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February 19, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY and NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY	)	Docket No. 50-400 OL
	)	
(Shearon Harris Nuclear Power Plant)	)	

APPLICANTS' ANSWER TO WELLS EDDLEMAN'S "MOTION FOR RECONSIDERATION OF ORDER SERVED 1-15-85" CONCERNING EDDLEMAN CONTENTIONS 41-G AND 41-C

I. BACKGROUND

In its Memorandum and Order (Ruling on Certain Safety Contentions and Other Matters), dated January 14, 1985 (served January 15, 1985) ("Memorandum and Order"), the Atomic Safety and Licensing Board ("Board") admitted Eddleman Contention 41-G to the proceeding. As originally proposed, Eddleman 41-G alleged "a pattern of harassment, intimidation, and failure to respond positively to employees bringing forward QA/QC concerns at the Harris Plant . . . ." See Applicants' Response to Late-Filed Contentions of Wells Eddleman and Conservation Council of North Carolina Based on the Affidavit of Mr. Chan Van Vo, dated November 13, 1985 ("Applicants' Response"), Exhibit B

at 2. Eddleman 41-C contained a similarly broad allegation that "falsification of Nuclear Safety Material traceability records has occurred and there is inadequate assurance it is not continuing . . . ." Id., Exhibit B at 1. Both Eddleman 41-G and 41-C were based solely on the October 6, 1984 Affidavit of Mr. Chan Van Vo ("Van Vo Affidavit").

The Board rejected Mr. Eddleman's broad harassment contention and revised Eddleman 41-G to read as follows:

> Chan Van Vo was placed on probation and later terminated from his job with CP&L because he had sought to raise nuclear safety concerns about the Harris facility, as he alleges, and not because of poor job performance, as CP&L alleges.

Memorandum and Order at 3. In addition, the Board denied Eddleman 41-C, but ruled that the specific incident of falsification alleged in the Van Vo Affidavit is litigable under Eddleman 41-G. Id. at 6.

In its Memorandum and Order, the Board established an expedited schedule for litigating the narrow version of Contention 41-G admitted. The Board set a discovery deadline of March 1, 1985, set a deadline for summary disposition motions of March 15, 1985, and indicated that, if necessary, a hearing will be scheduled for late April or early May.1/ Id. at 5.

1/ Pursuant to the Board's Order, both Applicants and Mr. Eddleman have filed interrogatories; and Applicants have arranged to take the deposition of Mr. Van Vo within the discovery period specified by the Board. See Wells Eddleman's General Interrogatories to Applicants Carolina Power & Light et al.

(Continued next page)

The Board in its Memorandum and Order also directed Applicants to post a notice, drafted by the Board and attached to the Memorandum and Order, at the Harris site inviting workers to communicate to the Board, on a confidential basis, any information on harassment due to efforts to raise safety concerns. By the terms of the notice, information is to be submitted to the Board by March 1, 1985.

By motion of February 4, 1984, Intervenor Eddleman asks the Licensing Board to reconsider its Memorandum and Order admitting Eddleman 41-G, both with respect to the scope of the issue, and the nature of the required notice to workers. Motion for Reconsideration of Order Served 1-15-85 (41G), dated February 4, 1985 ("Motion"). Mr. Eddleman requests that the Board

(1) admit contentions 41-G and 41-C as originally submitted;

(Continued)

(12th Set), dated February 4, 1985; Wells Eddleman's Interrogatories to NRC Staff and FEMA (7th Set) 41G, dated February 4, 1985; Applicants' Interrogatories and Request for Production of Documents to Wells Eddleman (Contention 41-G), dated February 8, 1985; Letter from John H. O'Neill, Jr. to Robert Guild, dated February 8, 1985 (enclosing subpoena duces tecum signed by Judge Kelly), a copy of which was served on the Board. In addition, Applicants have made documents which were requested by Mr. Eddleman available for inspection and copying both to Mr. Eddleman and Mr. Van Vo's counsel, Mr. Robert Guild, within two weeks of the date of Mr. Eddleman's request for production of documents. See Applicants' Response to Wells Eddleman's Request for Production of Documents (Contention 41-G), dated February 19, 1985.

