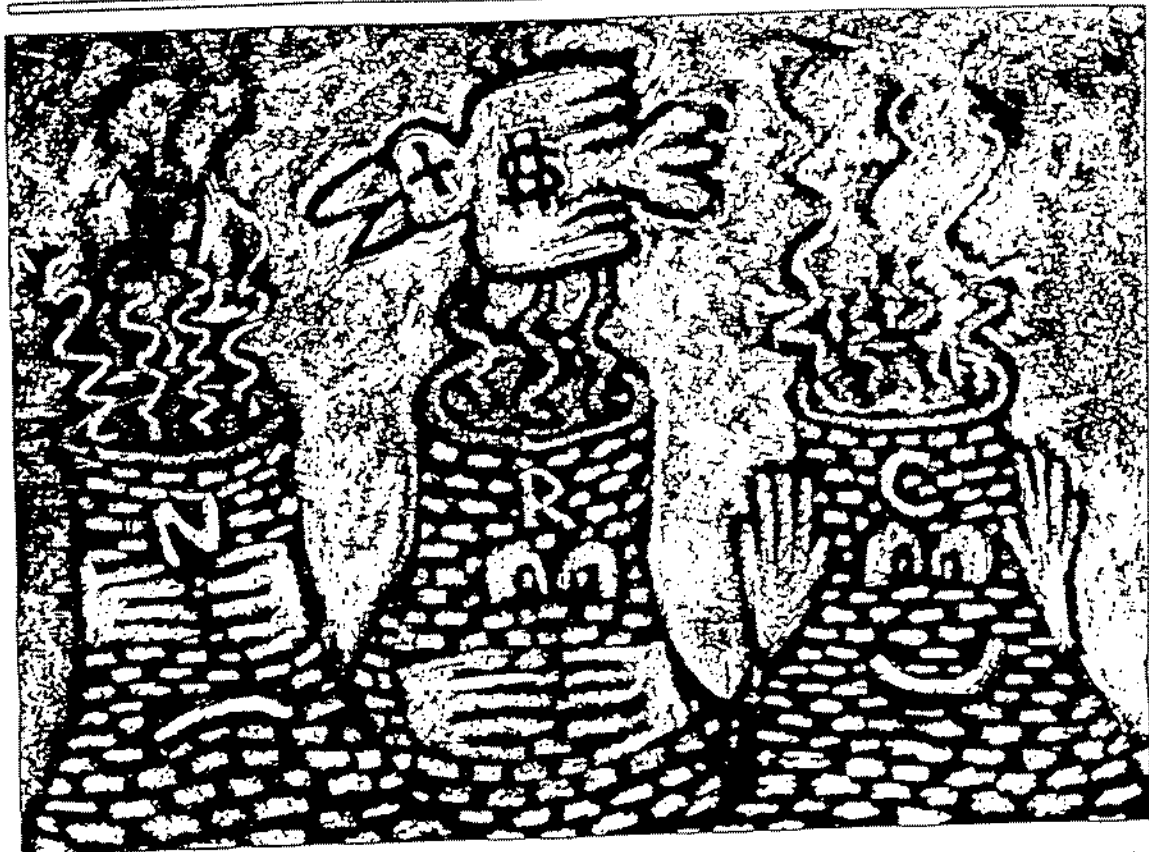




Ethics and safety suffer meltdown at Texas nuclear power plant

By Michael Paterniti

IN 1981, JOHN HALEY'S FRIEND DROVE BY A 15-million-hat full of trouble. Working as a supervisor at Comanche Peak nuclear power plant in north central Texas, she was pressured by her bosses to falsify blueprints and specs so the plant would pass inspection by the government's Nuclear Regulatory Commission (NRC). Logic ran that the answer Comanche Peak passed inspection, the answer it could go on-line, and the answer its owner, Texas Utilities (TU), could charge rate payers for escalating construction costs.

When Haley decided to tell the NRC about the falsified documents, all hell broke loose. "We had pre-qualification that the NRC would come—how that information came to us I don't know—but we would change [construction] documents to match what we had in the field," says Haley. "After going to the NRC, I was fired; there were threats against my life inside and outside the plant. They

blew up my car twice and lit my house on fire. I went into hiding for two years."

Six years later, in 1990, Haley's son, Thayne, a supervisor at Comanche Peak, raised complaints that the fire watch logs, those meant to ensure that the fire safety system is inspected daily, had been falsified. Internal TU memos obtained by *In These*

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Times corroborate that nearly 50 percent of the logs were indeed falsified. In response, the NRC levied a \$50,000 fine against TU. Still, the second-generation Haley, who was tagged in previous evaluations as a constant asset, was cited for insubordination, reprimanded, demoted and now works as a school janitor.

