



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

99-283

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RESPONSE TYPE FINAL PARTIAL

REQUESTER

Maura Casey

DATE

MAY 23 2000

PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES **A** Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

- AMOUNT * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ You will receive a refund for the amount listed. Fees waived.
- * See comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

In a telephone conversation with Natalie Brown on January 12, 2000, you narrowed the scope of your request to copies of interview transcripts of E. DeBarba regarding the Millstone nuclear power plant. The transcripts are enclosed.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

99-283

MAY 2 2000

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
A

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
 - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Guy P. Caputo	Director, Office of Investigations	Appendix A	<input checked="" type="checkbox"/>		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/06/96	Transcript of Interview of Eric A. DeBarba (Exhibit 45 to OI Case 1-96-002.) (38 pages) Portions withheld, EX. 7C
2.	07/18/96	Transcript of Interview of Eric DeBarba (Exhibit 28 to OI Case 1-96-002). (77 pages) Portions withheld, EX. 7C

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS
INTERVIEW

IN THE MATTER OF:

The Interview of

ERIC A. DeBARBA

Wednesday,
March 6, 1996

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 99-283

Room 2
Training Building
Millstone Station
Rope Ferry Road
Waterford, CT

The above-entitled interview was conducted at
1:40 p.m.

BEFORE:

KEITH LOGAN, Investigator
United States Regulatory Commission
Office of Investigations
475 Allendale Road
King of Prussia, PA 19406

On Behalf of Interviewee:

JAY M. GUTIERREZ, Esquire
of: Morgan, Lewis & Bockius
1800 M Street, N.W.
Washington, D.C. 20036-5869
(202) 467-7466

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INVESTIGATOR LOGAN: Raise your right hand please.

Whereupon,

ERIC A. DeBARBA

was called as a witness and having been first duly sworn, was examined and testified as follows:

INVESTIGATOR LOGAN: Mr. DeBarba, thank you for coming. We last spoke on October 19, 1995. However, for the record, would you please state your full name and spell your last name?

MR. DeBARBA: Yes. It's Eric A. DeBarba, D-E-N-A-R-B-A.

INVESTIGATOR LOGAN: And as with last time you are appearing here today with counsel, is that correct?

MR. DeBARBA: Yes, that's correct.

INVESTIGATOR LOGAN: Mr. Gutierrez?

MR. GUTIERREZ: Yes, for the record my name is Jay M. Gutierrez. I am a partner at Morgan, Lewis & Bockius, and I am here in the same capacity and under the same conditions as set forth in the October 19th transcript.

INVESTIGATOR LOGAN: And, Mr. DeBarba, it is still your desire, I understand, to have multiple representations of Mr. Gutierrez to have him here today as counsel, is that correct?

MR. DeBARBA: Yes, it is.

INVESTIGATOR LOGAN: Okay. And for the record my name is Keith Logan and I'm a special agent with the U.S. Regulatory Commission, Office of Investigations, King of Prussia, Pennsylvania.

Mr. DeBarba, I'd like to talk to you about a few issues today. They all relate to which was the subject of my last interview and his allegation that he has been discriminated as a result of his involvement in protected activities while at Northeast Utilities.

EX 7C

I'd like to say that because of the nature of some of the questions I'm going to ask and the different points that I refer back to during the course of this interview it may seem somewhat disjointed in time, and your involvement with

EX 7C

I'd like to go over a few points, and the first one I'd like to talk to you about is a memo which I guess has been referred to as the chilling effect memo. It's a memo that was sent from Mat Kapinsky to Mario Banaca with cc to John Gersey and yourself. It is captioned "Lessons learned MP1C29 safety concern." And I'd like to discuss it with you briefly.

Portions withheld - Ex 7C

1 I'm going to give you an opportunity to look
2 at the memo and you can tell me if you recognize it.
3 (Whereupon, the witness examines the
4 document.)

5 MR. DeBARBA: Yes, I recognize this memo.
6 This is a draft. As I understand it, it was never issued
7 in its final form, but it was listed as a draft memo.

8 INVESTIGATOR LOGAN: Certainly while it was
9 listed as a draft it has had wide circulation?

10 MR. DeBARBA: Oh, yes.

11 INVESTIGATOR LOGAN: And do you recall
12 receiving a copy of it?

13 MR. DeBARBA: Yes.

14 INVESTIGATOR LOGAN: And did you meet with
15 anyone to discuss the contents of this memo?

16 MR. DeBARBA: I don't recall whether I met
17 with anybody to talk about the contents of this memo
18 specifically, but following the 1CU29 discussion on
19 operability it ultimately led to declaring the valve not
20 operable and isolating the clean-up system.

21 I did request that we have a round table
22 discussion to talk about lessons learned. And a lot of
23 the points that we discussed, and I led the discussion,
24 with all the parties involved in the decision process to
25 come to the operability/inoperability decision had to do
26 with items that were in here. My comments to people was
27 that we needed to do a much better job in terms of what I
28 phrased "senders and receivers" and that we had to have
29 200 percent accountability at the interface with senders
30 and receivers.

31 And my expectation was that we needed to do a
32 really good job in listening, and we had to a real good
33 job on sending messages to make sure that we had
34 connection all the way across. And my expectation is that
35 people improve in that area that are communications --
36 this was an example our communications were not as good as
37 they needed to be.

38 I did point out that we had made quite a bit
39 of progress on the last time there was discussion on this
40 particular valve. For instance that in looking at this
41 particular issue that I complemented the people on
42 retaining a technical expert to provide insight on the
43 valve that ultimately led to the decision of it to be non
44 operable. And that while it took, I forget what the time
45 period is, days or a couple of weeks, whatnot, to reach
46 that decision, it clearly is better than the length of
47 time it had taken previously to reach a conclusion and it
48 turned out not to be the most conservative conclusion you
49 could reach.

50 So I thought that they had done a better job,

1 but there were still examples where people were not
 2 listening effectively to the discussion that was going on.
 3 INVESTIGATOR LOGAN: Part of the reason I
 4 bring up this issue, aside from CU29 which has, I guess,
 5 taken on a life of its own currently beyond the actual use
 6 as a check valve in the system. There are some comments
 7 that are included, if you look on page two, top paragraph,
 8 it says "This is a cultural issue which continues to be
 9 exhibited by the organization. It is noted the
 10 organization tended to come up with excuses and delayed
 11 the problem recognition and acceptance until May 17th 1995
 12 and so forth and so on."

13 The memo while it's addressing CU29 has been
 14 offered to me as a commentary not just on CU29, but on
 15 problems that are faced by individuals who raised
 16 concerns, particularly those who raised them through the
 17 REF process. The memo goes on to talk about the year end
 18 reward system, talks about continuing in this third
 19 paragraph now, continuing to treat a person or a group
 20 that brings forth a concern in a negatively reinforced
 21 fashion as exhibited in the early stages of this issue,
 22 being CU29. And even down to the second to the last
 23 paragraph it says "A chilling environment existed.
 24 Personnel," and there's a cross-out there, the cross is,
 25 and I quote "Is reluctant and afraid," and handwritten is
 26 written in there "Personnel were apparently reluctant and
 27 afraid to opening deviate from management views." That's
 28 the end of the quote.

29 [redacted] offers this as a commentary on EX 7C
 30 his plight of having raised concerns with Northeast
 31 Utilities since [redacted], and it's the chilling environment EX 7C
 32 that exists at Northeast Utilities which is part of the
 33 problem that he has encountered with his reassignments and
 34 his change in responsibilities at work.

35 Now, is it your understanding about this memo
 36 that it was designed to talk about a chilling environment
 37 which exists at NU generally?

38 MR. DeBARBA: No, no.

39 INVESTIGATOR LOGAN: What is your
 40 understanding on that?

41 MR. DeBARBA: I think that this letter is an
 42 example of the organization wanting to probe itself and
 43 learn lessons from an experience that provided some really
 44 good lessons. And that's why I asked for some lessons
 45 learned. Apparently in this case, I can't remember the
 46 genesis, whether it was Matt doing this or Mario doing
 47 this, that it's indicative of an organization that's
 48 taking a real hard look at itself, and we want to get
 49 things out in the open and make sure that we take a full
 50 look at exactly what happened here.

Portions withheld
 EX 7C

1 I think what this is, is a matter of saying
 2 that here are some things that we've got to focus on as we
 3 move forward. We've got clear opportunities to improve in
 4 these particular areas. And that I don't think there is
 5 any indication here that, you know, this is a negative or
 6 some sort of clandestine type of thing. I think this is
 7 out in the open and it's saying that here are some things
 8 that we have to be aware of, here is how some people might
 9 have felt in this particular case and, you know, what we
 10 need to focus on in the future, whether it's team work or
 11 it's communications or it's a reward system, you know,
 12 that type of thing.

13 And again I think that these reflect
 14 somebody's perspective on it having gone, you know,
 15 through things. You know, for instance the reward system,
 16 our reward system does balance plant operation versus
 17 nuclear safety. 50 percent of our reward system is
 18 operational excellence objectives which are safety
 19 related. 50 percent is going for costs and how well the
 20 plant is run. So there is a balance between safety and
 21 operation.

22 INVESTIGATOR LOGAN: But if we look at your
 23 reward system several people have, I guess at different
 24 points in time, talked to you about the issues raised
 25 particularly [redacted] with regard to CU29 by [redacted] EX 7C
 26 and I believe also [redacted] name has been
 27 mentioned as individuals who have gone ahead and pressed
 28 on issues. Recommendations have been made to reward them,
 29 but I guess it's called a spot increase or something, a
 30 spot award, or recognition?

31 MR. DeBARBA: Right, we have spot recognition
 32 awards.

33 INVESTIGATOR LOGAN: And yet even though
 34 several people have raised that as an issue, nothing has
 35 been done. So isn't that negative reinforcement, a
 36 negative reward system by ignoring comments like that and
 37 not saying [redacted] you know, you did right by EX 7C
 38 bringing this forward?

39 MR. DeBARBA: No, I think we do reward people
 40 for bringing things forward, and we have done that. I
 41 think there are folks in our organization who have
 42 received either positive letters or spot recognitions,
 43 those types of things. I can't recall any specific
 44 instances if these individuals ever received any or not, I
 45 just don't recall. But it's possible. I know as an
 46 organization we have done that. We reward people for
 47 actions that we believe merit that kind of reward.
 48 Typically, I mean the denominations themselves are not all
 49 that significant, but it is meaningful to people that they
 50 be singled out and given some recognition for what they

Portions withheld
 Ex 7C

1 do.

2 And we have used those cases where people have
3 stood up and raised issues on our behalf. And we also use
4 them for people who go beyond what we consider the call of
5 duty in solving problems and getting things squared away.

6 INVESTIGATOR LOGAN: It's my understanding
7 that Mr. Chatfield has endorsed Mr. Partlow's
8 recommendation that [redacted] and [redacted] *EX 7C*
9 [redacted] be recognized and looked to you for endorsement
10 on that and nothing was done.

11 MR. DeBARBA: I'm not sure about looking to me
12 for endorsement. I don't recall that.

13 INVESTIGATOR LOGAN: I think he said that his
14 group didn't have the budget to support that spot
15 recognition, and I think you took it under advisement?

16 MR. DeBARBA: I don't recall.

17 MR. GUTIERREZ: Keith, just for the record are
18 you clear that Chatfield and Partlow extended the
19 recommendation relative to [redacted] *EX 7C*

20 INVESTIGATOR LOGAN: Yes, I believe he did.

21 MR. GUTIERREZ: And that went to Mr. DeBarba?

22 INVESTIGATOR LOGAN: Yes.

23 MR. DeBARBA: I don't recall ever having a
24 conversation with Mr. Partlow about that.

25 INVESTIGATOR LOGAN: I believe Mr. Partlow put
26 it in writing. And I don't have the paper with me today
27 or I'd be happy to share it with you.

28 MR. DeBARBA: I just don't recall ever having
29 that as an action. If I had it as an action I would have
30 kept it on a punchlist and made a decision about it to do
31 it.

32 INVESTIGATOR LOGAN: Okay. Now, when you say
33 as an action, you mean if Larry Chatfield talked to you
34 about it, that would be an action, or would something else
35 have had to have been done to make it an action?

36 MR. DeBARBA: Well, I think something else.
37 In that case that report might have gone to Mr. Opeka for
38 instance, who would identify a list of actions associated
39 with that report. You know, typically if a report has a
40 series of recommendations in it somebody ends up taking
41 responsibility for each of those recommendations. I don't
42 remember the details of that report, but --

43 INVESTIGATOR LOGAN: Well, I don't think it
44 was a report, it was a memo.

45 MR. DeBARBA: Okay.

46 INVESTIGATOR LOGAN: And I think with regard
47 to Larry Chatfield, it was a conversation.

48 MR. DeBARBA: I see.

49 INVESTIGATOR LOGAN: I don't recall him
50 mentioning that he put something in writing at this point.

Portions withheld

1 MR. DeBARBA: All right.

2 INVESTIGATOR LOGAN: But you're not aware of
3 anything that was done, and I think your statement to me
4 was you don't recall having had that conversation with Mr.
5 Chatfield, is that correct?

6 MR. DeBARBA: I've had a lot of conversations
7 with Mr. Chatfield. Whether he said that or not I just
8 don't remember.

9 INVESTIGATOR LOGAN: Okay. So you don't
10 recall having that conversation?

11 MR. DeBARBA: Right.

12 INVESTIGATOR LOGAN: Okay.

13 Why don't we go off the record for a minute.

14 (Whereupon, at 2:12 p.m., off the record until
15 2:14 p.m.)

16 INVESTIGATOR LOGAN: Okay, we're back on the
17 record.

18 In your discussions, let's talk about this
19 memo just a little bit more, in your discussions with
20 Mario Banaca, and you haven't indicated you have, but I'm
21 willing to bet you did, right? It was addressed to Mario
22 Banaca with a cc to you. Do you recall talking to Mario
23 about it?

24 MR. DeBARBA: Not specifically. Mario may
25 have been in the meeting that I gathered in I think it was
26 late May.

27 INVESTIGATOR LOGAN: It was --

28 MR. DeBARBA: The meeting was held on May 25th
29 it said --

30 INVESTIGATOR LOGAN: Well, let's talk about
31 the meeting. Do you recall the comments being made at the
32 meeting that the chilling environment that's referred to
33 here is not one that's limited to CU29, but extends to
34 other areas within NU?

