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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

(Shearon Harris Nuclear Power Plant)

Docket No. 50-400 OL

APPLICANTS' TESTIMONY OF
WILLIAM J. HINDMAN, JR., MICHAEL W. KING,
D. GLENN JOYNER AND PETER B. BENSINGER
ON THE ASSESSMENT OF EMPLOYEE DRUG ACTIVITY
(CCNC CONTENTION WB-3)

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Q.1 Please state your names.

A.1 William J. Hindman, Jr., Michael W. King, D. Glenn Joyner and Peter B. Bensinger.

Q.2 Did each of you testify previously on the undercover drug investigation?

A.2 (WJH, MWK, DGJ, PBB): Yes.

(WJH, MWK, DGJ): Our professional qualifications and relevant job responsibilities are described in that testimony.

(PBB): My qualifications and experience are described in my previous testimony on drug abuse control policies and training at the Shearon Harris site.

Q.3 Nevertheless, for completeness would you each please identify your employer and your position?

A.3 (WJH): I am employed by Carolina Power & Light Company as Manager, Harris Project Administration, at the Shearon Harris Nuclear Power Plant.

(MWK): I am employed by Carolina Power & Light Company as Senior Commissioned Construction Security Agent, in the Support Services Section of the Nuclear Plant Construction Department. I am a commissioned law enforcement officer and serve as Supervisor of CP&L's Construction Security Unit.

(DGJ): I am employed by Carolina Power & Light Company as Commissioned Construction Security Agent at the Shearon Harris Nuclear Power Plant. I am also a commissioned law enforcement officer.

(PBB): I am President of Bensinger, Dupont and Associates, Inc., a professional consulting firm providing services to private industry, national and community organizations and government, on the problems of drug and alcohol abuse, including its impact on the work place.

Q.4 What is the purpose of this testimony?

A.4 (WJH): The purpose of this testimony is to respond in part to the allegations in CCNC Contention WB-3 that "drug use at the Harris Plant is widespread" and that "Applicants' management has failed to control drug use during the construction." In particular, this testimony describes the means employed for identifying drug activity among Harris site employees, and provides our assessment of the extent of that activity. Included in the latter assessment are the results of our investigation to date of the Affidavit of Patty Miriello, dated September 6, 1985.

Q.5 What are the means employed to identify drug activity among site employees?

A.5 (WJH): CP&L has employed numerous and diverse means for identifying violations of the drug abuse practices and procedures on the Harris Project. Beyond the pre-employment screening described in previous testimony, these means include security measures, urinalysis drug screen testing, and the observations of managers, supervisors and employees.

Q.6 Please elaborate on the security measures employed to identify drug activity on the Harris Project.

A.6 (MWK): Cooperation with responsible law enforcement agencies is one of the means utilized by CP&L to identify drug activity among the employees at the Harris site. Undercover operations, such as the one which was conducted in late 1984, not only serve to identify employees involved in drug activity, but also to deter others who are contemplating involvement with drugs. The undercover operation discussed above is not the first one conducted on site by law enforcement officers in cooperation with CP&L. Further, CP&L will use such investigative techniques in the future whenever the situation warrants.

(DGJ): In addition to these special efforts with law enforcement personnel, the full-time security force at the construction site provides an on-going means for identifying and discouraging drug activity at the site. The contract construction security guard service at the Harris site is provided by the Wackenhut Corporation. There are currently 849 man-hours per week authorized for this security contractor. The mobile patrols (foot and vehicle) account for 3 of the 7 posts that are staffed on a daily basis to deter and detect any violations of site rules, regulations or policies. As of August 5, 1985, Operations Security has assumed responsibility for certain portions of the site and provides security to those areas with 1,740 man-hours per week authorized for its contractor, operating 4 fixed and 5 mobile patrols. Any construction personnel who violate site drug policies and are apprehended by Operations Security are turned over to me. These hours and the post

assignments allow around-the-clock patrol of the entire job site by foot and vehicle patrols.

Through their contact with and observation of employees, the security personnel are able to provide management with intelligence information on drug activity at the plant. In addition, they pursue information received on possible drug activity in an attempt to confirm the accuracy of the information and to pursue additional sources of information.

Contract Security personnel are at the entrances to the site where they observe incoming and outgoing employees and watch for physical signs of incapacity such as staggering, falling, weaving, lack of coordination and odors. These observations of employees are also made by timekeeping and supervisory personnel assigned to monitor the entrance and exit of workers. During every shift change, lunch boxes, briefcases and other containers are opened for inspection as the employees leave the site, and on a random basis as the employees enter the site. On a random basis exiting employees are selected for search using a hand-held metal detector. It should also be noted that construction personnel are rigidly controlled from the moment they access the site and until they leave. When on the job, they must remain in the job area; and when on break or lunch, they must be in a designated area.