(2) extend the deadline for filing discovery on both contentions until April 1, 1985;

(3) rescind the requirement that evidence of harassment prior to March 1, 1985 be brought to the Board's attention by that date; and

(4) take additional measures to notify Harris workers of their right to inform the Board, NRC Staff or intervenors about alleged incidents of harrassment.

Motion at 11.

II. ARGUMENT

Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency oppose Mr. Eddleman's Motion for Reconsideration for the following reasons. First, the Motion is untimely. Second, Mr. Eddleman has established no factual basis either for expanding Eddleman 41-G, or for reconsidering the admission of Eddleman 41-C. Third, Mr. Eddleman fails to demonstrate why the scope of discovery should be expanded, or why the discovery deadline set by the Board is unreasonable. Fourth, Mr. Eddleman's argument that the Board's ruling will result in a delay of the proceeding is unpersuasive. Finally, the broader notice to workers requested by Mr. Eddleman is neither justified nor within the Board's authority to grant.

A. The Motion Is Untimely.

As discussed above, the Board in its Memorandum and Order established an expedited schedule for discovery, summary

disposition and hearing, if warranted, of Contention 41-G. The Board noted that aspects of its rulings on Contention 41-G "may raise questions in the parties' minds." The Board advised that any party "who wishes a telephone conference on that ruling should telephone the Board Chairman promptly." Memorandum and Order at 8 (emphasis added). Mr. Eddleman did not file the instant Motion until February 4, 1985, three weeks after the service of the Board's Memorandum and Order.

While there are no specific time requirements on motions for reconsideration of Board rulings (except for motions for reconsideration of a final decision, which must be filed within ten days of the date of the final decision2/), under the circumstances Mr. Eddleman's motion is at least inexcusably tardy, if not fatally untimely.3/ Mr. Eddleman's timing is certainly inconsistent with the Board's admonition to raise questions regarding the Board's Memorandum and Order "promptly" and with the Board's offer to deal with such questions in a conference

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2/ 10 C.F.R. § 2.771 (a).

3/ Mr. Eddleman asserts "Applicants and Staff were consulted by telephone when I came down with the flu and had no objection to all due dates before Feb. 4 being extended to 4 February 1985." Motion at n.1. For Applicants part, we did agree to extend the deadline for new contentions on diesel generators, and for Mr. Eddleman's response to a motion for summary disposition on Eddleman 57-C-13, from February 1 to February 4. There was no discussion of the instant Motion in agreeing to an extension of filing deadlines. Mr. Eddleman's footnote 1 implies that Applicants concurred in his schedule for filing the Motion, which is not true.

call. Mr. Eddleman did not avail himself of that offer. Since the Commission's rules do not specifically establish a deadline for such motions, we do not ask the Board to dismiss the Motion solely because it is untimely, but rather to weigh the tardiness of the Motion heavily against Mr. Eddleman in considering his arguments -- especially those regarding delay.

B. Mr. Eddleman Has Established No Factual Basis for Admitting His Original Contentions 41-G or 41-C.

The Commission's Rules of Practice, at 10 C.F.R. § 2.714, require that a petitioner set forth the basis for each contention with reasonable specificity. Applicants have summarized the law relating to basis, as it applies to proposed Eddleman 41-C and 41-G, in Applicants' Response at 5-8, 11-13, 24-28 and 32-33. It is clear from the Board's Memorandum and Order that Mr. Eddleman had not offered adequate basis for the broad contentions on falsification and harassment that he had proposed for litigation. Nor does his Motion cure that defect. Rather, his Motion utterly lacks a factual basis and does no more than simply argue that the broader contentions "[are] more appropriate to consideration [sic] here." Motion at 3. What Mr. Eddleman wistfully considers "more appropriate" for litigation does not substitute for the requirement to plead a contention with basis. Mr. Eddleman's Motion and his original pleading fail to establish the requisite basis for the sweeping allegations that he wishes to litigate.