35 MR. DeBARBA: I don't remember that
36 specifically. The discussion --

37 INVESTIGATOR LOGAN: Anything similar?

38 MR. DeBARBA: -- the discussion was really
39 more surrounding the interactions, inner relationships
40 between the people who were involved here and the Berlin
41 based organization with Millstone One based engineering
42 organization. It was really those two groups that were
43 the focus of the discussion.

44 INVESTIGATOR LOGAN: Do you recall a
45 discussion as to why the right decision wasn't made in the
46 '92, '93 time frame when the issue was first raised?

47 MR. DeBARBA: There was, I recall, some
48 discussion. I'm not familiar with the specifics of it,
49 but there was some discussion about the fact that as an
50 organization they had retained a legal firm to help

1 understand the fine points of the regulation.
 2 INVESTIGATOR LOGAN: -- valve --
 3 MR. DeBARBA: Yes.
 4 INVESTIGATOR LOGAN: Go ahead?
 5 MR. DeBARBA: And that that appeared to be in
 6 contrast to what was done this time where they hired a
 7 technical expert to gain some insight into the valve
 8 itself, which was viewed as much more positive. In other
 9 words instead of looking at a regulatory legalistic
 10 approach to some operability judgement. We were now using
 11 and relying upon and trying to understand how the valve
 12 physically was working and whether it was working or not
 13 working.

14 And, if I recall, there were some differing
 15 professional opinions as it related to this valve expert's
 16 wear calculations and how realistic those were versus the
 17 actual plant data which said as measured leakage was such
 18 and such.

19 And there were two differing opinions that
 20 were being wrestled out here in the absence of very
 21 concrete exacting information and that one seemed to be
 22 more, you know, in terms of the regulation, while the
 23 latest thing you had was some data which said that you
 24 passed a certain test, it was satisfactory and you passed
 25 it and therefore you met that regulation.

26 Then the next question was well, but what if
 27 you extrapolate and, if you extrapolate, maybe you have a
 28 problem. And there were questions about well how does
 29 that extrapolation occur and what does that say about this
 30 data, do they correspond, could you have this leakage if
 31 you had that kind of wear. So there were some differing
 32 opinions. I don't know all the details of it, but I do
 33 remember that there were some fairly strong opinions on
 34 both sides.

35 INVESTIGATOR LOGAN: Okay.

36 MR. DeBARBA: I do recall in the meeting that
 37 people had commented that it was a good exercise to go
 38 through and learn lessons from having gone through that
 39 exercise. And I think the very last sentence in this
 40 particular memo I think summarized that fairly well where
 41 it says "It is hoped that this is not construed in a
 42 negative manner, but as a genuinely intended effort to
 43 provide an honest assessment that we can learn from and
 44 which will make our organization better." I think it was
 45 in that spirit that we were doing this.

46 INVESTIGATOR LOGAN: Okay. Calling your
 47 attention again I guess to our last interview, and the
 48 reason I asked you to focus on it is for the timing of it.
 49 We had talked on October 19th of '95 about
 50 and his interactions with you and and others.

Ex 7c
 Ex 7c
 Portions withheld
 Ex 7c

1 Did [redacted] ever talk to you about being reassigned EX 7C
2 to your staff?

3 MR. DeBARBA: Reassigned, what do you mean by
4 my staff?

5 INVESTIGATOR LOGAN: To become a special
6 assistant or an assistant to you?

7 MR. DeBARBA: This is since October?

8 INVESTIGATOR LOGAN: Since October.

9 MR. DeBARBA: Since October.

10 INVESTIGATOR LOGAN: That's why we put that
11 caveat on there.

12 MR. DeBARBA: Yes. You know, I'm not sure
13 because over the years, and particularly in the last
14 several years I think [redacted] has approached me EX 7C
15 with numerous suggestions about how he could be assigned
16 or reassigned. And that all the way from becoming part of
17 the [redacted] to not wanting to be part of EX 7C
18 group, to wanting to be part of a task force, EX 7C
19 to not wanting to be assigned to [redacted] and to be reporting EX 7C
20 to me or to report to other people. So that he has had
21 numerous conversations about assignments over several
22 months. Whether it occurred in the last couple of months,
23 Keith, I'm not a hundred percent sure.

24 INVESTIGATOR LOGAN: Okay. Well, if it helps
25 to expand it, I guess I'm interested in whether or not you
26 and he talked about him reporting to you directly and not
27 to [redacted] or anybody else. If it's the October
28 19th time frame that puts a punch on your determination,
29 then let's take that out of there.

30 MR. DeBARBA: Yes, I think he did. I think he
31 did mention that at one time that he -- I know he did not
32 want to report to [redacted] EX 7C

33 INVESTIGATOR LOGAN: I think the record is
34 clear on that.

35 MR. DeBARBA: And he had some suggestions to
36 report different places. I think one of those was that he
37 report to me somehow, some way.

38 INVESTIGATOR LOGAN: And when he brought up
39 that suggestion --

40 MR. DeBARBA: I have way too many direct
41 reports now and I am not looking to have more direct
42 reports.

43 INVESTIGATOR LOGAN: Was that the only reason
44 because of the number --

45 MR. DeBARBA: It's not proper --

46 INVESTIGATOR LOGAN: -- of direct reports to -
47 -

48 MR. DeBARBA: -- well, it would not be proper.
49 He was serving a function reporting to [redacted], and EX 7C
50 I'm holding Mike accountable for managing the project.

Portions withheld
EX 7C

1 And [] is an integral piece of the project, and I EX 7C
 2 don't want to break up the project and put myself as
 3 interface. I'd become the project manager and that's not
 4 what I want to do.

5 INVESTIGATOR LOGAN: All right. I'd just like
 6 to go over some comments with you that have been made by
 7 [] so if you kind of bear in mind it's going to take EX 7C
 8 a little bit more time as I tag them forward.

9 MR. DeBARBA: Okay.

10 INVESTIGATOR LOGAN: This issue came up in an
 11 earlier interview, and again it's not designed to trick
 12 you in between statements, but I'd just like to explore a
 13 little bit more with you. [] told me that EX 7C
 14 he had a conversation with you on April 11th wherein he
 15 told you that he didn't want to speak to the NRC and that
 16 he wanted you to send him on a vacation. Do you recall
 17 that?

18 MR. DeBARBA: Send him on a vacation?

19 INVESTIGATOR LOGAN: Right.

20 MR. DeBARBA: Well, I don't recall that.

21 INVESTIGATOR LOGAN: It's a double statement.
 22 He said he didn't want to speak to the NRC, and he said he
 23 wanted you to send him on a vacation or make him, I guess
 24 the reference is, make him unavailable?

25 MR. DeBARBA: I don't remember that at all.

26 INVESTIGATOR LOGAN: You don't, okay.

27 MR. GUTIERREZ: Just so we're clear, he's
 28 alleging that he told Eric on April --

29 INVESTIGATOR LOGAN: 11th.

30 MR. GUTIERREZ: -- 11th --

31 INVESTIGATOR LOGAN: 1995.

32 MR. GUTIERREZ: -- that he did not want to
 33 talk to the NRC and was hoping the company would maybe
 34 accommodate that by sending him on a vacation was the gist
 35 of --

36 INVESTIGATOR LOGAN: That's the gist of it.

37 MR. GUTIERREZ: Okay.

38 INVESTIGATOR LOGAN: And you're now being
 39 asked, do you remember saying words to that effect?

40 MR. DeBARBA: I just don't recall that, I
 41 don't recall that.

42 INVESTIGATOR LOGAN: Now, let me read you the
 43 paragraph. This has to do with a conversation that [] EX 7C
 44 has with [], and it concerns the fact that he
 45 reports to [] And apparently he said that "I told EX 7C
 46 him," meaning [], "that I was directed by Eric in a
 47 memo at a meeting that Eric had with my management," and
 48 they chose to have him present "where Eric stated clearly
 49 that I was not down there to work for contractors, I was
 50 down there to direct contractors." This is referring to

Portions withheld
 EX 7C

1 his work assignments and his direction while working with

2
3 Do you recall telling [] that EX 7C
4 he was to be down there to direct contractors?

5 MR. DeBARBA: Well, what I told him his
6 responsibility was one of technical direction.

7 INVESTIGATOR LOGAN: Okay.

8 MR. DeBARBA: And he worked for EX 7C
9 you know, he had responsibility for technical direction of
10 the project.

11 INVESTIGATOR LOGAN: And what do you mean by
12 technical direction of the project?

13 MR. DeBARBA: In other words he's the one who
14 is providing the direction on [] , how we are going
15 to deal with, you know, EX 7C
16 issue, what our [] is going to be in terms of, you
17 know, [] what the [] is going to be relative
18 to approaches on getting the [] that type of
19 thing, but not actually managing the project, not actually
20 buying equipment, not overseeing vendor, that type of thing.

21 But in any project given that type of
22 situation, at any point in time the expectation is people
23 were working together so that you could very well find
24 yourself taking some direction from somebody and providing
25 technical direction back. So that if you have a project
26 engineer at Millstone One and one on Millstone Two and one
27 on Millstone Three, and one Trans Shipment. Some of those
28 may be contractors, some of those may be in house
29 employees. They have the responsibility for the project
30 leads on those. And [] might be taking some project EX 7C
31 direction from them. He might be providing some -- he
32 would be providing some technical direction to them. But
33 his natural supervisor in all that is [] in EX 7C
34 terms of the person who is doing performance reviews,
35 watching out for, you know, his compensation and that type
36 of thing.

37 INVESTIGATOR LOGAN: And did --

38 MR. DeBARBA: The contractors did not have any
39 responsibility for that.

40 INVESTIGATOR LOGAN: Now, what you just
41 explained to me, did you ever explain that to [] EX 7C
42]

43 MR. DeBARBA: I believe that we talked about
44 that in one of those round table discussions that we had.

45 MR. GUTIERREZ: Just so I'm sure, is the
46 suggestion in your question, Keith, that a senior engineer
47 with [] years experience in this company needs that basic EX 7C
48 message explained to him by a vice president?

49 INVESTIGATOR LOGAN: I guess I'm trying to get
50 past what the assumptions are in fact the directions are.

Portions withheld
EX 7C

1
2 And if your answer is going to be Counsel's
3 point of clarification or a rhetorical question almost,
4 but if that's your answer, fine, but what I'm trying to
5 understand is whether you specifically had the kind of
6 discussion with [redacted] that you just had with [redacted] EX 7C
7 me in terms of what his responsibilities would be in this
8 case.

9 And I just that the reason for asking is that
10 I think you and he have had numerous discussions and I
11 think the subject of many of these discussions has been
12 what his responsibilities are. And he certainly has
13 portrayed to me what his understanding is. And what I'm
14 trying to ascertain from you is whether or not it was a
15 situation where you both thought the other knew what was
16 to be done but never said it, or in fact whether you're
17 telling me that, Logan, I told you this today and I can
18 just about say 99 percent positive that I would have had
19 this conversation with [redacted] and I would have EX 7C
20 told him the same thing. I mean if that's true, fine. If
21 it's not, I'd like you to tell me?

22 MR. DeBARBA: I can't say a hundred percent,
23 with a hundred percent certainty that we had that specific
24 conversation. I do recall lots of questions from [redacted] EX 7C
25 over the period time all associated with roles and
26 responsibilities on the project and basically him not
27 wanting to take direction from [redacted], wanting to EX 7C
28 report through the Berlin organization, not being part of
29 the project team.

30 And that I can remember talking very
31 specifically about examples where we had done this in the
32 past and how it had worked. Specifically the steam
33 generator replacement project on Millstone Two, and the
34 condenser replacement project on Millstone One. And those
35 are examples specifically that I remember talking about.

36 INVESTIGATOR LOGAN: I mean you've been fairly
37 clear with me on what you describe your expectations to be
38 of the kind of way that he would interact with
39 contractors. And what I'm trying to understand is were
40 you as specific with him as to the responsibilities that
41 he would have. And that in the course of performing those
42 responsibilities that he would in fact have to take some
43 direction from another project engineer assigned perhaps
44 to a different unit who may in fact be a contractor.

45 MR. DeBARBA: I don't recall if I had
46 specifically articulated that. I just can't be sure.

47 INVESTIGATOR LOGAN: So there is the
48 possibility then that it wasn't clear, or do you feel that
49 in spite of that it was clear what his responsibilities
50 were?

Portions withheld

EX 7C

1 MR. DeBARBA: I think it was clear. I think
2 it was clear from years of experience having been there,
3 having seen those other projects, having understood it,
4 having had discussions with him.

5 We had a group meeting at one point in time,
6 laying out roles and responsibilities. I met with the
7 entire project group talking about jobs and how
8 things worked. And I don't recall ever having left one of
9 those meetings with unanswered questions. And I would
10 think that if there were people in that room who did not
11 understand what had been articulated in those meetings
12 that they would have been left with open questions, and I
13 just don't recall any open questions coming out of those
14 meetings.

15 INVESTIGATOR LOGAN: [] has
16 indicated to me that he has been systematically excluded
17 from participation in safety related activities. And the
18 way he's done that or the way that has been done to him,
19 has been treatment by [] and by you after
20 identifying problems to NRC representatives and/or Larry
21 Chatfield. Would you care to comment on that?

22 MR. DeBARBA: I'd say it's categorically
23 false. He is involved in safety related matters right
24 today.

25 INVESTIGATOR LOGAN: One of the things that
26 has come up, and I think he's mentioned it, he says I know
27 I raise an issue and they tell me to file it and move on
28 to something else. If he's concerned about something
29 shouldn't he have the right to proceed and develop that
30 concern?

31 MR. GUTIERREZ: Are you asking Mr. DeBarba
32 whether [] has a legal right to proceed
33 without regard to what the company wants him to do, or are
34 you asking him for his management judgment there?

35 INVESTIGATOR LOGAN: How he interprets the
36 question is going to be judged by his answer. I'm asking
37 him, doesn't he think that he has a right, or doesn't
38 [] have a right to follow up on concerns that he's
39 raised?

40 MR. DeBARBA: Oh, sure, he has the right to
41 follow up on matters, but he does not have -- you know,
42 but that right also has to consider the rights that the
43 company has to expect a fair day's work for a fair day's
44 pay. And management doesn't give up its right to manage
45 an employee. And as a supervisor in this case
46 or myself or anybody else or is managing employees
47 has certain expectations for employees to perform certain
48 work, and we are the ones who decide what work they are to
49 work on. Employees don't decide, okay I'm going to work
50 on (X), but meanwhile in order to resolve a plan issue

Portions
withheld -
EX 7C

1 with we need (Y) done, then it's (Y) that we might assign
2 that person to work and not (X).