Beginning in February, 1985, under the direction of the Construction Security Unit, a narcotic detection dog is on the site twice per month, on an unannounced schedule, to search a

random sampling of areas on the site. If specific requests are made or information is available relative to specific areas on site, those areas are given priority for search by the narcotic detection dog. The dogs and the handlers are provided by Canine Detection Services of Durham, North Carolina. CP&L Security personnel conduct periodic controlled tests to ensure the continued reliability of the dogs and handlers. This search program is described more fully in the separate testimony by Ms. Mackonis and Mr. Mathias.

In addition to the exiting and random searches, and the use of the narcotic detection dog, identified employees may be directed to submit to a search because of information obtained on potential or confirmed drug activity. Security, Employee Relations and Industrial Relations personnel conduct the searches. Searches of employees include a detailed inspection of the individual's clothing, work area, and any tools, equipment or personal property. Any vehicles within the construction security fence are also subject to search.

Q.7 Mr. Ferguson described the drug screen urinalysis test previously in his testimony. What role does that test play in identifying employees involved with drugs?

A.7 (WJH): Urinalysis drug screen testing is used by CP&L and Daniel as one means of determining whether an employee suspected of drug activity is consuming drugs. When information becomes available which provides good cause for reasonable suspicion that an employee is involved in drug activity, the

appropriate CP&L Security Agent, the appropriate section manager and I will confer to determine if a drug screen urinalysis test should be required. In the case of site employees involved in quality confirmation roles (Quality Assurance, Quality Control, Construction Inspection), however, the drug screen test is administered to the employee even where there is no independent evidence to confirm drug involvement (for example, on the basis of an anonymous allegation alone.)

(PBB): It is important to recognize, however, that while a positive drug screen test indicates that the employee has consumed a drug or drugs, it does not necessarily indicate that the drug was consumed on site, or that the employee was impaired while at work. Detectable traces of some drugs remain in the system for long periods of time.

Q.8 What role does observation by managers, supervisors and other employees play in identifying those involved in drug activity?

A.8 (WJH): Employees at a construction site do not work in isolation. Site management and Security personnel learn about drug activity from information reported by managers, supervisors and co-workers of those involved. As described in previous testimony, supervisors have been trained to identify illegal drugs and the signs/symptoms of abuse, and to implement their responsibility to report such information. Daniel site Industrial Relations representatives conduct active surveillance for visible drug activity, and receive reports from

employees on known or suspected drug activity. Anonymous reports of drug activity have been made directly to Security personnel and site management, and others willing to identify themselves and to assist have provided information on a confidential basis. It should also be noted that the newspaper article filed by CCNC states that several construction workers interviewed by the reporter "indicated they would turn in their co-workers if they noticed them using alcohol, drugs or similar stimulates [sic]." One worker was quoted expressing the threat he perceived to his own safety which would be created by a co-worker using drugs.

CP&L and Daniel employees have been instructed on the use and availability of the Quality Check program as an avenue for reporting any alleged problem on a confidential, or even an anonymous, basis. This program has been a source of information on alleged drug activity among site employee. CP&L implemented the Quality Check program at the Harris Plant in order to provide an additional opportunity for site personnel to express concerns to management and to receive feedback on their concerns. Under this program, numbered forms are available throughout the site for completion by any employee having a safety concern he or she wishes to bring to the attention of management. Each such concern is investigated by a group of QA specialists and engineers, and the results of the investigation are then reported back to the employee. If the employee wishes to remain anonymous, he can determine the action taken on his

concern by telephoning the Quality Check program office and providing the form number of his concern. In addition, as part of the Quality Check program, each employee working in a safety area who leaves employment at the site (whether by resignation, termination or reassignment) is scheduled to be interviewed by the Quality Check group in order to identify potential safety concerns. The Quality Check group also conducts interviews of randomly selected site employees to uncover safety concerns. Any concern identified through these interviews are similarly fully investigated by the Quality Check group. The most recent NRC Construction Appraisal Team inspection found the Quality Check program to be an effective and viable method of addressing employee concerns.

Q.9 How is developing information on potential drug activity by a suspected employee coordinated?