1. Eddleman 41-G

The thrust of the argument made for expanding admitted Eddleman 41-G is that "[t]he 'pattern of harassment' issue is critical to the safety of the Harris plant and development of a sound record requires it be investigated." Motion at 3. Mr. Eddleman cites language of the Appeal Board in Callaway4/ and Byron5/ for the respective general propositions that "a 'pattern' of QA flaws . . . would undermine the safety finding required for an operating license,"6/ and that "'doubt' as to 'whether construction defects of potential safety significance have gone undetected' precludes the granting of a license." Motion at 2. Mr. Eddleman also cites language in the licensing board's partial initial decision on the QA contention in Catawba7/ suggesting that a "pattern" of retaliatory job evaluation against employees for raising safety concerns "could be the basis for license denial." Motion at 3.

4/ Union Electric Company (Callaway Plant, Unit 1), ALAB-740, 18 N.R.C. 343, 346 (1983), reconsideration denied, ALAB-750, 18 N.R.C. 1205 (1983), as modified, ALAB-750A, 18 N.R.C. 1218 (1983).

5/ Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), ALAB-770, 19 N.R.C. 1163, 1175 (1984).

6/ The Appeal Board in Callaway actually stated that "[a] demonstration of a pervasive failure to carry out the quality assurance program might well stand in the way of the requisite safety finding" (emphasis added). ALAB-740, supra, at 346.

7/ Duke Power Company (Catawba Nuclear Station, Units 1 and 2), LBP-84-24, 19 N.R.C. 1418, 1518 at n. 27 (1984).

The fatal flaw in Mr. Eddleman's argument is that it is entirely hypothetical as applied to Harris. Applicants do not dispute Mr. Eddleman's obvious point that quality assurance is important. However, Mr. Eddleman has not established any basis for expanding Eddleman 41-G into a broader QA issue involving a "pattern of harassment." As discussed in Applicants' Response at 32-33, the only specific allegation of alleged harassment or intimidation in the Van Vo Affidavit is Mr. Van Vo's own description of being counseled, placed on probation and, finally, terminated. This allegation neither establishes a pattern nor provides a causal link with the safety of the plant as built. The Board, in narrowing Mr. Eddleman's proposed Contention 41-G, recognized that the contention "grew out of the Van Vo affidavit." Memorandum and Order at 4. The Board did not find that the Van Vo Affidavit established a basis for Mr. Eddleman's broad harassment contention. See id.

Mr. Eddleman makes a gratuitous reference to a 1981 internal NRC memorandum (attached to his Motion) that was apparently obtained through a Freedom of Information Act ("FOIA") request to the NRC. Mr. Eddleman attempts to use this memorandum to support his assertion that there is or has been a "pattern of harassment" at the Harris Plant. He further states that the "same FOIA file does not appear to reveal NRC followup to prevent such intimidation from recurring." Motion at 4.

Mr. Eddleman's use of the 1981 memorandum attached to his Motion is both untimely and disingenuous. The FOIA request cited by Mr. Eddleman was made on July 19, 1983 by Mr. Doug McInnis of the Raleigh, North Carolina News & Observer. The NRC responded on September 23 and December 2, 1983, and April 3, 1984.8/ Joint Intervenors were at least aware of the documents prior to the hearings on management capability, since three documents from the April 3, 1984 response were introduced by Joint Intervenors as JI Exhibit 8. If Mr. Eddleman viewed the 1981 memorandum as basis for a contention on harassment, he had an obligation to come forward with it months ago.

More importantly, contrary to Mr. Eddleman's statement, a number of documents referenced in the FOIA response do relate to the allegations raised in the 1981 memorandum and clearly indicate that the NRC followed up on the allegations. In fact, two of the allegations are discussed in I&E inspection reports (Reports 50-400/81-13, dated August 13, 1981, and 50-400/81-14, dated August 5, 1981). Further, the FOIA responses include letters to the allegers reporting on the disposition of their allegations.9/ Mr. Eddleman's attempt to characterize this

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8/ The FOIA file was given the designation FOIA-83-413, as indicated by the stamp on the lower left-hand corner of the 1981 memorandum attached to Mr. Eddleman's Motion.