3 INVESTIGATOR LOGAN: So you don't feel it's
4 discriminatory or it's retaliatory or it's in any way a
5 form of harassment once an employee raises an issue that
6 that employee is not permitted to do follow-up
7 investigation or follow-up work to resolve that issue?

8 INVESTIGATOR LOGAN: Well, I won't say not
9 permitted.

10 INVESTIGATOR LOGAN: Not permitted on company
11 time?

12 MR. DeBARBA: I think that certainly it would
13 be permitted to follow up on items that are of safety
14 significance that they felt appropriate, but not permitted
15 to dictate to management their schedule for what they work
16 on during normal business hours or what their management
17 is assigning them to do. That, you know, as a company, as
18 management, you don't give up your right to manage a
19 person.

20 INVESTIGATOR LOGAN: Okay. One of the things
21 that _____ has told me, he said senior engineers
22 are supposed to be self-motivated and take the initiative
23 to go out there and seek the work that is for the
24 improvement of the plant. Now, he's being provided with a
25 different direction, and that's that he's to be spoon fed
26 by _____. Are senior engineers, my question, are
27 senior engineers to be self-motivated and take the
28 initiative to go out and to find work for the improvement
29 of the plant? EX7C

30 MR. DeBARBA: Senior engineers, really all
31 engineers are expected to have initiative to get things
32 done without a lot of management direction. In terms of
33 active solicitation for work, people are expected to
34 generate ideas and thoughts. In terms of active
35 solicitation, we have processes that we go through to
36 determine what work gets done and what work is really
37 responsive to our customer focus, which is really
38 operating those units. As an organization really we have
39 one customer and that is the operations organization.
40 We're an operations driven organization.

41 And our shift managers are people who are
42 running the plant day in and day out, need to know and
43 need to set the priorities for what is important for the
44 engineering organization to be working on. In this case
45 we're saying that what is important is to be able to
46 safety store spent fuel for the license life of our
47 plants, and we've come up with a strategy on how to do
48 that, and now the question is how do we implement that
49 strategy. And yes our senior engineers are expected to be
50 self-motivated to get in there with a minimum amount of

Portions
Withheld
EX 7C

1 supervision and to make that happen and to meet
2 regulations and to do it safely.

3 INVESTIGATOR LOGAN: Well, let's do I guess I
4 hypothetical.

5 MR. DeBARBA: Okay.

6 INVESTIGATOR LOGAN: Connecticut Yankee has a
7 similar project that's been through a pool project, and
8 [] talks to people at CY and finds work for *EX 7C*
9 himself down there. Is that what you would expect him to
10 do?

11 MR. GUTIERREZ: Is this a hypothetical?

12 INVESTIGATOR LOGAN: Hypothetical.

13 MR. GUTIERREZ: Could you add to the
14 hypothetical what this hypothetical person is otherwise
15 assigned to do?

16 INVESTIGATOR LOGAN: No, because then it might
17 not be hypothetical.

18 I mean would you expect a senior engineer to
19 do that or would expect a senior engineer to react in
20 another manner?

21 MR. DeBARBA: No, I would expect people to
22 operate and discharge their responsibilities within their
23 areas of expertise and their areas of responsibility. And
24 if you have a person who has a particular role and
25 responsibility in the organization, that role and
26 responsibility need to be discharged for all units. So if
27 you have that role and responsibility and there is a
28 project ongoing at CY, and you have abilities that are
29 important to that project and you are a part of that
30 project team, yes you have to discharge your knowledge and
31 your abilities to help make that project successful.

32 INVESTIGATOR LOGAN: Would you expect that--

33 MR. DeBARBA: You have to be a self-starter.

34 INVESTIGATOR LOGAN: -- to be on the phone
35 soliciting the business or would you expect CY to be on
36 the phone soliciting his assistance, or would you expect
37 both?

38 MR. DeBARBA: I would expect both.

39 INVESTIGATOR LOGAN: Okay.

40 MR. DeBARBA: I would expect both in terms of
41 people understanding role and responsibilities in the
42 spirit of working together to get to the best product.

43 INVESTIGATOR LOGAN: Okay. A comment that was
44 made to me and [] said that the *EX 7C*
45 this is referring to the [] on December 5th,

46 and he says 4th, the [] came out and it just
47 happened that he was interviewed by [] He told *EX 7C*
48 the [] that he had been diminished in capacity and
49 that work was being removed from him.

50 And he said then the following day he has a

Portions withheld - EX 7C

1 meeting with you, and he's [redacted] EX 7C
2 told to do what his supervisor, I guess in this case
3 , told him to do, and after that meeting he was EX 7C
4 hustled off and [redacted] and a third party were then
5 conducting an investigation into wrongdoing on his part by
6 refusing to do work that his supervisor had assigned to
7 him.
8 This is being told to me by [redacted] and EX 7C
9 that the action taken by [redacted] and [redacted]
10 you is a result of his having been interviewed at the
11 [redacted] and having made derogatory EX 7C
12 comments about his work and you.
13 Now, I guess let me start off by, do you
14 recall at about that time frame having met with EX 7C
15
16 MR. DeBARBA: Yes.
17 INVESTIGATOR LOGAN: And was that meeting
18 related to the fact that he had EX 7C
19
20 MR. DeBARBA: Not at all.
21 INVESTIGATOR LOGAN: Had you scheduled that EX 7C
22 meeting before the
23 MR. DeBARBA: Just to refresh my memory, the
24 was on?
25 INVESTIGATOR LOGAN: [redacted] time EX 7C
26 frame of
27 MR. GUTIERREZ: I think we've provided you,
28 Keith, documentation that reflects not only the meeting
29 but the events leading up to that meeting. I don't know
30 if you brought them here today, but --
31 INVESTIGATOR LOGAN: They didn't come from
32 this department though, they were from other sources.
33 MR. GUTIERREZ: Right.
34 INVESTIGATOR LOGAN: And what I'm trying to
35 put on the record now is his understanding.
36 MR. GUTIERREZ: I got you, okay.
37 INVESTIGATOR LOGAN: To the extent you
38 remember?
39 MR. DeBARBA: I'm just trying to remember, the EX 7C
40 -- was on a --
41 INVESTIGATOR LOGAN: I think it was the
42 MR. DeBARBA: -- was it a Wednesday or so or a
43 Thursday?
44 INVESTIGATOR LOGAN: Well, you've already
45 testified the [redacted] played no role in holding that EX 7C
46 meeting --
47 MR. DeBARBA: Right.
48 INVESTIGATOR LOGAN: -- with [redacted] EX 7C
49 So I'm not sure what the relevance of its sequence is at
50 this point.

Portions withheld EX 7C

1 MR. DeBARBA: Well, you asked the timing, you
2 know, that it had happened before, did I have a meeting.
3 I think your question was, did I have a meeting --

4 INVESTIGATOR LOGAN: No, I asked had you done [Ex 7]
5 anything prior to the [] which was in
6 preparation for the meeting that was being held after the

7
8 MR. DeBARBA: I guess I was going to say there
9 was preparation for that meeting. When in time that
10 preparation meeting occurred relative to the [] , I [Ex
11 don't know.] [Ex

12 INVESTIGATOR LOGAN: [] was a [Ex
13 Tuesday, [] was a Monday, and what Mr. -- [Ex

14 MR. DeBARBA: And when was the meeting with [Ex

15 []
16 INVESTIGATOR LOGAN: -- [] hasn't [Ex
17 provided a date in that statement to me, but he said it
18 was a result of that. And it was after that meeting, I
19 would assume within the next seven days, he says the
20 following day, which could have been either Wednesday or
21 Thursday.

22 MR. DeBARBA: I see. Well, there's no [Ex
23 relationship at all to the [] We did have a pre- [Ex
24 meeting to discuss it. When that pre-meeting is exactly,
25 I can't tell you here, but I'm sure that we could find
26 that out.

27 INVESTIGATOR LOGAN: All right.

28 MR. GUTIERREZ: Would you like us to [Ex
29 supplement this interview, Keith, with the documentation
30 or at least point to you the documentation we've already
31 provided?

32 INVESTIGATOR LOGAN: No, that's not necessary. [Ex
33 A question, and this goes back to the []
34 [] , if that's not correct, you can
35 tell me, and it has to do with the report that was issued
36 by [] . Just let me check the date on that. [Ex

37 Let's go off the record for a minute.
38 (Whereupon, at 2:43 p.m., off the record to
39 examine documents until 2:45 p.m.)

40 INVESTIGATOR LOGAN: Again calling your [Ex
41 attention to the time frame of [] , and I believe [Ex
42 there is a report that was generated by [] on
43 that is dated [] , and I think we
44 discussed that report in our last interview. And []
45 [] has led me to believe that his [Ex
46 the ones that were raised by him in his dealings with [] [Ex
47 and perhaps the dealings with []
48 that were raised or covered in the [] report are
49 still open matters with regard to NU. And I guess my
50 question to you is, are you aware of any open matters with

Portion withheld Ex 7C

1 regard to either the concern raised to while
 2 was working for or with regard EX 7C
 3 to the matter that was investigated by ?
 4 MR. DeBARBA: No, I'm not aware of any open
 5 matters. I thought they were closed.
 6 INVESTIGATOR LOGAN: Another point that I'd
 7 like to talk about concerns a comment that
 8 has made attributable to has
 9 said something to the effect that was in the
 10 and he taught how to deal
 11 with troublesome people like Do you
 12 know whether or not has ever made a comment like
 13 that?

14 MR. DeBARBA: I don't know if he did. I do
 15 know that had claimed that he had made that
 16 comment.

17 INVESTIGATOR LOGAN: has
 18 indicated that he , and I'll read you his
 19 statement. It says "At that point in time," this is with
 20 regard to that statement, "I decided that I was going to
 21 take my concerns on the road and I fashioned
 22 not as a against but as a
 23 identifying to the
 24 was a problem in the way that they
 25 As such I think they were in violation of affirmative
 26
 27

28 the past, but that was the source of the That
 29 is still open, it has never been resolved. It
 30 has never been elevated to the air at DeBarba level, it
 31 went as far as Mario."

32 Are you aware or any with regard to
 33 with regard to that statement?

34 MR. DeBARBA: I think had a
 35 that I recall at that time period. But my recollection
 36 was that he withdraw it or it was responded to or
 37 something happened. I thought, my understanding was it
 38 was

39 INVESTIGATOR LOGAN: The bottom line is you're
 40 not aware of any open grievance with regard to
 41 tenure with

42 MR. DeBARBA: Right.

43 INVESTIGATOR LOGAN: Let's go off the record
 44 for a minute.
 45 (Whereupon, at 2:50 p.m., off the record until
 46 2:51 p.m.)

47 INVESTIGATOR LOGAN: Going back to that
 48 statement, Mr. DeBarba, that we just talked about which
 49 has attributed to In my
 50 conversation with he told me, and this is a

EX 7C

1 quote, "Eric told me that he had gotten admission from
 2 on the statement. However, that [redacted] claims that I
 3 had taken the statement out of context. Eric
 4 specifically, I'll tell you the statement, okay." He goes
 5 on and he says "The statement was, you know, [redacted]"

6
 7 and if there's one thing that he taught me it's he
 8 taught me how they deal with troublesome people like you."
 9 There are other points of clarification.

10 And my question to you is, did you talk to
 11 about that statement?

12 MR. DeBARBA: I recall [redacted] making the
 13 statement to me, and upon hearing it I recall going back
 14 and talking with, I believe it was [redacted] if not
 15 I know it was Mario Banaca, about that. And the
 16 feedback that we got, whether directly from [redacted] or
 17 through the other people, was that that is not what he
 18 said.

19 And that in fact that there were references in
 20 the group that was upsetting to [redacted] because he had said
 21 that [redacted] had been making comments in the group calling
 22 and that it was upsetting to [redacted] And that
 23 I had people in [redacted] come to me and wanted to meet
 24 with me, and I met with them, complaining about [redacted]
 25 behavior and the fact that there was foul language. One of
 26 the females was crying and very upset with his -- the
 27 overall behavior in [redacted]

28 So I did follow up on that. I followed up
 29 with Mario and I guess what I found was that that is not
 30 what [redacted] said had happened, but that in fact on exploring
 31 it further there was information coming out of the group
 32 of [redacted] very openly telling people that [redacted]

33 INVESTIGATOR LOGAN: So his statement to me
 34 that [redacted] admitted to you to making the statement is not
 35 correct?

36 MR. DeBARBA: Yes, I don't recall
 37 admitting that to me. What I recall was him saying that
 38 in fact that is not what he had said. What I can't recall
 39 is if [redacted] said that or if Mario said that based on the
 40 follow up.

41 INVESTIGATOR LOGAN: Well, [redacted] never made an
 42 admission here is what you're telling me?

43 MR. DeBARBA: That's right.

44 INVESTIGATOR LOGAN: Okay. The next part of
 45 this statement is that [redacted] says "Eric
 46 specifically recounted back to me that in his conversation
 47 with [redacted] said I must have been misunderstood what
 48 he said, which is a defensive response on his part. So
 49 for him to tell you that he denied making the statement,
 50 "I'm not surprised," he's lying, but I had many many

1 conversations with Eric over this, and in fact I had an
 2 agreement with Eric that I would not bring forth charges
 3 against [redacted] and I'd let Eric deal with him. Just get me
 4 out from underneath him." Is that true? EX7C

5 MR. DeBARBA: We had conversations about that
 6 statement. It was obvious to me that [redacted] was very EX7C
 7 agitated with the situation, had broken down, people in
 8 [redacted] could not stand [redacted] being there, that Mario - EX7C
 9 - discussion that there were irreconcilable differences
 10 between [redacted] and [redacted] and that something had to be done. EX7C

11
 12 And that in the interest of really giving
 13 [redacted] every opportunity for a new start, we basically
 14 gave [redacted] an assignment away from [redacted]. We thought that EX7C
 15 was in the best interest of [redacted] and the people in EX7C
 16 [redacted] which really are our first priority and it was also
 17 in the best interest of [redacted] in the long term in giving EX7C
 18 him the opportunity for a new start under someone that we
 19 believe that he could work with. And that up until this
 20 point it was quite clear that he was unwilling or
 21 incapable of working with or for [redacted] EX7C

22 INVESTIGATOR LOGAN: The statement he makes is
 23 that he had an agreement with you that he would not bring
 24 forth charges against [redacted] and he'd let you handle the EX7C
 25 situation.