A.9 (WJH): In my capacity as project-level coordinator of all information pertaining to illegal drug use on the Harris Project, I am to be informed of all allegations of, or other information developed with respect to, potential drug use or other drug activity among project employees. In addition, CP&L Security and the section manager responsible for the suspected individual's work are notified. If Daniel employees are involved, the Daniel Industrial Relations organization is notified by CP&L Security. Conversely, Daniel provides any information it receives or develops on known or suspected drug activity to me. CP&L Security, Daniel Industrial Relations and

I then plan, in consultation with the employee's supervisor, the appropriate actions to be taken to resolve the situation -- whether through further investigation or immediate personnel action. If sufficient information is developed to confirm, or suspect on reasonable cause, a violation of site drug abuse policies, the employee either is required to submit to the urinalysis drug screen, or is terminated or removed from the site via CP&L's contractual right to direct contractors to remove any of their employees at CP&L's discretion.

Finally, where an employee is terminated or removed in part because of drug-related reasons, the relevant quality organization has been informed so that any corrective action necessary with respect to the employee's previous work may be identified and undertaken.

Q.10 Mr. Bensinger, has your firm assessed these measures to identify employees involved in drug activity?

A.10 (PBB): Yes. Our assessment of security measures finds that the Company has taken initiatives, including canine searches, liaison with local law enforcement, and utilization of undercover investigations in full cooperation with law enforcement, to address the drug abuse and sale threat at the site. The CP&L Supervisor of the Construction Security Unit (Mr. King) and his on-site agent (Mr. Joyner) have professional backgrounds and experience in law enforcement and narcotics investigations. A review of confidential files, investigative data, search procedures and the Quality Check program reflects

professional and thorough documentation of incidents and allegations, and appropriate investigative and preventative security actions.

My professional opinion is that these measures provide a reasonably effective capability to identify violators of site drug abuse policies. More steps could be taken to secure any job site from controlled substances, but there is a legal limit to these steps based on court and arbitration decisions on these measures. CP&L's program reflects aggressiveness when compared to other utilities and substantial intervention capability compared to typical business enterprises in the United States.

Q.11 What have you learned about the extent of drug activity among Shearon Harris employees as a result of these identification methods?

A.11 (WJH): A review has been made of Security, CP&L and Daniel records to provide an assessment of the extent of drug activity among employees at the Shearon Harris site (CP&L, Daniel and/or other contractor employees) since February, 1978, and through September 15, 1985. More than 26,000 people have been employed at the site during this time period.

We have identified 201 employees as confirmed or suspected of some level of involvement in controlled substances. None of these 201 individuals are now employed at Shearon Harris. However, this total of 201 encompasses a variety of situations. Because of the nature of the project, CP&L has erred on the

side of caution in personnel actions related to potential drug involvement. The bases for personnel actions on these employees are as follows:

° Presence of drugs confirmed through urinalysis drug screening:	19
° Found to be in possession of a controlled substance on site:	53
° Arrested off site:	5
° Arrested on site:	8
° Refused to submit to a urinalysis test or a search of their person, property or vehicle:	41
° Suspicion, based on less than search or testing:	<u>75</u>
	201

Consequently, over one-half of the 201 incidents involved circumstantial information or inferences from the refusal to subject to a search or test. Only 13 employees have been identified for whom it was established that a controlled substance was being consumed on site.

Q.12 Do you have any estimate of the quantities of drugs involved in Harris site incidents to date?

A.12 (MWK): Yes. My estimate, based upon a review of our site security files, is that CP&L Security has confiscated misdemeanor amounts of approximately 282 grams of marijuana, 4.5 grams of cocaine, 50 pills (controlled) and 450 pills (non-schedule). Our estimate of drugs turned over to the WCSO in felony amounts is 16 ounces of marijuana and 3 grams of cocaine. These estimates do not include the drugs purchased during the undercover investigation.

Q.13 In an Affidavit of Patty Miriello, dated September 6, 1985 and attached to the Conservation Council's Response to Applicants' Motion for Summary Disposition of Contention WB-3, Ms. Miriello alleges that some employees of Conam Inspections, who worked at Shearon Harris, were dealing in or using cocaine. Are these employees included in the data just discussed?

A.13 (DGJ): No.

Q.14 Please explain why they are not included?

A.14 (DGJ): I have investigated the allegations of Ms. Miriello about drug involvement among a group of contractor personnel who worked at the Harris Plant. I have reviewed our records and interviewed a number of persons who worked with Ms. Miriello and a number of other persons who worked with the individuals she named as being involved in drugs. According to CP&L records, John E. Camburn, Kenneth Dugas, Michael E. Dobson, John Funanich, Mark Matheson and Melvin Matheson are employees of Conam Inspections who worked on the Harris site for various periods of time between December 1983 and April 1985. They were members of a group that conducted eddy current testing. None of these persons worked at Harris for more than a few weeks at a given time, and most were only at the site for only a few weeks in total. According to the persons I interviewed who worked with this group, they saw no drug usage, signs of aberrant behavior, excessive absenteeism or any other indications of drug usage among the Conam employees. I was not able to substantiate any of Ms. Miriello's allegations.