9/ Attached hereto as Exhibits A and B are two letters, dated September 25, 1981, with the addressees blanked out. From a review of the FOIA file, it is clear that the two allegers in

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1981 memorandum as an incident that was ignored by the NRC is simply not true.10/

2. Eddleman 41-C

Similarly, Mr. Eddleman fails to establish a factual basis for admitting his broad Contention 41-C, concerning falsification of documents. Mr. Eddleman argues that "[t]o limit the question to just what Van Vo saw or was directly involved with destroys the usefulness of the contention in developing a sound record." Motion at 8. According to Mr. Eddleman, the "real question is whether other documents were falsified." Id.

However, Mr. Eddleman's bald assertion that "Van Vo's affidavit provides enough basis to go into that" hardly suffices to justify admission of the contention. This is especially true in light of Mr. Eddleman's admission on the record that he is not aware of any allegations of falsification of documents other than the specific allegation contained in the Van Vo

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the 1981 memorandum were designated "2F017" and "2F017B." The September 25, 1981 letters inform the two allegers of the follow-up action taken by the NRC regarding their concerns. Various other letters, memoranda and handwritten notes in the FOIA file refer to this same matter.

10/ Furthermore, Mr. Eddleman ignores the considerable testimony in the record of this proceeding regarding actions taken by Applicants since 1981 to ensure employees have an opportunity to come forward with safety concerns with anonymity -- in particular through the Quality Check Program. See Tr. 2697-2713; 3004-06.

Affidavit. Tr. 7385 (Prehearing Telephone Conference of December 5, 1984, attached to Memorandum and Order (Transmitting Rulings on Certain Motions and Contentions), dated December 7, 1984). Indeed, the Staff's finding as a result of its investigation of Mr. Van Vo's allegation of falsification, documented in I&E Inspection Report 50-400/84-43 (December 14, 1984), at 6, was that even that specific allegation was unfounded.11/ Thus, there is certainly no basis for the Board to reconsider admitting Eddleman 41-C.

C. There Is No Justification for Expansion of Discovery.

Mr. Eddleman argues in his Motion that litigation even of the narrow issue of harassment of Mr. Van Vo requires "discovery comparable to that required for the original contention 41-G. It will have to look at the treatment of other people who raised safety concerns, and at others who did not, and at others who may have been discriminated against for raising safety concerns." Motion at 7-8. Mr. Eddleman complains that the Board, in establishing a discovery cut-off date of March 1, 1985, "has not allowed enough time to do this." Id. at 8.

The first point is that the kind of discovery indicated by Mr. Eddleman simply is not permitted under the Board's

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11/ I&E Inspection Report 50-400/84-43 was served by the Staff on the Board and the other parties by letter of January 16, 1985.

Memorandum and Order admitting the contention. The Board specified that

> [t]his contention should be understood as focusing on the reasons particular personnel actions were taken against a particular individual. The parties' attentions should focus on particular incidents alleged in the Van Vo affidavit
> . . . .

Memorandum and Order at 4 (emphasis added).

Second, the Board's assessment that discovery on Eddleman 41-G should be relatively limited was entirely reasonable. Mr. Van Vo's allegations have been the subject of investigations by the Department of Labor, by Mr. A. Parks Cobb, Jr., an independent consultant to Applicants, and by the Staff. See Applicants' Response at 3-5. Although the Staff's Office of Investigations' ("OI") report has not yet been completed, none of the other investigations has been able to substantiate any of the Van Vo allegations.12/ See Applicants' Response at 13-17; I&E Inspection Reports 50-400/84-43 (December 14, 1984) and 50-400/84-45 (January 11, 1985) (served by the Staff on the Board and the other parties by letter of January 16, 1985). Given the arguable lack of credibility of Mr. Van Vo's claims with respect to his own dismissal, the Board was justified in

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12/ A licensing board has held, in a situation similar to this one, that the decision of the Secretary of Labor concerning discharge of the employee was binding in the NRC proceeding by operation of the doctrine of collateral estoppel. Texas Utilities Generating Company (Comanchee Peak Steam Electric Station, Units 1 and 2), LBP-83-34, 18 N.R.C. 36 (1983).

requiring that those claims be directly substantiated before embarking on a time-consuming and costly "fishing expedition" of the kind suggested by Mr. Eddleman.