26 MR. DeBARBA: I think those are his words,
 27 those are not my words.

28 INVESTIGATOR LOGAN: There was no agreement?

29 MR. DeBARBA: No. I think he had an agreement
 30 in his mind. We took the actions that we did based on
 31 what I told you why we did it.

32 INVESTIGATOR LOGAN: Okay. Do you know
 33 whether or not the reprimand that was issued by
 34 is still in [redacted] personnel file? EX7C

35 MR. DeBARBA: I'm not sure. I think it is.

36 INVESTIGATOR LOGAN: Did you ever agree to
 37 have that reprimand removed at any point in time?

38 MR. DeBARBA: I don't think so, I don't think
 39 so. We did put him on a performance improvement program
 40 and we reinstated his compensation increase after some
 41 period of time, six months or something like that, some
 42 period of time. That, we did reinstate.

43 INVESTIGATOR LOGAN: But was any of that--MR.
 44 DeBARBA: But I don't think anything about --

45 INVESTIGATOR LOGAN: -- a condition --

46 MR. DeBARBA: -- written reprimand --

47 INVESTIGATOR LOGAN: -- for taking the
 48 reprimand out of his file?

49 MR. DeBARBA: Not that I recall. If I recall,
 50 Mario ended up writing some summary level type of document

1 that had five or six points to it as to what the
 2 conditions were. And I don't know if you have that, but
 3 you know that should have clearly spelled out what the
 4 conditions were.

5 INVESTIGATOR LOGAN: Okay. But what he's
 6 talking about though are conversations he had with you and
 7 he said "I've been in conversations with Eric as to I
 8 would like my reprimand removed, if in fact we go through
 9 with this development program, and [redacted] can attest
 10 to that," so forth and so on. What I hear you telling me
 11 is that you did not have an understanding with [redacted] as
 12 to when and if that reprimand would be removed from his
 13 file, is that correct? EX7C

14 MR. DeBARBA: I do recall [redacted] wanting that
 15 reprimand removed. That was quite clear he wanted it
 16 removed. And after discussions with Mario Banaca what we
 17 concluded was those points that Mario had articulated. So
 18 whatever Mario wrote down, that was the agreement. Only
 19 what you see there in writing is what we agreed to after
 20 consideration of everything. I had no other agreement. EX7C

21 INVESTIGATOR LOGAN: So whatever is elaborated
 22 in Mr. Banaca's letter is in fact --

23 MR. DeBARBA: Right.

24 INVESTIGATOR LOGAN: -- your agreement --

25 MR. DeBARBA: That is the agreement.

26 INVESTIGATOR LOGAN: -- there were no side bar
 27 agreements made?

28 MR. DeBARBA: Right.

29 INVESTIGATOR LOGAN: Let's go off the record
 30 for a minute.

31 (Whereupon, at 3:00 p.m., off the record until
 32 3:02 p.m.)

33 INVESTIGATOR LOGAN: Were you involved with
 34 any of the transfers of [redacted] after 1990 other
 35 than to [redacted] and to [redacted] Which I guess
 36 leaves us really only one and that's the transfer to
 37 [redacted] Do you recall playing any role in designation of
 38 the fact that [redacted] would be transferred from -- EX7C
 39 to [redacted] EX7C

40 MR. DeBARBA: Other than the role of vice
 41 president of the whole division, and along with every else
 42 we were really looking at functions, not the people.

43 INVESTIGATOR LOGAN: Do you recall the reason
 44 why the function that [redacted] was involved in in
 45 the 1991 time frame from 1989 through 1991 was moved
 46 around? EX7C

47 MR. DeBARBA: As I recall we were looking to
 48 consolidate back into the [redacted] had
 49 responsibility for [redacted] and we thought that
 50 consolidating [redacted] EX7C

1 together in one business group would make sense, would
2 make technical sense.

3 INVESTIGATOR LOGAN: In [] EX7C
4 comment, he said he said that's
5 tantamount to tissues and diapers and not an appropriate
6 place for such as he was working on.

7 MR. DeBARBA: I take exception to that. I
8 think that there is some very good engineers in EX7C
9 to work on

10 that are very involved and very important in
11 keeping these plants operational.

12 INVESTIGATOR LOGAN: I guess the theory being EX7C
13 that this is and was
14 and not an appropriate mix?

15 MR. DeBARBA: That was his opinion.

16 INVESTIGATOR LOGAN: Okay.

17 MR. DeBARBA: And not one that we shared.

18 INVESTIGATOR LOGAN: Did you ever talk to Mr. EX7C
19 Chris Singh from Oltec about []

20 MR. DeBARBA: I've spoken to Chris Singh on
21 several occasions. I don't recall if any of them had to
22 do with [] himself as a --

23 INVESTIGATOR LOGAN: Do you recall his name
24 coming up in the course of the conversation?

25 MR. DeBARBA: Whose?

26 INVESTIGATOR LOGAN: with Chris Singh, [] EX7C
27 name?

28 MR. DeBARBA: I don't recall that. I don't
29 recall that. I have probably spoken to Chris probably
30 three times in my life.

31 INVESTIGATOR LOGAN: All right. []
32 has mentioned that he was the

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47 in your comments?

48 MR. DeBARBA: I think that in terms of his

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And I guess I'm interested now,

EX7C

EX7C

1 very knowledgeable in that area.

2 But in thinking back through the years of his
3 participation in those which we viewed as
4 important in a lot of ways, there were many examples where
5 people complained about performance and behavior
6 in those meetings.

EX7C
EX7C

7 I recall back all the way to the point when,
8 even in some of the earlier days of us getting that
9 of having to insist that his supervisor,

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EX7C

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Technically he was sharp and capable, but his
behavior and performance at some of the meetings and with
some of the people was not good.

INVESTIGATOR LOGAN: You know, I listen to
what you tell me about performance, as you just
have, and I listen to what some other people have told me
over a period of time, I'm led to believe that
has shown a definite problem in the area of
inter-personal skills.

EX7C
EX7C

MR. DeBARBA: Yes.

INVESTIGATOR LOGAN: My question is, if this
was such a problem over the years, why wasn't something
done about it and why wasn't it more reflected in his
evaluations over the years?

MR. DeBARBA: Well, I think that's an
excellent question, and I think you will probably find
some pattern in there where people did try to address it
but they met with such aggressiveness on the part of
that people backed off, they backed off because
they were afraid of him, because they knew how aggressive
he was, and they thought it was not going to be worth the
hassle to try to deal with. And that beyond that they
thought that let's give him every opportunity to be
successful. So let's not write the guy off, he's
technically good so, you know.

EX7C

As an organization we very much valued
technical capability, and I think in retrospect far too
tolerant of poor behavior and inter-personal, lack of
inter-personal skills and lack of respect and dignity for
others. We just had such a focus on technical excellence
that we didn't pay as much attention to the other part as
we could. Thinking all along that in the interest of
trying to help the person along that we were doing the

1 right thing. In retrospect maybe we weren't really
2 helping him at all.

3 INVESTIGATOR LOGAN: Because certainly from my
4 perspective he talks about having raised safety issues,
5 having been involved in the REF process, having certainly
6 to date a fair amount of visibility as someone who is
7 talking about safety concerns, and the comment back to me
8 is my inter-personal skills were so bad, why am I still
9 here? How have I been able to survive all this time, and
10 show me the bad evaluation? The only one that was out of
11 context then was EX7C

12 MR. DeBARBA: Well, I think in the context of

13 --
14 MR. GUTIERREZ: Just to correct the record, I
15 think was browbeaten into correcting an EX7C
16 otherwise negative performance evaluation.

17 INVESTIGATOR LOGAN: Bottom line is that what
18 wrote and what signed and what . . . EX7C
19 passed forward is not a bad evaluation. It doesn't
20 reflect a need for inter-personal skills. Excuse me, that
21 show --

22 MR. GUTIERREZ: Improvement --

23 INVESTIGATOR LOGAN: -- the need for
24 improvement in the inter-personal skills area. And that's
25 the issue that's being presented to me.

26 MR. GUTIERREZ: Right, right.

27 INVESTIGATOR LOGAN: I have all this paper,
28 I've participated in all these , and EX7C
29 [] says beyond that I've raised safety
30 concerns. Now, looking at the documents I'm then asked to
31 believe the documents aren't accurate and there's really
32 more to it, and it's inter-personal skills which --

33 MR. GUTIERREZ: Right, right, right, you're
34 saying --

35 INVESTIGATOR LOGAN: -- I mean what am I
36 supposed to do as the investigator to contradict the
37 signed documents from supervisors who don't, aside from
38 whose evaluation never became finalized and who
39 have criticized[] -- EX7C

40 MR. GUTIERREZ: Right, right, right. Well,
41 Keith, in terms of what are you supposed to do as the
42 investigator, it seems that the elements of a claim are
43 that he now has to somehow show where it has been that he
44 has been harassed and intimidated as he's claimed. And
45 he's still a senior engineer, he's still being encouraged
46 to work productively within the organization. To the
47 extent people have asked me to sit in the management team,
48 you're left wondering where's the beef, where is the
49 harassment and intimidation. The man says those words,
50 but now you seem to be asking Eric what are you led to

1 believe.

2 I'm not sure what Eric is trying to defend or
3 explain because I don't see the elements to the allegation
4 of harassment and intimidation. Maybe if you confront
5 Eric with that, he could give you a response.

6 INVESTIGATOR LOGAN: Well, the point is, and I
7 appreciate your testimony on the matter, Mr. Gutierrez --

8 MR. GUTIERREZ: Well, no, I'm just trying to
9 focus it in terms of your asking what to believe and given
10 the nature of the allegation --

11 INVESTIGATOR LOGAN: And the testimony by Mr.
12 DeBarba that this is a man who has inter-personal skill
13 problems and that any actions that have been taken against *EX 7C*
14 including letters of reprimand, including
15 oral warnings, including reassignments or not being given
16 certain assignments, or not being a senior engineer, or
17 not being selected for a licensing position. I mean,
18 you've heard other comments raised by that *EX 7C*
19 this is due to the pretext of a condition called inter-
20 personal skills or the lack thereof.

21 And I guess how do we overcome what the
22 paperwork on his performance tends to indicate?

23 MR. DeBARBA: Well, I think you'll find
24 examples throughout his longevity of explosive behavior at
25 meetings, specific events, challenges to individuals
26 against specific events, having difficulty working with *EX 7C*
27 , poor judgment in dealing with some , a
28 number of incidents and events that in retrospect probably
29 were not fully addressed in performance reviews. And in
30 terms of speculating as to why people did not address
31 those, I think with the exception of and with *EX 7C*
32 the exception of the fact that he was put on a performance
33 improvement program because it was recognized that he had
34 those characteristics.

35 INVESTIGATOR LOGAN: I think the plan was also
36 cash in the performance development --

37 MR. DeBARBA: Yes.

38 INVESTIGATOR LOGAN: -- planner so that it was
39 not just improvement, but it was also development. Which *EX 7C*
40 I think has noted also addresses the fact
41 that he was being groomed, not just retrained but groomed
42 by having gone through, I guess a course that calls a
43 knife and a fork course, as to how to be a better manager.

44 MR. DeBARBA: Well, that's what I always said,
45 he had good technical abilities and if he could improve
46 and reach out and improve on his inter-personal skills, he
47 could be one hell of a senior engineer, he could be
48 extraordinary, but.

49 INVESTIGATOR LOGAN: Okay. Let's go off the
50 record for a minute.

1 (Whereupon, at 3:17 p.m., off the record until
2 3:30 p.m.)

3 INVESTIGATOR LOGAN: We've taken a short break
4 and I'd like to go back on with a couple of short
5 questions. The last time we met you provided me with a
6 file of notes and documents, and when I say notes and
7 documents they're all either typed documents or forms that
8 have been completed by hand. The package of documents
9 that I received did not include any handwritten notes. At
10 our last meeting when you provided me with these
11 documents, what was your understanding about what I was
12 looking for at the time?

13 MR. DeBARBA: Well, my understanding was that
14 you were looking for records that I had in my possession
15 that were related to any sort of issue that could be
16 construed as involvement, particularly EX7C
17 as it involved the question of intimidation and harassment
18 in the work place. But more generally information that I
19 had in my possession relevant to. EX7C

20 INVESTIGATOR LOGAN: Okay.

21 MR. DeBARBA: And given that would I -- first
22 off I keep very few records myself, very few. And within
23 the confines of my office, my desk, I have one place that
24 I keep things that I feel are significant items, either
25 confidential or relevant in some way that I should retain,
26 and I probably have six inches worth of correspondence.
27 There may be one or two handwritten things in there, but
28 very few handwritten things that I save. And then I have,
29 outside of my office, I have a secretary who keeps records
30 of basically every employee. So every employee has a
31 jacket with their name on it with information --

32 INVESTIGATOR LOGAN: The 600 employees that
33 you referred to earlier?

34 MR. DeBARBA: Right, 500, 600.

35 INVESTIGATOR LOGAN: Okay.

36 MR. DeBARBA: That each has a jacket with
37 information in it. That is not the official personnel
38 file, but it contains a lot of information relative to
39 performance reviews, payroll, that type of thing, any
40 other kind of significant memo that might pertain to that
41 individual in that particular file.

42 And so what I did was I went through my six
43 inch file to determine if there was anything in there that
44 was relevant to [redacted] and pulled out a few things EX7C
45 and asked my secretary to make a copy off [redacted] file, EX7C
46 and that was what I gave to you.

47 MR. GUTIERREZ: Just because I think the
48 record is unclear now, that six inch file of personal
49 stuff you were talking about, that's not six inches
50 relative to [redacted] is it? EX7C

1 MR. DeBARBA: Oh, no, it's things throughout
2 the years that I have kept that may be of a sensitive
3 nature. You know, not all, and in fact a very small
4 fraction of it related to []

5 INVESTIGATOR LOGAN: I think the record is
6 clear.

7 MR. GUTIERREZ: Okay.

8 MR. DeBARBA: What I did not include for
9 instance was any kind of, I didn't go through any kind of
10 old notebooks or, you know, day time recorders or anything
11 to see if there was any kind of meeting identification
12 that was specifically listed to [] I didn't go
13 through to see if I could find such a thing or to check if
14 such a thing existed. You know, I didn't go into that
15 detail to try to find if there was some reference
16 somewhere to a meeting in some calendar or something like
17 that.