Although Ms. Miriello's affidavit does not so state, she was a CP&L employee from February 25, 1985 until August 30, 1985. She worked for CP&L as a Radiation Control Technician II doing work that was not related to the safety of plant construction. Between April 1984 and February 1985, Ms. Miriello was employed by Nuclear Energy Services (NES) at Harris as a data controller. She was not involved in the eddy current testing program at any time as a NES or CP&L employee. At the time Ms. Miriello transferred from NES to CP&L in February 1985, she went through the Quality Check Program and indicated on the employee exit questionnaire that she did not have any concerns or allegations about the design, fabrication, construction, testing, start-up or inspection of the Harris Plant. She did not raise any drug concerns at that time.

According to co-workers at Harris, Ms. Miriello developed a close personal relationship with one of the individuals (Mr. Camburn) who she claims engaged in drug activity. CP&L records indicate that Mr. Camburn was last on the Harris site on November 13, 1984. Consequently, I conclude that the incidents discussed by Ms. Miriello refer to alleged events prior to that time and prior to her Quality Check interview. According to co-workers, Ms. Miriello's relationship with Mr. Camburn ended when he was transferred to the Three Mile Island Nuclear Station after he left Harris. According to these co-workers, Ms. Miriello told a group of 8 to 10 co-workers that she later made an unannounced visit to see Mr. Camburn and found out that he had another girlfriend.

Ms. Miriello's employment with CP&L was terminated on August 30, 1985. It is my understanding that the termination was based on her inability to function cooperatively with her co-workers and supervisors. Ms. Miriello's affidavit is dated September 6, 1985 and the Conservation Council's Supplement to Discovery Requests, dated September 6, 1985, states that she contacted CCNC the previous weekend. Prior to her termination, Ms. Miriello sent two letters to M.A. McDuffie, CP&L Senior Vice President. In a letter dated August 12, 1985, Ms. Miriello stated:

If forced to quit or fired; I have nothing to loose [sic]. Therefore, if I must leave commercial nuclear power due to this type of discriminatory situation or feeling that as a woman I am not being allowed to participate as men do at Shearon Harris; then I will put my intelligence to use stopping a male chauvinistic enterprise. I will use my knowledge as a means of intervention.

According to another co-worker, Ms. Miriello stated at a hotel bar in early August 1985 that she would "shut some nuclear plants down" if she were fired by CP&L.

Q.15 Does the information you have compiled on site employees indicate that drug abuse at the Harris Plant is widespread?

A.15 (WJH, MWK, DGJ): No. First it must be recognized that this data does not prove that a single employee "abused" drugs at work in the sense asserted by the CCNC contention -- that is, such that their job performance was impaired. We have addressed any kind of suspected drug-related activity, without regard to actual consumption, or work impairment. While we

understand that the construction implications are the subject of the next phase of the hearing, it is important that these numbers not be misinterpreted.

In sum, we do not have information which would support CCNC's assertion that drug abuse at the Harris Plant is widespread. The results of the much discussed undercover investigation do not confirm this allegation. The quantities of drugs confiscated on site are not indicative of wholesale drug distribution operations. Even in the newspaper article filed by CCNC with its contention, workers reported that they saw little evidence of drug use on the job. Finally, we are confident that the numerous and diverse means employed to identify drug activity at the site would have provided corroboration by now if drug use at the site was in fact widespread.

(DGJ): I would like to add that I am a law enforcement officer who has worked at the Harris site on a daily basis for six years. I have extensive previous investigative experience, and have investigated alleged drug activity at the site for six years. I am encouraged by my management to identify violators of site drug abuse policies. I am the one who proposed the undercover operation. I investigate potential leads about suspected drug activity, and I am well equipped to observe and to identify indications of drug activity. If drug abuse on that site were widespread, I would know it. It is my firm professional conclusion that drug use at the site has not been widespread.

Q.16 Mr. Bensinger, what is your assessment?

A.16 (PBB): As background for my assessment of drug activity at the Shearon Harris plant, some awareness training is in order first. One of my greatest challenges as Administrator of the U.S. Drug Enforcement Administration and now as a consultant is to achieve public awareness and recognition of this society's problem with drugs. Acceptance of the existence of the threat is an important part of the cure. Turning your back to the problem is the greatest danger. As a consultant to CP&L over the years, I have the attention of the management of that company.