Neither of the federal appeals court cases which Mr. Eddleman cites interpreting the "whistleblower" protection statute of the Energy Reorganization Act of 1974, 42 U.S.C. § 5851, supports his position. Ellis Fischel State Cancer Hospital v. Marshall, 629 F.2d 563 (8th Cir. 1980), is distinguishable on its facts. Although the court in Ellis Fischel stated that retaliatory motive can be proven by circumstantial evidence, the type of circumstantial evidence considered by the court did not involve a pattern of harassment of other employees. Rather, it involved a suspicious sequence of events connected to the termination of the particular aggrieved employee. Moreover, the court concluded that "[w]e cannot find in the record any plausible explanation [for the termination] which does not include some element of retaliation." Id. at 566 (emphasis added). This conclusion was consistent with the conclusion of the Department of Labor in that case, which found that the hospital employee had been retaliated against. In contrast, the Department of Labor's finding in this case was that Mr. Van Vo was terminated from his pos tion solely because of poor work performance. See Applicants' Response, Exhibit D.

Mackowiak v. University Nuclear Systems, Inc., 735 F.2d 1159 (9th Cir. 1984), is completely irrelevant to Mr.

Eddleman's claim that discovery on Eddleman 41-G must be broadened. Mackowiak supports only the simple proposition that "CP&L must prove that the same action would have been taken against Van Vo even if he didn't engage in protected activity (i.e. raising safety concerns)." Motion at 7. However, Mackowiak does not say, or even suggest, that the employer can only meet its burden by establishing a broad pattern of nondiscriminatory employee treatment. While, Mr. Eddleman's solicitude for Applicants' ability to meet their burden of proof is appreciated, it adds nothing to his argument.

D. The Board's Approach To Litigating Eddleman 41-G Is Not Likely To Lead To Delay of the Proceeding.

Mr. Eddleman also attempts to argue that "efficiency . . . supports the admission of original 41-G since the Board would consider a broader harassment (pattern) contention if Van Vo's allegations are substantiated (Order, p.4) and since proof of Van Vo's allegations amounts to having proof of patterns of treatment of persons by CP&L . . . " Motion at 8. The second point, concerning the required scope of discovery, is without merit for the reasons discussed in Section II.C, supra.

The first point, regarding the potential for delay in "the Board's 2-step approach," also is misplaced. Motion at 5. Mr. Eddleman's argument relies on his unsupported assumption that Mr. Van Vo's claims will be substantiated. The Board, however,

has weighed the potential benefits of litigating a "pattern of harassment" contention at this stage of the proceeding, and has rightly decided that these speculative benefits are outweighted by the very real costs that would be imposed:

> Given the difficulties and large expenditures of time involved in discovery and hearing of a broad harassment contention and Eddleman 41-G's status as a late contention, it is reasonable to determine, first, whether the Van Vo allegations about his treatment can be substantiated in a relatively short time.

Memorandum and Order at 4.

Mr. Eddleman suggests that the necessity to "prove Van Vo's case by itself" will bring the proceeding several months closer to fuel load before the broader harassment contention can be considered, and that this "will be a reason to deny or limit the 'pattern' contention." Motion at 6. This argument is entirely specious. If the "pattern of harassment" issue is as crucial to the granting of Applicants' operating license as Mr. Eddleman believes, he should have no trouble getting the issue admitted as long as he can establish a basis for it. Unless and until he can provide such a basis, no "pattern of harassment" issue should be admitted.

E. The Broader Notice To Workers Requested By Mr. Eddleman Is Neither Justified Nor Within the Board's Authority To Grant.

As discussed above, the Board accepted as basis for the narrow version of Contention 41-G admitted for litigation

certain specific allegations set forth in the Van Vo Affidavit. The contention was limited to "particular personnel actions . . . taken against a particular individual." Memorandum and Order at 4. The Board speculated "that there may be other employees, present or former, at the Harris site who might have information about acts of harassment of workers because of their efforts to raise nuclear safety concerns." Id. at 5-6. The Board then took the extraordinary action of directing Applicants to post a notice (attached to its Memorandum and Order) in places where notices to employees are customarily posted at the Harris site. The notice invites employees who wish to provide information about any harassment incident related to nuclear safety to send it to the Board directly.