18 INVESTIGATOR LOGAN: Okay. One of the reasons
19 I bring up that issue is that I've been told that at
20 meetings that you're a very very good note taker and that
21 you take extensive notes at long meetings. And that []
22 [] certainly has also indicated that during the
23 meetings that he's had with you and others that you have
24 taken rather extensive notes and that certainly when the
25 documents were provided to me there were no handwritten
26 notes in there.

27 MR. DeBARBA: It's not unusual for me in a
28 meeting to take notes. I mean typically this is a
29 notebook that I carry around with me all the time and what
30 I'll do in the course of a meeting I'll jot down things on
31 there and I'll asterisk things that are actions for me to
32 take care of before I close them out. Some themes, cost -
33 - a phone number, here's a item we've got a meeting coming
34 up, a public meeting 2/12/6, make sure Joe Vargas attends
35 the meeting, all right. So I take notes and I make sure
36 all these things are done and I throw them away. I don't
37 keep them. So I basically keep running lists of things
38 that have to be done, some notes to myself, and make sure
39 the actions are taken and then I don't save it. I have no
40 reason to save those types of things.

41 I don't know if you'd call that extensive. I
42 take things that I believe are actionable and then make
43 sure the actions are taken. And once I know that the
44 actions are taken, either there's a commitment assigned to
45 it, if it's that level thing, or that I've notified
46 somebody and identified something that needs to be done.

47 Here's another example, talked to John
48 Demella, make sure that nuclear performance improvement,
49 the nuclear incentive plan, reflects the most on one
50 extended shutdown. So I met with John Demella, talked to

1 John Demella, told him what I needed, told him I needed it
 2 next Tuesday, and the expectation that he's going to get
 3 back to me next Tuesday with a strawman on how we're going
 4 to do that.

5 So that's the extent of my note taking. I
 6 take notes, make sure that I get actions, make sure that
 7 the actions are communicated to people who have to take
 8 them, and then make sure those things get done.

9 INVESTIGATOR LOGAN: So in the course of all
 10 your meetings with regard to [redacted] all the [redacted] EX 7C
 11 issues that came up, what you're telling me is you have no
 12 handwritten notes from those meetings?

13 MR. DeBARBA: No, I don't. First, I don't
 14 recall taking extensive notes at any meeting with [redacted] EX 7C
 15 In fact most of the discussions I recall with [redacted] are
 16 first listening and talking with [redacted] In fact that's EX 7C
 17 what I do at a preponderance of meetings, particularly
 18 with employees, is really focus on the person and try to
 19 talk to them as a person and get at whatever issue or
 20 matter is central to them and not, you know, be distracted
 21 or deflected by taking lots of notes.

22 When I do take notes typically they're fairly
 23 short and to the point and focused on what actions I'm
 24 going to take. I don't, you know --

25 INVESTIGATOR LOGAN: Okay.

26 MR. DeBARBA: -- and it's rare that I keep
 27 notes.

28 INVESTIGATOR LOGAN: I'm just surprised with
 29 all that's going on with [redacted] that there aren't EX 7C
 30 more notes that were kept because I can assure you he's
 31 kept his series of notes.

32 Talking in terms of the reorganization that
 33 occurred in 1993, and I believe it may have also been
 34 described as a re-engineering --

35 MR. DeBARBA: I think we called it engineering
 36 integration.

37 INVESTIGATOR LOGAN: -- engineering
 38 integration, I guess that resulted in the reassignment of
 39 engineers from Berlin to Millstone?

40 MR. DeBARBA: Right.

41 INVESTIGATOR LOGAN: Okay.

42 MR. DeBARBA: Yes. Predominantly that was --
 43 you know, I mean that wasn't the specific purpose of it.

44 INVESTIGATOR LOGAN: What was the purpose of
 45 it, why don't you put that on the record?

46 MR. DeBARBA: Yes, I think as a business
 47 organization within the nuclear group we were really at
 48 John Opeka's direction he formed a new strategic business
 49 function headed up by Ray Necci. And Ray Necci had a
 50 small group of people who looked for some opportunities to

1 improve our cost competitiveness in the nuclear business,
2 and specifically identified two areas that would be probed
3 for some possible consolidation and some reductions where
4 we felt we had lots of overlap. That was in engineering,
5 and the other one is maintenance and construction.

6 And so Ray basically spearheaded an
7 engineering integration study and a plan for engineering
8 integration and a construction test and maintenance
9 integration plan and study.

10 On the engineering integration one he ended up
11 contracting an outside firm called ^{dad} Powers -Perrin to help
12 him put together, you know, the overall plan on how we
13 were going to go about doing this and came up with a
14 proposal after having a task force work specifically on
15 this for a period of a couple of months. And they came up
16 with a recommendation to the nuclear officers on some
17 approaches to engineering integration, and I have given a
18 couple of those approaches.

19 The approach that was finally selected and
20 championed by Mr. Opeka was one where we ended up with a
21 single engineering organization that where we had
22 previously two engineering organizations, one that was in
23 the operations side of the house and one which was
24 basically Berlin based organization.

25 And this was for the first time taking all
26 those engineering forces and putting them together in one
27 organization, and in the process of doing that, flattening
28 the organization, if you will, in other words making,
29 looking at the layers of management that we had in there.
30 And looking at the number of people and functions that we
31 needed and going forward, we ended up needing less
32 supervision.

33 And so having that new organization rolled out
34 by Ray, you know, our mission was then to implement it.
35 And what we did to implement that organization was use a
36 selection criteria that had been developed through the PEP
37 program, the performance enhancement program, in 1992, '93
38 time frame, and there was a particular selection criteria
39 that had been established and we ended up using that
40 selection criteria working with our human resources group.

41 INVESTIGATOR LOGAN: Do you recall who in
42 human resources was the representative to that?

43 MR. DeBARBA: I'm not sure. It might have
44 been Linda Singer. Ann Johnson-Bly I think was one of the
45 persons. You know, I'm not sure, I'm not sure.

46 INVESTIGATOR LOGAN: Do you have a copy of the
47 results of that re-engineering study?

48 MR. DeBARBA: There was a blue binder book
49 that we have, yes.

50 INVESTIGATOR LOGAN: You mean Towers-Perrin?

1 MR. DeBARBA: The engineering integration. I
2 don't know about the Towers-Perrin, but there is an
3 engineering integration book in a blue binder that goes
4 through each of the sections of what has to be on it.
5 INVESTIGATOR LOGAN: Okay.
6 MR. DeBARBA: It does not focus on ^{selection} section of
7 people.
8 INVESTIGATOR LOGAN: That's my next question.
9 MR. DeBARBA: Right.
10 INVESTIGATOR LOGAN: That addresses the
11 positions?
12 MR. DeBARBA: Correct. The organization, what
13 needs to be accomplished.
14 INVESTIGATOR LOGAN: Okay.
15 MR. DeBARBA: What are the strategic functions
16 that we're trying to achieve, what are the outstanding
17 issues, that kind of thing.
18 INVESTIGATOR LOGAN: All right.
19 MR. DeBARBA: And it had a series of
20 recommendations in it.
21 INVESTIGATOR LOGAN: Okay. And the next
22 question is, at what point did you determine what
23 positions would be in existence as a result of this
24 restructuring?
25 MR. DeBARBA: Well, the study basically
26 outlined what the organization consists of.
27 INVESTIGATOR LOGAN: As well as right down to
28 the individual engineer --
29 MR. DeBARBA: No, no, no.
30 INVESTIGATOR LOGAN: -- senior engineer?
31 MR. DeBARBA: No, no, organizational
32 structure. You have a unit director, then you have a
33 manager, a design and a manager of systems engineering,
34 and then each of those functions would have these kind of
35 supervisory positions.
36 INVESTIGATOR LOGAN: So it went as --
37 MR. DeBARBA: So basically --
38 INVESTIGATOR LOGAN: -- supervisory positions?
39 MR. DeBARBA: -- right, right. And --
40 INVESTIGATOR LOGAN: Not below --
41 MR. DeBARBA: -- then the number of people in
42 those various areas.
43 INVESTIGATOR LOGAN: So there was discussion
44 of FTEs?
45 MR. DeBARBA: Correct.
46 INVESTIGATOR LOGAN: Okay. How was the
47 decision made as to who would fill what block?
48 MR. DeBARBA: Like I said, we used that
49 selection matrix and we rated people based on a series of
50 attributes that we felt were pertinent to the organization

1 we were putting in place.
2 INVESTIGATOR LOGAN: Do you have those
3 ratings?
4 MR. DeBARBA: I don't know, we didn't keep
5 those. I didn't keep them.
6 INVESTIGATOR LOGAN: Do you know who would
7 have kept them?
8 MR. DeBARBA: I'm not sure they were kept.
9 I'm not sure they were kept. I'm not sure there was any
10 purpose to keep them.
11 MR. GUTIERREZ: Would you like us to check?
12 MR. DeBARBA: I mean I just don't know.
13 INVESTIGATOR LOGAN: Yes.
14 MR. GUTIERREZ: Just so I understand, Keith,
15 are you asking for the rating attributes or as they were
16 applied to all the people affected by the reorganization?
17 INVESTIGATOR LOGAN: Both. As well as the
18 blue book.
19 MR. DeBARBA: Yes, the blue book we definitely
20 have. You know, what we have relative to ratings and
21 scores and, you know, process, worksheets, whatever, I
22 don't know.
23 INVESTIGATOR LOGAN: Was there any
24 consideration given at the time the selections were being
25 made as to individuals who had raised safety concerns?
26 MR. DeBARBA: None whatsoever.
27 INVESTIGATOR LOGAN: So whether a person was a
28 whistleblower or not was not a factor which was reviewed
29 in determining whether that person should be retained or
30 not retained as a supervisor?
31 MR. DeBARBA: Yes, I don't recall that as
32 being a criteria at all. It was not a criteria to the
33 best of my recollection.
34 INVESTIGATOR LOGAN: And it wasn't part of any
35 review process to insure that as selections were made
36 there wasn't any disparate impact on individuals?
37 MR. DeBARBA: Well, there was an independent
38 review at the back end, if I recall, by I guess the
39 executive review committee or something, Exactly what
40 they did for review I'm not so sure, I wasn't part of
41 that.
42 INVESTIGATOR LOGAN: Is there a record of who
43 was on that executive review committee?
44 MR. DeBARBA: I don't know. I suppose there
45 is somewhere. I don't know.
46 INVESTIGATOR LOGAN: You don't have it?
47 MR. DeBARBA: No, no.
48 INVESTIGATOR LOGAN: Okay.
49 MR. DeBARBA: I don't think I do, you know.
50 INVESTIGATOR LOGAN: Okay. Well, if you would

1 check. What role did you have in the selection of
2 individuals for management and supervisory positions?

3 MR. DeBARBA: For management and supervisor
4 positions, the vice presidents ended up getting together
5 and doing the rankings of the directors. So collectively
6 we came up with scores on the various directors.

7 INVESTIGATOR LOGAN: On who the directors
8 would be?

9 MR. DeBARBA: Pardon me?

10 INVESTIGATOR LOGAN: And you make selections
11 for the directors?

12 MR. DeBARBA: We made selections on the
13 directors for the new organization. And this was in the -

14 -
15 INVESTIGATOR LOGAN: Did you also --

16 MR. DeBARBA: -- 1993 time frame, right?

17 INVESTIGATOR LOGAN: Right.

18 MR. DeBARBA: So this was, say, November of
19 1993?

20 INVESTIGATOR LOGAN: Okay.

21 MR. DeBARBA: Is that right --

22 INVESTIGATOR LOGAN: Yes, that's my
23 understanding too.

24 MR. DeBARBA: -- this time? Okay, because
25 consistent with that and at that same time, we through
26 that selection process we ended up terminating the
27 employment of, I want to say, eight to ten directors.

28 INVESTIGATOR LOGAN: And did you also have a
29 say in the selection for the managers?

30 MR. DeBARBA: Yes, the directors and --

31 INVESTIGATOR LOGAN: Directors and management
32 supervisors --

33 MR. DeBARBA: -- right, the directors ended up
34 getting together and rating the managers. And I believe
35 it was the directors also ranking people for supervisory
36 positions with some input from the managers, to the best
37 of my recollection, it was that kind of a process.

38 INVESTIGATOR LOGAN: And did you review the
39 selections for managers and supervisors?

40 MR. DeBARBA: Yes, yes, yes, I was in there
41 with the other people making sure that I understood how we
42 were ranking people and what the aggregate scores were and
43 the like.

44 INVESTIGATOR LOGAN: It's my understanding
45 that there were approximately 16 individuals who were
46 supervisors who were displaced and --

47 MR. DeBARBA: I think the number is higher
48 than that.

49 INVESTIGATOR LOGAN: -- 22 perhaps?

50 MR. DeBARBA: Yes, I'd say it's probably in

1 that range.

2 INVESTIGATOR LOGAN: Okay. And that there
3 were several people who had never been supervisors who
4 were promoted to supervisory positions as a result of that
5 change?

6 MR. DeBARBA: Correct.

7 INVESTIGATOR LOGAN: It's also my
8 understanding that those individuals who were presently
9 supervisors were not interviewed as part of that process,
10 but that individuals who had not been in supervisory
11 positions were interviewed during that process?

12 MR. DeBARBA: Yes, I think that that is
13 correct, I believe. And the reason for that was that for
14 those people who had been supervisors they judgement was
15 that we knew enough about their performance in terms of
16 managing people, which was, you know, some of the
17 characteristics there are, you know, management oriented,
18 how are you doing in terms of managing people. There was
19 enough experience where you could rate those, whereas if
20 you had somebody else who was perhaps a senior engineer
21 who hadn't been a supervisor before, you really couldn't
22 appropriately rank them based on just experience.

23 So what we did with them is we ended up hiring
24 somebody, I think it was Hay Management Group or one of
25 the consulting firms that's expert in management
26 development to go out and actually do some structured
27 interviews of people to get an assessment of their
28 abilities to manage people.

29 INVESTIGATOR LOGAN: Are those records that
30 were retained?

31 MR. DeBARBA: I don't know.

32 INVESTIGATOR LOGAN: Did you end up talking to
33 any of the displaced supervisors?

34 MR. DeBARBA: Most of them.

35 INVESTIGATOR LOGAN: Most of them.

36 MR. DeBARBA: I think with very few exceptions
37 I talked them all, the ones that were in engineering.

38 INVESTIGATOR LOGAN: Do you recall having a
39 conversation with [redacted] EX 7C

40 MR. DeBARBA: I don't recall.

41 INVESTIGATOR LOGAN: Do you recall having a
42 conversation with [redacted] EX 7C

43 MR. DeBARBA: Yes, I do, I do remember that.

44 INVESTIGATOR LOGAN: Do you recall why he
45 wasn't selected for a position in the new organization as
46 a supervisor?