The national problem of drugs in the workplace is extensive. There were in 1982-1983, according to the National Institute of Drug Abuse, over 22 million users of marijuana on a once-a-month basis, over 4 million users of cocaine at least once a month, and perhaps as many as 10 million abusers of prescribed medication. The cocaine use probably has doubled today to a range of 8 to 10 million users on a once-a-month basis. Drugs are in our schools and universities, in our jails, in our armed services, and in our athletic teams at all levels. Drugs have invaded all of the workplaces in the United States -- including government and law enforcement agencies. Yet, there is no automatic Quality Assurance program to identify and to protect our safety from the threat of an intoxicated driver or other impaired Americans who may harm us because of their abuse of drugs.

The Harris construction site reflects the problems of society and has required over 26,000 employees since the project began. As is and has been the case with other construction locations in the United States, drugs and alcohol, and other contraband represent a serious threat to this location. Arrests for drug use and sale have been made at a number of nuclear power plant construction sites throughout the country. Some employees will bring controlled substances to their work assignment regardless of the best efforts of the construction site management and the owner utility company. Even if we suspended our civil rights, which I do not recommend, I cannot conceive of a security program which would guarantee the absence of controlled substances on this or any other work site.

The fact that drug activity has been identified among Harris site employees by no means discounts the success of CP&L's control efforts. It would be of far more concern if no initiatives had been undertaken and someone was trying to convince you that there has been no drug activity among these employees.

This principle is important in evaluating the data presented by the CP&L witnesses. The word "widespread" used in the contention is both a relative and a subjective term. The rate of detection of violators of site drug abuse policies is a useful indicator of drug activity, but it is difficult to assign a qualitative description of the level of activity (such as "average," "high" or "low") without comparing it to the

activity level of other work places. A so-called high rate of detection of drug activity itself can be caused by a high rate of drug activity or by a high rate of enforcement of anti-drug policies, or both. Used in isolation this indicator (arrests or dismissal for drug activity) can be misleading because it can seem to show that the sites with the most effective drug abuse prevention efforts have the highest rate of drug activity (because they have the most arrests and dismissals, for example), when these indicators may actually reflect a relatively low rate of drug activity at a particular site.

The drug activity at the Harris Plant that has been identified by CP&L, its contractors and law enforcement represents, as a percentage of the site work force, less than one-eighth of the national work forces' percentage of drug abusers. In making this comparison, I am assuming that each of the 201 identified employees was a drug abuser -- which may or may not be the case. Consequently, this is not a high rate of arrests/dismissals, and is not indicative of widespread drug abuse.

An assessment of drug activity should not be limited, however, to a consideration of the number of arrests and dismissals. Other key indicators, such as accident rates, are valuable evidence of the rate of drug activity. A high rate of arrests and dismissals with a low accident rate would strongly suggest a low relative rate of drug use and effective intervention. A high rate of arrests and dismissals, however, when

found with high accident rates would strongly suggest a higher rate of drug abuse. A low rate of arrests and dismissals with a high accident rate would reflect ineffective intervention.

Q.17 What is the industrial safety record for the Harris Project?

A.17 (WJH): The Daniel Construction Company and its subcontractor (Davis Electric Company) have a 0.80 incidence of lost workday accident cases per 200,000 workhours for the period November 1984 through July 1985. For the immediately preceding year (November 1983 through October 1984), the figure was 0.30. By comparison, the North Carolina State Department of Labor, Injury Statistics (1983-Construction) show a 4.7 incidence of lost workday accident cases per 200,000 workhours for heavy construction in North Carolina. The national average - Construction 1984 Edition "Accident Facts National Safety Council" - for heavy construction in this same category is 3.5. During 1984, CP&L employees at Harris experienced 0.79 lost workdays from accidents per 200,000 workhours, compared to 1.23 lost workdays for the Company as a whole. Additionally, the Harris project has experienced no fatal accidents.

(PBB): This is an outstanding safety record and a strong indication of a low rate of substance abuse. If drug use were widespread at the Harris Plant, we would see a higher accident rate among the site work force.

Q.18 In sum, what is your conclusion on the CCNC contention?

A.18 (WJH, MWK, DGJ, PBB): We conclude that there is not widespread drug abuse among the employees at the Shearon Harris construction site, and that CP&L has implemented appropriate measures to control drug abuse and to identify those involved in drug activity.