Applicants diligently carried out the Board's Order by posting the notice in at least 41 conspicuous locations at the Harris Plant.13/ In addition, Applicants have conducted spot

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13/ Applicants have complied with the Board's Order even though we believe that the Order may have been overly broad in requiring the posting of a notice. Because the only contention admitted for litigation on the harassment issue is Eddleman 41-G, which is limited to Mr. Van Vo's personal allegations, the Board's direction to post a notice seeking any evidence of harassment can be viewed as an exercise of its sua sponte authority. The Board did not make the sua sponte finding that a serious safety matter exists and did not forward its Order to the Commission for review. 10 C.F.R. § 2.760. See Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-81-24, 14 N.R.C. 614, 615 (1981). However, Applicants did not elect to challenge the Board's directive to post the notice and the Board's Order is not at issue here.

checks to ensure that the notices remain posted. See Affidavit of Roland M. Parsons, attached as Exhibit C hereto.

Mr. Eddleman now argues that the Board did not go far enough. He would have the Board draft a more sensational notice ("We Seek Evidence of Harassment Against People Raising Safety Concerns at Shearon Harris") accompanied by an NRC press release, direct distribution to workers at the Harris Plant site, and approval for intervenors to mail the notice to workers at their home addresses. He also asks for more time for such an expanded inquiry. Motion at 10-11. In effect, Mr. Eddleman asks the Board to go on a "fishing expedition" for him.

First, there clearly is no justification for directing the expanded inquiry that Mr. Eddleman calls for. The only employee harassment issue before the Board is that based on Mr. Van Vo's allegation. As discussed supra, the Board already had the results of the investigation of the Department of Labor into Mr. Van Vo's allegation that found his complaint to be without merit; and the Board now has a report on I&E's investigation into the underlying safety concerns that Mr. Van Vo asserts he was trying to raise which concludes that those concerns are unfounded. Thus, the reliability of the Van Vo Affidavit -- the only basis offered for Eddleman 41-G -- is subject to considerable doubt. Furthermore, other than Mr. Eddleman's unsupported speculation (including cryptic

references to lack of effect at Catawba),14/ there is no evidence that the posting of the notices in conspicuous places at the Harris Plant for a full month is not sufficient to notify workers of the opportunity to voice to the Board with anonymity any concerns regarding harassment.15/

Second, Applicants submit that directing such an expanded inquiry would be an unjustified exercise of sua sponte authority by the Board, supplanting an NRC Staff function. In a case very much on point, Cleveland Electric Illuminating Company (Perry Nuclear Power Plant, Units 1 & 2), LBP-84-3, 19 N.R.C. 282 (1984), intervenors filed newspaper accounts in which former QA inspectors alleging deficiencies asserted that the inspectors would not cooperate with them, and asked the Board to direct OI in an investigation of its own, leading to a closed hearing. The Perry board refused, commenting:

14/ Mr. Eddleman makes reference to a notice to employees which was posted at the direction of the board in the Catawba proceeding; however, two important facts distinguish Harris. First, in Catawba a general contention on harassment of QA employees had been admitted. Arguably, that board was pursuing information within the scope of the contention. Second, the board in Catawba had found that a letter from Duke Power Company to its employees had a chilling effect on their willingness to communicate with intervenors. See Catawba, supra, 19 N.R.C. at 1428-31. See also, in that docket, LBP-83-24A, 17 N.R.C. 674 (1983). Here, there is no information before the Board on harassment of workers other than the Van Vo Affidavit, nor is there any allegation, much less evidence, that Applicants have inhibited employee contacts with intervenors.

15/ See the copies of photographs of certain of the posted notices attached to the Affidavit of Roland M. Parsons, Exhibit C hereto.

> Before we would undertake our own investigation, supplanting a Staff function and eroding the separation between fact-finder and prosecutor, we need to be persuaded of the necessity of taking such action. * * * Were licensing boards to consider every allegation by a worker to be grounds for initiating an investigation, it is likely that Boards would become the investigative arm of the agency, a transmogrification that would adversely affect the ability of Boards to attend to the task of deciding important safety and environmental issues.