47 MR. DeBARBA: Well, I think his rating ended
48 up being lower than other people's, and that --

49 INVESTIGATOR LOGAN: On that scale that you
50 were using?

1 MR. DeBARBA: Right, right. And as I
 2 explained to people the purpose of my discussion with them
 3 was really twofold. One was one of reassurance that don't
 4 view this as your a bad person, that you failed, there's
 5 something wrong here, that is is a business decision.
 6 We've got a new organization and we're putting people into
 7 these positions. The old position, the old jobs have gone
 8 away, disappeared. We have a new organization reappearing
 9 that is more operationally focused, it's plant based, it's
 10 specifically related to working in and around a nuclear
 11 plant, more hands on.

12 And so those people who were less hands on,
 13 more paper oriented, more home office oriented generally
 14 scored less well. That's probably not the right English,
 15 but they didn't score as well as those people who were
 16 more hands on oriented, who were more related to the
 17 operations of the plant.

18 And it was also to understand from them how
 19 they felt going forward about being in a new position. In
 20 other words did they feel that they could satisfactorily
 21 function as a senior engineer in the organization.

22 The fact that we had, you know, talked to them
 23 about their compensation, how the compensation system
 24 would work and also, you know, assure them that they had a
 25 job but they were counted on to work and did they have any
 26 reservations about doing this. In other words did they
 27 feel that they could support the organization and move
 28 forward and work within t he confines or the context of
 29 the organization that we put in place.

30 And I think of my interviews I think every
 31 person, although some had some disappointment, believed
 32 that they could and would be supportive of the
 33 organization.

34 INVESTIGATOR LOGAN: I asked a similar
 35 question obviously of [] And bear with me please. EX
MK
 36 [] told me that you informed him that his
 37 performance had no bearing on the fact that he was not
 38 selected as a supervisor. Do you recall making that
 39 statement?

40 MR. DeBARBA: I think in my explanation I was
 41 explaining that this is not a performance oriented change,
 42 this is a business oriented change. We made a business
 43 decision to change the organization and to integrate the
 44 engineering organizations, and in the process of doing that
 45 a new organization has emerged and we're looking for the
 46 skill sets that best fit the positions that we need to
 47 have fulfilled, and it was not strictly who had performed
 48 best. It wasn't that at all.

49 INVESTIGATOR LOGAN: Are you aware that his
 50 performance evaluations were Q or better?

1 MR. DeBARBA: Yes, I would suspect that all of
 2 the supervisors were at least in that category. But in
 3 general the people who worked in and around that
 4 department including _____ was no
 5 longer _____, including, you know, he was a
 6 _____ And I think of the
 7 supervisors,

8 I mean there were a number of people right in
 9 and around that area who were no longer supervisors.

10 INVESTIGATOR LOGAN: And your comment about
 11 performance not being an issue in their non selection as
 12 supervisors, does that apply to all of them?

13 MR. DeBARBA: Well, no, performance was one
 14 weighted attribute. It was one of the attributes that had
 15 some weighting and had a score associated with it. So the
 16 fact that he had a Q, I think it was the last two reviews,
 17 and we'd give him a score and you'd give him a weighting
 18 and you add up the total points, I think that that as
 19 reflected in there. I'm sure it was. But that wasn't the
 20 only characteristic, there were other characteristics that
 21 were also weighted.

22 INVESTIGATOR LOGAN: What were some of those
 23 other characteristics?

24 MR. DeBARBA: I can't recall specifically, but
 25 I think if you were to look in the PEP action plan, and I
 26 think it was action plan 1.2.3, you will find the
 27 selection criteria in the PEP action plan. And I believe
 28 that was the criteria that was used.

29 INVESTIGATOR LOGAN: PEP action plan criteria
 30 1.2.3?

31 MR. DeBARBA: Right. It was the selection
 32 criteria that came out.

33 MR. GUTIERREZ: Do you want us to provide
 34 those, Keith?

35 INVESTIGATOR LOGAN: Please.

36 Moving down from the supervisor level to the
 37 individual engineer level, how did you determine, and when
 38 I say "you" I mean it's the big you, how did you determine
 39 which engineers would fall into which slots, was that
 40 decision made by supervisors, managers or directors, how
 41 was that done?

42 MR. DeBARBA: It was, my recollection is, that
 43 was gone really as a group with -- I know the managers
 44 were involved, the managers and the directors, and the
 45 supervisors were likely involved as well. And what we did
 46 was we asked all the employees for their preference as to
 47 where they would rather work, in the new organization what
 48 was their preference where they would rather work,
 49 Millstone One, CY, Millstone Two. And I think those were
 50 pretty much the choices were unit based.

EX
7C

1 I don't know, I think that what was Mario
2 Banaca's group at that time I don't think changed all that
3 much. Although it might have. No, there was also a
4 Berlin, yes, there was a Berlin component to it as well.
5 So we were giving people -- we were looking for orders of
6 preference for people where they felt that they would
7 prefer to work.

8 INVESTIGATOR LOGAN: Did everybody get their
9 choice?

10 MR. DeBARBA: No, no. I think what we asked
11 for was first, second, and third choice, that type of
12 thing. And what we did was we took the preferences and
13 then, you know, kind of put these all on a board for each
14 of the units and then took a look at the need of the
15 organization.

16 So for instance, if we had lots of preference
17 for people to go to unit three, but we were missing talent
18 on unit two that we would have to make some adjustments.
19 But perhaps somebody who had a number one preference for
20 unit three may have had a second preference for unit two
21 and we needed that skill so we moved that person over to
22 unit two. So there was a lot of adjustments back and
23 forth.

24 But basically the two components of that were
25 preference of the individual and need of the organization.
26 And those were the two things that we were trying to work
27 with in terms of coming up with the overall selection.

28 INVESTIGATOR LOGAN: Is there any record as to
29 which individual was made, which choices and what
30 selections were finally made for them?

31 MR. DeBARBA: Well, what was finally made for
32 them is the organization chart that came out.

33 INVESTIGATOR LOGAN: So --

34 MR. DeBARBA: That was --

35 INVESTIGATOR LOGAN: -- is there any
36 correlation that John Doe selected unit one, two and three
37 and you assigned --

38 MR. DeBARBA: I don't --

39 INVESTIGATOR LOGAN: -- him to Berlin?

40 MR. DeBARBA: -- I don't know. I'm not sure
41 that --

42 INVESTIGATOR LOGAN: Where that likely be, if
43 it were retained?

44 MR. DeBARBA: I don't know. If it were
45 retained, human resources possibly. Your Honor,

46 INVESTIGATOR LOGAN: Okay.

47 MR. DeBARBA: I'm not sure.

48 INVESTIGATOR LOGAN: All right. It's 4:00
49 o'clock now and I think you indicated you have a 4:30
50 meeting.

1 MR. DeBARBA: Yes.

2 INVESTIGATOR LOGAN: There are probably a
3 couple of additional questions I'd like to go over with
4 you, and I'd also like to have an opportunity to look at
5 that study and some of the material that's laid out in
6 there, and that might help us move through the other
7 questions a little bit better.

8 So as not to make you, I guess, make you to
9 late for the 4:30 meeting that you said you wanted to make
10 --

11 MR. DeBARBA: Right, right.

12 INVESTIGATOR LOGAN: -- is there anything that
13 you would like to put on the record, and if not we'll
14 break at this time. Is there anything you'd like to add
15 right now, Mr. DeBarba?

16 MR. DeBARBA: No.

17 INVESTIGATOR LOGAN: Mr. Gutierrez?

18 MR. GUTIERREZ: Keith, just for clarification,
19 the additional questions you have would be in the area of
20 this last line of questioning --

21 INVESTIGATOR LOGAN: Yes.

22 MR. GUTIERREZ: -- on the '93 reorganization?
23 Are you essentially, so far as now, complete with the
24 earlier line of questioning relative to
25 Recognizing that you have to review --

26 INVESTIGATOR LOGAN: I have to sit down --

27 MR. GUTIERREZ: -- this material.

28 INVESTIGATOR LOGAN: -- and go over it again,
29 yes. But predominantly those questions are asked and
30 answered.

31 MR. GUTIERREZ: I only have one clarifying
32 question, Eric. When Keith asked you about whether or not
33 you had said to [] that the performance had no
34 bearing on his rating in reorganization, I took it to mean
35 that you suggesting that his movement or the movement of
36 other supervisors from supervisor to maybe senior engineer
37 was not a for-cause action, is that what you mean?

38 MR. DeBARBA: Yes, that's correct. And when I
39 specifically told them not to take this as they failed as
40 a supervisor.

41 MR. GUTIERREZ: That it had to do with these
42 changing standards as reflected in PEP action plan 1.2.3?

43 MR. DeBARBA: That's correct. And
44 specifically that I didn't see a reason why they could not
45 be a supervisor again in their career. So this was not to
46 say that you failed as a supervisor and you could never
47 ever again be a supervisor, it was not that at all.

48 MR. GUTIERREZ: Okay.

49 MR. DeBARBA: It was a business decision.

50 MR. GUTIERREZ: That was the only

EX 7C

EX
7C

1 clarification that I had.

2 INVESTIGATOR LOGAN: Okay. That's all the
3 questions that I have at this time. Thank you very much
4 for coming.

5 MR. DeBARBA: Okay.

6 INVESTIGATOR LOGAN: We're off the record.
7 (Whereupon, at 4:02 p.m., the proceedings in
8 the above-entitled matter were concluded.)

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF INVESTIGATIONS

INTERVIEW

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 99-283

-----x
IN THE MATTER OF:

INTERVIEW OF
ERIC DEBARBA

: Docket No.
: (not assigned)

-----x

Thursday, July 18, 1996

Simulator Building, Room 4
Millstone Nuclear Power Plant
Rope Ferry Road
Waterford, Connecticut

The above-entitled interview was conducted at
9:00 a.m.

BEFORE:

KEITH LOGAN

Special Agent



CASE NO. 1 - 96 - 002 : NEAL R. GROSS EXHIBIT 28
COURT REPORTERS AND TRANSCRIBERS PAGE 1 OF 77 PAGE(S)

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APPEARANCES:

ON BEHALF OF NORTHEAST UTILITIES AND ERIC DEBARBA:

CHARLES C. THEBAUD, JR., ESQ.

JAY M. GUTIERREZ, ESQ.

of: Morgan, Lewis, and Bockius, L.L.P.

1800 M Street, N.W.

Washington, D.C. 20036-5869

(202) 467-7466

1 company as well as Mr. DeBarba, and at that time explained
2 on the record the nature of the dual representation.

3 All that information, we understand, he is
4 well aware of, understands. We've certainly not seen any
5 evidence to suggest there's a conflict between him
6 individually and the company, but should one arise in the
7 unlikely event, we, of course, would have the obligation
8 of notifying him immediately of that conflict, and then
9 with his approval, we'd be able to withdraw from him
10 representing -- be able to withdraw from representing him
11 individually, but could continue with the company.

12 As I say, we're not aware of any such
13 circumstances which would lead to that at this point. Jay
14 probably wants to enter his appearance right now, too.

15 MR. GUTIERREZ: Just for the record. My name
16 is Jay M. Gutierrez, and I am here in the same capacity as
17 Mr. Thebaud just indicated and I previously indicated in
18 earlier transcripts.

19 DIRECT EXAMINATION

20 SPECIAL AGENT LOGAN: Thank you. Mr. DeBarba,
21 bearing in mind that Mr. Thebaud and Mr. Gutierrez do
22 represent the corporation as well as other individuals
23 that we have interviewed during the course of this
24 investigations and others, is it still your desire to have
25 them here as counsel today?

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P-R-O-C-E-E-D-I-N-G-S

9:30 a.m.

COURT REPORTER: Raise your right hand please.

Do you swear or affirm that the testimony that you're about to give will be the truth, the whole truth, and nothing but the truth?

MR. DEBARBA: Yes, I do.

SPECIAL AGENT LOGAN: Thank you, Mr. DeBarba. If you would please state your full name for the record, spelling your last name.

MR. DEBARBA: Sure. Eric A. DeBarba, D-e-B-a-r-b-a.

SPECIAL AGENT LOGAN: Thank you. My name is Keith Logan; I'm a special agent with the U.S. Nuclear Regulatory Commission, Office of Investigations, King of Prussia, Pennsylvania. Mr. DeBarba, you're appearing today with counsel, is that correct?

MR. DEBARBA: Yes, I am.

SPECIAL AGENT LOGAN: Mr. Thebaud.

MR. THEBAUD: Yes, I'm Charles C. Thebaud, Jr., the law firm of Morgan, Lewis and Bockius, L.L.P, and we're representing Mr. DeBarba individually in this case, as well as the company. I believe in an earlier interview with where Mr. Gutierrez was also present today, he had an appearance on behalf of the firm representing both the

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1 MR. DEBARBA: Yes.

2 SPECIAL AGENT LOGAN: Thank you. And for the
3 record, we have met on two prior occasions and those
4 interview transcripts are dated -- I believe it's October
5 19, 1995, and March 6, 1996. And you've had an
6 opportunity before going on the record today to review
7 both of those transcripts with counsel, is that correct?

8 MR. DEBARBA: Yes.

9 SPECIAL AGENT LOGAN: And I believe you
10 indicated also that you wanted to clarify a point that was
11 mentioned on a couple of the pages in the March 6, 1996,
12 transcript, is that correct?

13 MR. DEBARBA: Yes, that is.

14 SPECIAL AGENT LOGAN: Please identify the
15 pages of the transcript, and I will attach them to this
16 interview and this report of investigation, and your
17 clarification will be noted in the course of this
18 interview.

19 MR. DEBARBA: Yes, it's page 33 through
20 approximately page 35. It might continue on through 36.
21 And the general topic is "Selection Process for the
22 Supervisors During the 1993 Reorganization." During that
23 discussion, I alluded to the fact that -- I alluded to
24 ratings being used, and I was referring to matrices that
25 we had developed and prepared consistent with an action

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1 plan, 1.2.3 that was specified in that interview.

2 But I was incorrect in how I portrayed that.
3 It was -- those matrices were used at the director level
4 and at the manager level, and we spent a lot of time, many
5 days, working on those selection criteria at the manager
6 and director level.

