) those issues in contention before the NRC's Atomic Safety and Licensing Board (ASLB); (3) the completion of necessary NRC regional inspection actions; and (4) the completion and documentation of the staff's review of technical concerns and allegations regarding design and construction of the plant.

To evaluate and resolve the technical concerns and allegations regarding design and construction of the plant, a Technical Review Team (TRT) was formed. On July 9, 1984, the TRT began a 10-week (five 2-week sessions) onsite effort, including interviews of alleged and TUEC personnel, to determine the validity of the technical concerns and allegations, to evaluate their safety significance,

and to assess their generic implications. The TRT consisted of about 50 technical specialists from NRC Headquarters and NRC Regional Offices, and NRC consultants, who were divided into groups according to technical disciplines. Each group was also assigned a group leader.

Of the contentions before the ASLB, only one (Contention 5) remained unresolved in the CPSES operating license application proceeding. Contention 5 alleges that:

The Applicant's failure to adhere to the quality assurance/quality control provisions required by the construction permits for Comanche Peak, Units 1 and 2, and the requirements of Appendix B of 10 CFR Part 50, and the construction practices employed, specifically in regard to concrete work; mortar blocks; steel; fracture toughness testing; expansion joints; placement of the reactor vessel for Unit 2; welding; inspection and testing; materials used; craft labor qualifications and working conditions (as they may affect QA/QC) and training and organization of QA/QC personnel, have raised substantial questions as to the adequacy of the construction of the facility. As a result, the Commission cannot make the findings required by 10 CFR § 50.57(a) necessary for issuance of an operating license for Comanche Peak.



The ASLB decided in March 1984, that in order to resolve Contention 5, it must consider the allegations of intimidation and harassment. Prehearing conferences were held in June 1984; depositions were taken in July and August 1984; prehearing testimony was filed in August 1984; and hearings commenced on September 10, 1984.

In July 1984, the Manager of the Technical Review Team (TRT), retained the services of a group of consultants (Study Team ) to determine whether or not a climate of intimidation was created by CPSES management among QA/QC personnel. The Study Team's report, issued in September 1984, (Attachment 1) concluded that a climate of intimidation did not exist at CPSES.

Since the Study Team did not independently assess individual incidents of alleged intimidation and did not review all OI investigation reports relating to intimidation issues at CPSES, NRC staff decided that the report would not constitute the sole basis for the staff's final position on intimidation and harassment issues at CPSES. The report would, however, contribute to the staff's final determination of intimidation and harassment issues.

The Study Team continued its review of all documentation available on the alleged cases of intimidation and expanded its effort to include an assessment of individual cases of alleged intimidation. The additional documentation reviewed is listed in the Study Team's Supplementary Report (Attachment 2).

As the Comanche Peak TRT neared completion of its efforts, the NRC staff organized the Comanche Peak Intimidation Panel (Panel), composed of NRC senior managers to review, evaluate, and establish a position on all intimidation and harassment issues at CPSES. In conducting its review the Panel was briefed by the OI investigator who was primarily involved in the investigation of CPSES intimidation issues. He also provided each of the panel members with a copy of the investigation and inquiry reports that had been issued on the alleged intimidation events that were investigated by OI.

Additionally, to assist the Panel, staff counsel provided references to relevant information from the hearing record. The Panel also met with the TRT to determine whether events which did involve intimidation reflected corresponding technical problems.

The Panel and the Study Team subsequently discussed their respective efforts and found that they were duplicative. At the time of these discussions, the Study Team had essentially completed its review of the underlying information. In addition, based on the Panel's discussions with the Study Team and the Panel's review of the information, as completed to that point, it became evident to the Panel that the Study Team was reaching conclusions that were consistent with the views being formulated by the Panel. Accordingly, rather than continuing to duplicate the reviews already completed by the Study Team, and recognizing the Study Team's substantial expertise, the Panel determined that it would use the Study Team, as its consultant to develop the underlying evaluation. The Panel thereafter continued to monitor the Study Team's activities and to meet with them to discuss their findings.

The Study Team, as part of its initial effort, first developed a definition of the word "intimidation." This definition is set forth in their September 1984 Report (Attachment 1 at p. 4). In the Panel's view, the definition was somewhat narrow in that it required a finding that an intimidated individual was actually influenced to act contrary to requirements. In the Panel's view, "intimidation" would be present if an intimidating act was reasonably likely to influence an employee to act contrary to a requirement. The Study Team subsequently agreed with and adopted the Panel's definition as reflected in its Supplementary Report (Attachment 2). The Panel believes that, as modified, the definition now reflected in the Supplementary Report on pages 9-10, is appropriate for this proceeding.

After : Both the Study Team and performed a  
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 Report did occur. These are described aterial pro-  
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~~Overall~~, the Study Team concluded that a climate of intimidation did not exist at CPSES, and based on its review of the underlying information and discussions with the Study Team, the Panel is satisfied that the Study Team's Reports fully and appropriately address and evaluate the work environment at CPSES. The Panel adopts as the staff's position the Study Team's Report.



In their reports, the Study Team also addressed the management style and interface problems as reported in the depositions reviewed and in the 1979 and 1983 surveys of employees at CPSES. The Study Team noted that a number of management practices existed which may not have been conducive to good job performance and which may have generated mistrust, suspicion and lack of management credibility.

The Panel shares the concern of the Study Team that certain management practices at CPSES could create a work environment in which the chemistry would exist for actual or perceived intimidation to occur, given the right set of circumstances. The Panel recognizes that the environment created by these management practices would not necessarily lead to intimidation or result in improper construction or quality control. Indeed, neither the Study Team nor the TRT findings suggest that poor quality work resulted from the incidents of intimidation that did apparently occur and the Panel is aware that projects have been built effectively by entities with an autocratic management style. The Panel is also aware that recent changes in management personnel have been made at Comanche Peak that could result in changes in the management practices of concern.

The Panel recommends that the licensee address itself to the questionable management practices identified by the Study Team to determine whether changes are necessary to ensure that its management style is conducive to producing a quality product. We recommend that TUEC's management

take an objective look at the incidents described in this report, as well as the current situation at the site, and take whatever steps are necessary to assure the establishment of a "quality first" attitude by its management and employees. The overall effort should be directed at establishing trust between the employees and management which will minimize any fear of reprisals for anyone who identifies safety concerns or questions safety procedures.

FOIA-85-799

B/20

⑬  
Sep 4, 1995

To: CP INTIMIDATION PANEL  
STUDY TEAM  
PANEL ADVISORS  
and All Ships at Sea

From: Jim G.

Attached is the first cut  
with my markings of the  
Intimidation Panels Report  
(Replaces SSEA-13).

This reflects the changes  
proposed by ELD. Please give  
me your comments by Sept 11.  
You can call me or FAX them  
to me at the Training Center.