Id. at 285, 286. See also, Union Electric Company (Callaway Plant, Unit 1), ALAB-750, 18 N.R.C. 1205, 1216-17 (1983).

III. CONCLUSION

For all of the above reasons, Mr. Eddleman's Motion for Reconsideration should be denied in its entirety.

Respectfully submitted,

Michael A. Swiger

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Counsel for Applicants

Dated: February 19, 1985

EXHIBIT A

In Reply Refer
To: JYV2F017

September 25, 1981

Dear [redacted]

This refers to our letter to you dated June 10, 1981 which indicated that we had initiated an inquiry into your concerns regarding inadequate QC practices at Carolina Power and Light Company's Harris nuclear power plant site as documented in the enclosure to that letter.

Our inquiry regarding this matter has been partially completed and our findings to date are documented in the enclosed report. One item, "Definition of Classroom Training", outlined on page 9 of the enclosed report, is still open and will be addressed by our inspectors during their next upcoming routine inspection. As you will notice, this item has been assigned a specific number and it has been included in our computer tracking system which will ensure adequate resolution is obtained.

We appreciate your informing us of your concerns and feel that our actions have been responsive to those concerns; however, should you have further questions regarding this matter, please contact me. Please be assured that we will continue to perform inspections to ensure that QC procedures are properly followed at nuclear power plants to protect the public health and safety.

Sincerely,

James Y. Vorse
Regional Investigator

Enclosure: IE Report
No. 50-400/81-13

RII:EIS
JYVorse:cmc
9/25/81

RII:EIS
CEAlderson
9/25/81

EXHIBIT B

In Reply Refer
To: JYV2F017B

September 25, 1981

Dear

This refers to your letter to you dated June 10, 1981 which indicated that we had initiated an inquiry into your concerns regarding inadequate QC practices at Carolina Power and Light Company's Harris nuclear power plant site as documented in the enclosure to that letter.

Our inquiry regarding this matter has been completed and our findings are documented in the enclosed Statement of Concerns and Findings. This concludes the Enforcement and Investigation Staff's activities regarding this matter.

We appreciate your informing us of your concerns and feel that our actions have been responsive to those concerns; however, should you have further questions regarding this matter, please contact me. Please be assured that we will continue to perform inspections to ensure that QC procedures are properly followed at nuclear power plants to protect the public health and safety.

Sincerely,

James Y. Vorse
Regional Investigator

Enclosure: Statement of Concerns
and Findings-2F017B

RII:EIS
JYVorse:cmc
9/25/81

RII:EIS
CEAlderson
9/25/81

ENCLOSURE

STATEMENT OF CONCERNS AND FINDINGS-2F017B

1. Concern

The QA Director has order an individual to confine his activity to areas within his discipline only. For example, if during the inspection of an electrical cable tray, a welding and/or mechanical problem is found and the electrical aspects are acceptable, he is to restrict his comments to the electrical only and make no comments on the other problems. No specific examples could be provided.

Finding

As part of the review and evaluation of NCRs, DDRs and DRs the inspector interviewed the Carolina Power and Light QA/QC supervisors responsible for mechanical, welding, and receipt inspection and civil projects.

The inspector was informed during the above interviews and by other Carolina Power and Light QA/QC personnel interviewed that if QC personnel discover questionable work practices during their routine inspections, the condition is either documented by those finding the condition or it is referred to other QA/QC personnel for evaluation as appropriate.

2. Concern

The QA Director has instructed an individual not to issue NCRs for QC inspection reports found to contain discrepancies. Instead, the individual was instructed to bring the problem to the responsible party and have it corrected. The following is an example of the above: Form TP-09, Concrete Embedded Electrical Equipment Inspection form, for pour numbers 1-ACSL-305-005 (1/14/81) and 1-ACSL-305-007 (2/4/81). No other examples could be given.

Finding

During the inspection interviews and review of documentation outlined in Concern No. 1, the inspector also addressed this matter. No information was developed which would substantiate that individuals were instructed not to issue NCRs for QC inspection reports found to contain discrepancies.