7 To the best of my recollection and knowledge
8 for the supervisors, we did not actually use ratings. For
9 those people who were not previously supervisors, we did
10 have some reviews performed by the Hay Management Company
11 to go out and actually gather some data as to how well
12 these people would perform in supervisory areas. But we
13 did not, to the best of my recollection and knowledge,
14 actually fill out selection rating forms that gave weights
15 in numerical numbers for all the supervisory people or
16 really for any of the supervisory people.

17 SPECIAL AGENT LOGAN: It was a totally
18 different process that was used for the supervisors as you
19 had used for the vice presidents, directors, and managers;
20 is that correct?

21 MR. DEBARBA: Yes.

22 SPECIAL AGENT LOGAN: And it's my
23 understanding that for those individuals who had not been
24 supervisors, the Hay Group did, in fact, put together
25 quartile ratings, which separated the group of, I guess,

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1 potential candidates into four quartile rating groups; is
2 that correct?

3 MR. DEBARBA: Yes, that is consistent with my
4 recollection.

5 SPECIAL AGENT LOGAN: Okay. So there were
6 ratings used in each; however, they are separate and
7 distinct. Is that correct?

8 MR. DEBARBA: Yes.

9 SPECIAL AGENT LOGAN: Okay. I think that the
10 record, certainly with other interviews, is also clear
11 that there was a different process used when it came to
12 selection of supervisors as opposed to the selections of
13 the group of managers, directors, and vice presidents. Is
14 there anything else that you wanted to clarify from your
15 prior interviews at this time?

16 MR. DEBARBA: Not at this time.

17 SPECIAL AGENT LOGAN: All right. I'd like
18 to -- if you would, please state for the record your
19 current position with Northeast Utilities.

20 MR. DEBARBA: I'm vice president of Nuclear
21 Technical Services.

22 SPECIAL AGENT LOGAN: I believe that's a
23 different position than you held the last time we spoke,
24 is that correct?

25 MR. DEBARBA: No. I think the last we spoke

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1 was in March of this year, Keith?

2 SPECIAL AGENT LOGAN: March. So that was
3 effective in February?

4 MR. DEBARBA: So that was effective February
5 1st.

6 SPECIAL AGENT LOGAN: Okay. I've got to kind
7 of keep track with the changes that are taking place with
8 Northeast. Okay. I just wasn't sure if that was the same
9 one or not. All right. I would like to go over with you
10 just a couple of points, I guess, that's an outgrowth of
11 the prior interview, most certainly; the first one that's
12 a continuation of our March 6th discussion.

13 It has to do with spot recognitions. And I
14 asked you at that time whether you were aware of whether
15 or not [redacted] had been ^{EX}TC
16 recommended for spot recognitions. I think I talked about
17 the fact that it was my understanding that perhaps Mr.
18 Partlow had recommended them as well as Mr. Chatfield.
19 It's those points I'd like to go over with you at this
20 time.

21 Let me ask the question again: are you aware
22 of whether or not those [redacted] individuals have been ^{EX}TC
23 recommended for spot recognitions?

24 MR. DEBARBA: You know, I do recall there were
25 some discussions around recognitions for individuals, but

1 as I stated in the previous interview, I didn't recall
2 anything specific as a recommendation, something that
3 was -- perhaps was contained in a report that was an
4 action item for me to reward people with a spot
5 recognition, for instance, as a formal recommendation or
6 any specific recommendation that I had received in any
7 specific way, rather than maybe just a discussion, an
8 informal discussion, "Gees, maybe you ought to consider
9 this," that type.

10 I think that -- I don't recall anything that
11 was a formal recommendation. There may very well have
12 been informal discussions where that --

13 SPECIAL AGENT LOGAN: I'm not aware of any
14 action item that you've indicated earlier about, that you
15 indicated in prior interview. I'm not aware that there
16 was an action item, per se. But I am aware that Mr.
17 Partlow in his correspondence did recommend to Mr. Kacich
18 -- have you read the Partlow memos to Kacich on
19 recognition of individuals? It actually was not captioned
20 that way. I'll be happy to share that with you.

21 Since we're going into that -- I hate to break
22 it up -- let me just do this. I've got a March 7 memo,
23 1994, it's Bates stamped -0777 and it's through 0783, EX 7C
24 it's a memo from Partlow to Kacich. It talks about the
25 resolution of nuclear safety issues raised by [] EX 7C 7C

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7 EX7C

1
2 There are a couple of issues in here and I've
3 highlighted them. They talk about addressing the
4 deficiencies about plant operations and about the
5 perception of originators -- perceptions held by
6 originators of REF's. And what I'd like you to do is to
7 for a minute if you'd just take a look at certainly the
8 first memo, March 7th, and tell me if you recognize that
9 memo and if you've seen it before.

10 MR. DEBARBA: There's two memos here, you just
11 --

12 SPECIAL AGENT LOGAN: Yes, the first one --
13 the first one is the one I'd kind of like for you to just
14 take a look at for the time being. Now you can look at
15 both now and refresh your recollection.

16 The second memo is dated January 17, 1994. It
17 is attached to that one.

18 MR. DEBARBA: Okay.

19 SPECIAL AGENT LOGAN: And that's followed up
20 with a memo, a -0788, 0789, dated March 15, 1994, from ^{EX} _{7C}
21 Mr. Partlow to Mr. Kacich. Paragraph 4 on the second
22 page, Mr. Partlow indicates: "I believe that management
23 should favorably recognize [] for his ^{EX} _{7C}
24 willingness to work within the NU system over a long
25 period of time in seeking resolution of an issue which

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1 caused him to question his management's actions versus
2 their avowed policies."

3 While that's not directed to you, it's to Mr.
4 Kacich. My understanding is that this was brought to your
5 attention. The record should note that Mr. DeBarba's
6 currently reviewing that document.

7 MR. DEBARBA: Okay.

8 SPECIAL AGENT LOGAN: In addition, Larry
9 Chatfield wrote you an E-mail dated August 10, 1995, and
10 it says: "Reminder of spot recognitions." Take a look at
11 that. It's 1184. EX7C

12 You'll note that Mr. Chatfield has indicated
13 that there were other discussions in addition to the E-
14 mail message that he sent to you with regard to spot
15 recognitions.

16 Go back to my original premises next. Spot
17 recognitions or some sort of recognitions for a EX7C
18] Do you recall EX7C 7C
19 discussing with anyone the suggestion that any or all of
20 those three individuals receive a spot recognition for the
21 work that they had done at Northeast Utilities?

22 MR. DEBARBA: There's several correspondence
23 there, and I think as you read those that you reflect back
24 on them, and you say, "Okay, I do remember having read
25 this before." The one that was specifically --

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1 SPECIAL AGENT LOGAN: That's why I brought
2 them with me to kind of help you out.

3 MR. DEBARBA: Right. The one that was
4 specifically from Mr. Partlow has a very specific
5 recommendation in there.

6 SPECIAL AGENT LOGAN: Yes, it does.

7 MR. DEBARBA: And what it recommends is that
8 Mr. Opeka sit down over a cup of coffee with [redacted] ^{EX}
9 in a very non-showing, very soft way to recognize [redacted] ^{TC}
10 and that during that meeting that Mr. Kacich and two other
11 people should be present.

12 SPECIAL AGENT LOGAN: I believe it's Mr.
13 Bonaca and Mr. Chatfield. The memo you're referring to --

14 MR. DEBARBA: Right.

15 SPECIAL AGENT LOGAN: -- is March 15, 1995.

16 MR. DEBARBA: Right. Right. I'm not aware of
17 if that ever happened or didn't happen or not. I don't
18 recall any specific recommendation to me, Keith, that I
19 needed to be involved with that activity or that I ought
20 do something specific coming out of the Partlow
21 recommendation.

22 If, you know, if Mr. Opeka had the
23 recommendation that I follow up on that action, I'm sure I
24 would have been given an assignment to do that.

25 SPECIAL AGENT LOGAN: Right.

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1 MR. DEBARBA: And that -- I don't recall ever
2 having had an assignment to do that. If there was some
3 recommendation that I follow up on that was done
4 informally, I don't recall it.

5 SPECIAL AGENT LOGAN: Okay.

6 MR. DEBARBA: That's specific to that item.

7 SPECIAL AGENT LOGAN: All right. I just
8 wanted to --

9 MR. DEBARBA: Now, you want to move on to
10 this?

11 SPECIAL AGENT LOGAN: To Larry Chatfield's E-
12 mail memo and his discussions with you on spot
13 recognitions. And that's, again, -1184. *EX 7C*

14 MR. DEBARBA: Right. I've had a lot of
15 conversations with Larry Chatfield over the period of time
16 he's been quite active in these matters; he's got opinions
17 on matters. In looking at this, this does -- this does
18 trigger a recollection of him talking about his viewpoint;
19 that he thought that, perhaps, a spot recognition might be
20 helpful.

21 I don't recall ever awarding any spot
22 recognitions; but at least, as I think back now, it
23 strikes me as thinking -- and I think I talked to Larry
24 about this -- a concern of how that would be viewed by the
25 organization. And my concern was that it would be viewed

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1 as disingenuous, that given what had transpired with these
2 situations, that these individuals would not feel that it
3 was being awarded to them in a way that it was originally
4 intended.

5 But more it was, because the situation had now
6 gained a lot of attention, that was why it was being done.
7 I think it would have been a wrong message to them; I
8 think it would have been a wrong message to the
9 organization. And I think that the fact that I did not
10 give spot recognitions, and I don't think I did to any of
11 these individuals, doesn't strike me as being inconsistent
12 as I sit here and think and reflect over maybe some of
13 these conversations that have occurred between myself and
14 Mr. Chatfield.

15 SPECIAL AGENT LOGAN: So I take it that your
16 feeling is that a spot recognition would not have been the
17 right decision for the reasons you've indicated.

18 MR. DEBARBA: Yes, I think as I sit here now,
19 I don't think that that would have been the right -- in my
20 opinion, I don't think that that would have been the right
21 thing to do.

22 SPECIAL AGENT LOGAN: Were your feelings
23 uniform across the board with regard to [] EX 7C
24 [] and [] or were they perhaps different 7C
25 with regard to [] I think it's alluded to a EX 7C
7C

1 little in that memo.

2 MR. DEBARBA: Are you referring to the part
3 where it talks about his reservations?

4 SPECIAL AGENT LOGAN: Yes. I just want to
5 make sure that your comments apply to all three and not
6 just to perhaps two of the three.

7 MR. DEBARBA: It may have been for some
8 slightly different reasons. You know, I think in the case
9 of -- in the case of [] I think it would have EX 7C
10 been viewed by the organization at large as being almost
11 folly to grant [] an employee spot recognition award. EX 7C

12 For the other people, it would not have been
13 that way; I would have been more concerned about their --
14 how they would have received that. I think that they
15 would have received it negatively. And I think that
16 that's also indicative of Mr. Partlow's comments that it
17 ought to be -- if it were done, it ought to be done in a
18 very quiet, discreet way -- in a way that does not, you
19 know, gain a lot of attention.

20 So in terms of -- in terms of that I think it
21 is consistent that -- that the spot recognition has a lot
22 to do with how it's received and how it's viewed more so
23 than just the, you know, hundred dollar award. The award
24 itself is not significant.

25 SPECIAL AGENT LOGAN: I believe, and I'll have

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1 to check that memo for a minute, but I believe Mr.
2 Chatfield also suggested Mr. [redacted] for a spot
3 recognition for the work that he did, his perseverance, as
4 well. Would your comments also apply to him?

EX 7C

5 MR. DEBARBA: I don't recall. I don't recall
6 recommendations relative to Mr. [redacted]

EX 7C

7 MR. THEBAUD: Keith, what did you say that
8 this referred to?

9 SPECIAL AGENT LOGAN: I don't have it in front
10 of me now. Let me just check. I can -- no, this one does
11 not, but Mr. Chatfield did, in fact, relate to me that he
12 had grouped Mr. [redacted] in at least during one of his
13 conversations with you that with regard to [redacted]

EX 7C

14] Mr. [redacted] and [redacted] that they --
15 using his words -- persevere through thick and thin to
16 bring their issues forward, and that he thought that Mr.

EX 7C

EX 7C

17 also should have been recognized with a spot
18 recognition.

EX 7C

19 He went on to, certainly, indicate that his
20 organization, nuclear concerns -- nuclear safety
21 concerns -- does not have the ability, I guess, with their
22 funding and so forth to go ahead and make those kinds of
23 awards to people and that was why he brought it to your
24 attention. I believe that conversation takes place
25 approximately July 21st of '95.

1 And I guess your answer is you don't recall a
2 discussion with regard to a spot recognition for Mr.

EX 7C

3
4 MR. DEBARBA: Oh, he may have; I just don't
5 recall it.

6 SPECIAL AGENT LOGAN: All right. Mr.

7 -- ah, excuse me, Mr. Partlow also mentioned in
8 his March 7th letter, and you had an opportunity now to
9 read that, and I'd be interested in your comments on his
10 comments. They start at the bottom of page of -778 and
11 carry on to the first couple of paragraphs on -0779,
12 which is the March 7, 1994, memorandum.

EX 7C

13 And he talks about integration of the NU
14 nuclear organization into a team where "an intrusive
15 engineering organization is welcomed and respected by the
16 staff." And he goes on to indicate "the strongest nuclear
17 organizations which I have seen are those in which the
18 engineering and operating staffs are both strong and well-
19 balanced in carrying out nuclear safety work.

20 "In these organizations the engineering
21 department not only serve the operating staff by
22 addressing known deficiencies and plant requests, but they
23 are pro-active in questioning the status quo in seeking
24 out ways to improve plant operations," skipping a
25 sentence.

1 "My discussion with some members of the NU
2 engineering staff had given me the impression, at least
3 preliminarily, that the Millstone Station does not enjoy
4 these attributes; at least, that is the perception of
5 some. Instead, their perception is that those who
6 question the operability of equipment or identify the need
7 to correct plant deficiencies are not treated as good,"
8 excuse me, "are not treated as a member of the Millstone
9 team. They sense that the message to them is that good
10 engineering team members are those who find a way to
11 concur in plant staff decisions and are willing to defer
12 to those with long experience in plant operations." Next
13 paragraph.

14 "I noted this perception in reviewing the
15 history of as well as in talking with those EX 7C
16 involved in EX 7C
17 and through the EX 7C
18 TBSCCW heat exchanger. The long period needed to resolve
19 the issues and the nature of the communications with the
20 originators apparently has left the impression that these
21 REFs were not viewed as being necessary and could result
22 in a need for plant modifications which were not
23 considered necessary by the plant staff."