Besides the Haleys, other whistle-blowers have fled to Canada or Colorado, sought shelter in convents and hotel rooms, have been threatened—some nearly murdered. One, other whistle-blowers claim, has been

murdered, though the coroner doesn't agree. According to Comanche Peak workers and public-interest groups, harassment and intimidation at the facility are still as common as ribs at a Texas barbecue. Something to hide? What does Comanche Peak have to hide by shutting these people up? After 18 years of construction, the power plant in Glen Rose, Texas, is still not fully completed, strapped with more than \$10 billion in cost overruns—a third of which rate payers are forced to absorb. Indeed, trying to determine why Comanche Peak never resembles a never-ending science experiment than a nuclear power plant leads to a laundry list of improprieties compiled by government agencies, whistle-blowers, public-interest groups and the media. These include:

- charges of collusion between the NRC and TU;
- a documented cash settlements paid by TU to former employees, apparently meant to silence whistle-blowers and public-interest groups. The NRC originally condoned these

settlements, then reversed its position after a Senate subcommittee rebuked the agency in 1989.

- workers repeatedly exposed to toxins, radiation and intimidation in the workplace;
- a list of thousands of non-environmental violations cited over 18 years, as well as hundreds of thousands of dollars in fines levied by the NRC.

"TU is building a bomb that will blow up," warns Mickey Dow, one of the most vocal opponents of the plant. Dow is a legal representative who has filed a battery of pending suits against the NRC, TU and a score of individuals involved in public-interest groups in Texas, all of whom he charges have been "taught" by TU. Dow, himself, even sought asylum in Canada because of continued threats on his life.

And although some say Dow is prone to exaggeration, many agree with his assessment of Comanche Peak.

Haley certainly does. "Comanche Peak is a story about people who have control and don't have any regard for the environment, human life or the United States," she says. "If the plant had an accident, it would be worse than what we saw at Chernobyl."

And as the *National Whistleblower Center*, attorney Steve J. Klein, who represents several ex-employees at the plant, calls Comanche Peak "a scandal of immense proportion, a

murder just coming into the light."

In response, TU senior engineer Dave Fiorilli says, "We clearly agree the cost is higher than we planned, but we disagree with the safety allegations. Comanche Peak is one of the most reviewed and inspected reactors in the world. We have a commitment to protecting the environment and a great record of living up to that commitment."

Fiorilli cites a group achievement award from the Wildlife Society and an Outstanding Water Conservationist of the Year award from the Texas Water Conservation Association as evidence of that commitment.

When construction began in 1974, TU predicted the plant would be on-line to the Dallas-Fort Worth area in 1980 at a cost of \$775 million. Almost \$11 billion and 16 years later—April 3, 1990, to be exact—the nuclear power reactor became the 114th in the country to find itself in fission. Its first seven months were less than auspicious, however, as the plant shut down on four separate occasions for repair work.

And despite an onslaught of lawsuits and continued media coverage, Comanche Peak remains on-line today. A litany of concerns, as articulated by whistle-blowers and public-interest groups, have focused on:

- quality control at the plant;
- electrical wiring, specifically wiring with separation problems, which causes cables to short out or melt;
- the viability of the reactor shield;
- the fire safety system;
- pipe supports meant to hold up the thousands of feet of piping responsible for conveying both radioactive water and coolant to and from the core (an accident in this case, might lead most quickly to meltdown);
- the chronic falsification of documents to pass NRC inspections.

In response to some but not all of these charges, TU has redesigned Comanche Peak, reportedly adding more safety-related modifications than any other nuclear power plant in the country. This, in turn, has led to skyrocketing cost overruns and an alleged campaign of harassment meant to silence whistle-blowers and expedite the building process when changes appear too costly or time-consuming.

"There has been a small amount of harassment and intimidation, but we don't believe it's a pattern," says TU's Fiorilli. "Opponents have raised these concerns with the NRC, and the NRC ruled it was not a pattern."

Working for the clamped-down: Meanwhile, Dow and the whistle-blowers he represents claim TU has always done business in a bawling, totalitarian way.

In December 1981, when TU first entered into licensing hearings before the NRC to obtain an operating permit (and, in turn, pass their building costs on to local rate payers), several groups intervened on the public's behalf, voicing safety concerns about the plant. The Citizens Association for Sound Energy (CASE) was one of those groups and quickly gained a reputation for stubbornly taking on the TU brass while winning substantive safety modifications. As CASE gained clout, a number of whistle-blowers allied themselves with the group. Meanwhile, TU found itself paying dearly in time and money to accommodate the various demands.

By 1988, however, CASE, led by President Juanita Ellis, suddenly did an about-face and virtually placed itself on TU's bankroll. Ellis signed what now has become an infamous \$12 million settlement construed by her most vociferous critics as a "money-for-silence"

deal. According to the National Whistleblower Center, CASE reportedly received \$4.5 million in a lump sum from TU, then another \$500,000 in consulting fees plus an undisclosed amount in a fund controlled by TU and CASE that ostensibly bought the silence of one group of whistle-blowers. Ellis allegedly received about \$250,000 in salary while TU offered another \$500,000 to CASE for staff expenses. Also, according to the National Whistleblower Center, TU gave \$5.5 million to CASE to compensate TU employees

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who complained of everything from sexual harassment to wrongful termination.

The TU-CASE settlement contained a peculiar clause stating that TU would pay for up to \$4.5 million in legal expenses should CASE be taken to court. It also contained another clause allowing CASE officials to continue monitoring the plant. Meanwhile, Huley, a whistle-blower who received money in the settlement, claims that, of the \$5.5 million earmarked for the workers, one-third was immediately taken by public-interest lawyers working for CASE, the Government Accountability Project (GAP) and Trial Lawyers for Public Justice (TLJP).

When questioned recently about the agreement, Ellis called the figures, as stated above, "a lie." In a document filed with the NRC last December, Ellis claimed that "CASE

never received or had control of \$10 million" and said the insinuations were the "result from a misinterpretation of the computer printout" supplied to ex-CASE members Barbara and David Boltz.

But a tax return filed by CASE in 1988 and obtained by *This Times* shows Ellis collected \$190,550 in personal income, while reported income for the group totaled more than \$4 million. In 1989, CASE's reported income reached nearly \$3.4 million. Prior to 1988, CASE had an income of roughly \$20,000 a year, with Ellis deferring her salary until the group raised more money.

An appearance problem: While such settlements are not illegal, many say they are unethical. Advocates including Ralph Nader argue that public-interest groups take this kind of "bush money" too often, jeopardizing their voice in the nuclear power industry.

The National Whistleblowers Center claims that the settlements are also a function of greed, that because lawyers working with these public-interest groups stand to make a lot of money, they may encourage such arrangements. Meanwhile, according to attorney Kohn, at Comanche Peak the NRC sanctioned "bush money" by allowing settlement deals.

What several members sitting on the 1989 Senate Subcommittee on Nuclear Regulation, most notably Alan Simpson (R-WY) and John Breaux (D-LA), found disturbing in the case of Comanche Peak was the impression left by TU's various settlement agreements and the NRC's acceptance of those agreements. It appeared, whether or not it was always true, that money could buy a whistle-blower's or public-interest group's silence, and, as it did, the government would sit by and let it happen.

Add to that a House subcommittee news release from 1986 that charged the NRC's Region IV with pressuring their own inspectors "to downgrade negative findings about Comanche Peak," and sometimes file inaccurate inspection reports. This has led to allegations of collusion between TU and the NRC.

Despite the negative response to the settlement agreement, some inside the NRC stand firm. "Agreements of this nature do not jeopardize the safety of reactors in our country," says NRC attorney Chuck Mullins, "nor do they jeopardize the people living near them. The interest groups can still come

in and see the plants whenever they want, more or less."

Says Peter Bauch, the NRC judge who sat on the Comanche Peak licensing board: "It felt like the TU-CASE agreement screwed everybody. TU publicly admitted it screwed up, and CASE was allowed into the plant. In the meantime, no one was prohibited in any way from coming to the board with a problem."

Dan Berkowitz, the assistant counsel to the Senate subcommittee, agrees that there is an "appearance problem" with such settlements but points out that, in this particular case, TU never asked the whistle-blowers to remain silent as the company did with Joseph Maktal, a Comanche Peak whistle-blower who signed a settlement agreement in 1987 and was subsequently prohibited from talking about the safety allegations he'd made.

"We were convinced that the TU-CASE agreement did not undermine the safety of Comanche Peak," Berkowitz says. "However, this practice in general has the potential to jeopardize safety. Money shouldn't be an incentive to testify or not testify."

Incentive, nonetheless: But whistle-blower Ron Jones, who received money from the TU-CASE settlement, claims the agreement was understood by the workers to be a "buy-off deal" among the workers and that no one was free to speak. Jones, who once worked as an electrical inspector at the plant, claims that one day in 1982 he was locked in a room on-site and intimidated because he had cited 140 non-conforming wiring problems. He was eventually fired and his phone, he claims, has since been tapped.

Whistle-blower Maktal claims his life has been threatened repeatedly and, according to his attorney, was run down by a car in Colorado before he testified to the Senate subcommittee in 1989.

On March 8, 60 Minutes covered one of the latest chapters in the harassment story: that of ex-Comanche Peak worker Linda Porter and more than 2,000 others who had been exposed to asbestos contained in paint once used at the facility. Porter is now plagued with throat tumors, chronic nerve damage and daily diarrhea. She says some of the paint was eventually auctioned off to the public and claims the remainder was illegally dumped. Porter, who worked as a paint-coating supervisor during the '80s, says some workers, including herself, were punished for insubordination by being exposed to fumes or radiation for inappropriate periods of time.

"There are thousands of workers who have been abused or intimidated at Comanche Peak," says Dow. "They are terrified of retaliation. The Mexicans especially. It's run like a concentration camp."

"I don't think TU will ever come to grips with problems of intimidation and harassment at the plant," says CASE's Ellis.

And however Kafkaesque things have been at Comanche Peak, a concerted movement is now about to seek an accounting for two decades' worth of concerns. Dow has recently petitioned the NRC to reopen hearings on the operating permit granted to Reactor 1 shortly after the TU-CASE settlement. In the meantime, he plans to be in court throughout the spring, in five states, challenging everyone from the NRC to TU to CASE on issues from workers' rights to questions of fraud and safety abuses at Comanche Peak.

Four million people in north central Texas await the outcome.

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