24 Having read that, I'd like for you to take a
25 look at the memo again, and I'd be interested in your

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1 comments with regard to Mr. Partlow's comments. Why don't
2 we just go off the record and give you a chance to do
3 that.

4 (Whereupon, the foregoing matter went off the
5 record at 9:58 a.m. and went back on the
6 record at 10:00 a.m.)

7 SPECIAL AGENT LOGAN: Mr. DeBarba, now that
8 you've had a chance to look at that, I'd appreciate any
9 comments that you care to make with regard to Mr.
10 Partlow's comments.

11 MR. DEBARBA: As he's stated in here, these
12 are his preliminary impressions of things that are
13 perceptual in nature that address the operating staff and
14 the engineering staff. And I think on reflection it's
15 quite clear in the engineering organization that we have
16 been working very hard over the last several years to make
17 sure the engineering organization is intrusive -- I
18 personally used those words -- with our staff to make sure
19 that that is clearly understood.

20 I think that it is clear that we did not have
21 the best of communications between the corporate
22 organization and the site based organization for a number
23 of reasons, and that is exactly why we decided in the
24 early '90's to bring the organizations together. And I
25 think that Mr. Partlow clearly recognizes that the notes

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1 in here that differences in judgments about the issues
2 were observed and this is expected.

3 It is true that we do get differences in
4 judgments -- that's okay -- but that we had some questions
5 around roles and responsibilities, and I think those got
6 clouded. And I think our whole idea of moving the
7 organizations to the site was to make sure our roles and
8 responsibilities were clear and that people were able to
9 see each other eyeball to eyeball, understand what their
10 jobs were individually and be able to work out these
11 things expeditiously so that they -- they didn't take a
12 longer time to address.

13 He specifically mentions in here: "Prompt
14 attention to issues raised by employees in good
15 communication will in the future improve the Station's
16 perception of management's performance." He goes on to
17 say: "As more engineering personnel are transferred to the
18 site caution needs to be exercised to ensure that
19 engineering maintains a questioning attitude and the
20 checks and balances found in a traditional site and
21 corporation organization arrangement are not lost."

22 We've been working very hard on that, and I
23 think we've been able to do that by really focusing on
24 roles and responsibilities of a system engineering
25 organization versus a design engineering organization as

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1 who had shown

2

3

4

5 On the other hand, you had people who were
6 site based, field oriented, who worked side by side with
7 that heat exchanger day in and day out, basically took it
8 out of service during refueling outages and had done a
9 number of inspections, as I understand it, and their
10 conclusion was the heat exchanger physically looked in
11 great shape.

12 And so the two were inconsistent. You had an
13 that was saying this heat exchanger is EX 7C
14 not working, it's not right. And you had the other people
15 saying, "Well, I understand that, but practically, this
16 thing is performing fine. We have no evidence whatsoever
17 hardware-wise that there's any indication that there's
18 trouble here."

19 So you had two different camps that looked at
20 the same problem from different angles and it took quite a
21 while to get that sorted out.

22 SPECIAL AGENT LOGAN: Wasn't there also an
23 issue in the heat exchanger matter that it was EX 7C

24 and it was operating well in excess of that?

25 MR. DEBARBA: Well, I think that that's what I

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1 was alluding to, was that the

2

3

4

And the hands-on

5

people looking at it saying, "Well, I can

6

but the hardware looks fine." And maybe

7

there's something that's not quite right

8

Maybe the models aren't really

9

as well as they should because there may be

10

some other factors that haven't been considered.

11

SPECIAL AGENT LOGAN: Was that the same heat

12

exchanger that had been in operation since the plant was

13

licensed?

14

MR. DEBARBA: I believe so.

15

SPECIAL AGENT LOGAN: Okay. Moving ahead.

16

The '93 engineering integration effort -- again, we talked

17

about that briefly on March 6th, I'd like to get into that

18

a little bit more right now. And concentrate, if you

19

will, on the supervisory selection process.

20

I've had an opportunity to talk to some of the

21

people who were involved in that process which I hadn't

22

had an opportunity to deal with the last time we spoke.

23

And I think the last time, in general, we talked about the

24

entire selection process, vice presidents down to

25

supervisors.

EX
7C

EX
7C

EX
7C

1 If we could just go back a minute and revisit
2 the supervisory issues, and if you could explain for the
3 record how the supervisory selections were made within
4 your organization. And I believe if we look at the
5 organization charts -- we're looking at chart 2 which is
6 -0634 as the primary chart and starting off point. *EX 7C*

7 There were, I believe, five directors that reported to you
8 under the new organization: Bud Risley, Ray Necci, George
9 Pitman, Haseltine -- I don't recall his first name.

10 MR. DEBARBA: John.

11 SPECIAL AGENT LOGAN: John. And Mario Bonaca.

12 And what I'm trying to identify is which of these
13 individuals was involved in the selection of the
14 subordinate supervisors and whether or not any managers
15 were also involved?

16 MR. DEBARBA: Okay. To the best of my
17 recollection, that the discussions that were held looking
18 at supervisors for this new organization, which was a much
19 flatter organization, there were fewer positions available
20 than what had been in the previous organization -- and it
21 was a new organization with a different focus -- that the
22 people who were present in that included my boss at the
23 time, John Opeka, as well as myself.

24 To the best of my recollection it was the
25 other officers who were there at the time -- and I was

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1 just thinking who those other officers were -- I think it
2 was Steve Scace, Wayne Romberg, perhaps, and John Stetz --
3 I think.

4 I believe we had somebody from our human
5 resources group as well as the Hay management group. We
6 had a representative there.

7 SPECIAL AGENT LOGAN: Sam Madoono?

8 MR. DEBARBA: Yes, that's correct. And I
9 believe the people who were present during at least some
10 of these discussions included Mr. Risley, Mr. Necci, Mr.
11 Pitman -- I don't think Mr. Haseltine was an employee at
12 that time; I think we brought him after that. But I think
13 Mr. LaPlatney had been designated as the person to be the
14 CY person. So I think Mr. LaPlatney was there. And Mr.
15 Bonaca may or may not have been -- I don't recall if he
16 was or was not.

17 SPECIAL AGENT LOGAN: I haven't heard anybody
18 indicate they recall him being there yet. But, I guess --

19 MR. DEBARBA: Yes, he may not -- I don't
20 recall him being there --

21 SPECIAL AGENT LOGAN: Do you recall --

22 MR. DEBARBA: -- which strikes me that --

23 SPECIAL AGENT LOGAN: -- why?

24 MR. DEBARBA: Maybe he wasn't available, he
25 was out of town or on vacation. I don't know. Don't

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1 know.

2 SPECIAL AGENT LOGAN: I understand that, in
3 fact, you did make offers to Risley, Necci, and Pitman to
4 serve in their new director positions prior to the time
5 they were invited to attend the selection meetings?

6 MR. DEBARBA: I believe Mr. Opeka did that,
7 yes.

8 SPECIAL AGENT LOGAN: I thought that you also
9 did that.

10 MR. DEBARBA: I think that -- I don't think
11 so.

12 SPECIAL AGENT LOGAN: No?

13 MR. DEBARBA: I don't think so. I might
14 have -- I might have done some follow-up after Mr. Opeka
15 did. I think he did it as best of my recollection. I
16 think that also included Mr. LaPlatney.

17 SPECIAL AGENT LOGAN: And that Mr. Bonaca was
18 not so advised. Did you make any effort -- did you recall
19 to have Mr. Bonaca attend any of that -- any of those
20 supervisory meetings or supervisory selection meetings?

21 MR. DEBARBA: I just don't recall. I just
22 don't recall.

23 SPECIAL AGENT LOGAN: Do you recall consulting
24 with Mr. Bonaca in terms of filling supervisory positions
25 which would have been under him or manager positions which

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1 would have been under him and -- his chart is 2-E and it's
2 on 0648. I believe that includes Kupinski, Schmidt, Dube,
3 and Guerci. Do you recall discussions with Mr. Bonaca
4 about those positions?

5 MR. DEBARBA: Yes. Yes, I do.

6 SPECIAL AGENT LOGAN: Prior to the time they
7 were filled?

8 MR. DEBARBA: Yes.

9 SPECIAL AGENT LOGAN: Okay. And did Mr. --
10 what were Mr. Bonaca's comments about those manager
11 positions?

12 MR. DEBARBA: Well, I think that he was --
13 just trying to remember in time here -- the organization
14 that we were coming from --

15 SPECIAL AGENT LOGAN: I believe there's also a
16 chart there too. It's -- the counsel has that. It starts
17 on 0564. It's also chart 2.

18 MR. THEBAUD: Which one was that?

19 SPECIAL AGENT LOGAN: 0564. That's where
20 chart 2 starts. Bonaca starts down on that. That's 0579.

21 MR. DEBARBA: 0579. Right. And I recall
22 having discussions with Mr. Bonaca on the reorganization.
23 He was the director of nuclear engineering prior to the
24 change, and he was the director of nuclear engineering
25 after the change. So in the grand scheme of things his

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1 didn't know the people in that group, he had regard for
2 the people in that group, but that he, you know, he was
3 looking for other people's opinion as well, rather than
4 his own because he had less knowledge of the individuals.

5 SPECIAL AGENT LOGAN: Now moving down from the
6 management level to the supervisor level. Did you have a
7 similar discussion with Mr. Bonaca with regard to
8 supervisors?

9 MR. DEBARBA: I don't recall that. I don't
10 recall the specifics on the supervisors. Are you talking
11 about all supervisors in nuclear engineering?

12 SPECIAL AGENT LOGAN: His supervisors. The
13 ones who would report to Kupinski, Schmidt, Dube, and
14 Guerci. In particular, you have a

15 -- those were the
16 that would report to Mr. Kupinski. And
17 you also had, I believe, -- EX 7C

18 MR. DEBARBA: Right.

19 SPECIAL AGENT LOGAN: -- who would be a new
20 supervisor. And I guess the question is did you discuss
21 their appointments as well as the ones that you previously
22 discussed at the managerial level?

23 MR. DEBARBA: You know, I don't recall. I
24 don't recall having had those discussions with Mario other
25 than I do recall him saying somewhere along the lines,

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1 particularly in the Kupinski group, that he knew the
2 people less. How that manifested itself in terms of
3 ultimate selections I don't recall. And even in that
4 case, if you look at I'm not -- it's not
5 clear to me what Mr. Bonaca's role was in appointing
6 to that position or even having screened for
7 selection. I just don't recall.

8 SPECIAL AGENT LOGAN: Now, I think we've
9 talked -- and certainly you said there were a number of
10 meetings which took place during the filling of the
11 vacancies -- looking, if you will --

12 MR. DEBARBA: Which vacancies, Keith?

13 SPECIAL AGENT LOGAN: All of the vacancies in
14 the new organization.

15 MR. DEBARBA: You mean from vice presidents --
16 all the way down. Okay.

17 SPECIAL AGENT LOGAN: But I'd like for you to
18 focus on the meeting where you started to fill the
19 supervisors. And I think you did earlier on. What was
20 the input for Mr. Bonaca's group then? If he wasn't there
21 who was making suggestions? And was that your job, was
22 that Necci, Risley, Pitman, how did that process work if
23 Mario wasn't there?

24 MR. DEBARBA: I think what we were doing
25 overall was we were looking at all supervisors in all

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1 departments and everybody who was at that meeting was
2 participating in the discussion and talking about who
3 would be a good supervisor, who would be a high potential
4 candidate for consideration in that particular arena; in
5 other words, who had the technical skills and who did
6 people view as having good interpersonal skills who would
7 be considered for those particular groups?

8 So I think that it was everybody who was at
9 those meetings was having input. In fact, I think that
10 there was fairly lively discussion during that as to who
11 might be a good candidate.

12 SPECIAL AGENT LOGAN: Wasn't it also true that
13 most of the people there deferred to you when it came to
14 filling your supervisory positions? Because I know that's
15 what Mr. Opeka said.

16 MR. THEBAUD: Can I ask you a question? When
17 you say "filling your supervisory positions," are we now
18 talking what?

19 SPECIAL AGENT LOGAN: The supervisory
20 positions under Mario Bonaca, under Bud Risley, any of the
21 supervisory level -- not manager, not director, not vice
22 president.

23 MR. DEBARBA: I think that if people had
24 input, they knew the people, their skills and what not,
25 then they spoke up, is best of my recollection. I guess

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1 it wouldn't be that surprising to me that Mr. Opeka
2 wouldn't know some of the people here. So in that case if
3 he didn't know he wouldn't have much input because, you
4 know, how could he comment on that type of thing?

5 Certainly I knew all these people. I had some
6 input. And the other people I named I believe all knew
7 these people. So I think they all had input as well. The
8 other officers, I think, to a varying degree, depending on
9 the person, knew some and didn't know others.

10 SPECIAL AGENT LOGAN: Would it be incorrect to
11 say that you were -- you were really the de facto
12 selecting official for the supervisory positions within
13 your area which would have been engineering services,
14 Nuclear Engineering Services?

15 MR. DEBARBA: I don't think so. I think it
16 was more collegial than that. I think that there were
17 inputs gained from a number of people. And as I recall,
18 at least the first meeting, we had identified a number of
19 people we thought were high potential candidates to fill
20 positions. But that meant we wanted to go out and get
21 some additional information before any selection was made.

22 And so I know for instance in the case of,
23 say, -- well, my impressions of
24 were pretty good. I didn't know that well. I
25 think was regarded well in the organization. Probably

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1 not a lot of people there knew but that we ^{EX} _{DC}
2 wanted to get a Hay assessment profile or ranking on ^{EX} _{DC}
3 before we ultimately made a final selection.

4 What I don't know is that along the course of
5 the way what were the other inputs. For instance, did
6 Mario Bonaca have an input into that?

7 SPECIAL AGENT LOGAN: And I don't think we can
8 establish he was there yet.

9 MR. DEBARBA: Well, either there then in that
10 snapshot in time or the dialogue that occurred afterward
11 that ultimately led to the selection.

12 SPECIAL AGENT LOGAN: The dialogue between you
13 and Mario at a non-meeting time?

14 MR. DEBARBA: Or at another meeting. I don't
15 know. I just don't recall.

16 SPECIAL AGENT LOGAN: I haven't found anyone
17 who recalls him being there. So I thought perhaps you
18 might have had a conversation with him one on one that --

19 MR. DEBARBA: I might have. It's just that,
20 you know, it is -- it would be surprising to me that any
21 of these selections would ultimately have made their way
22 to paper without Mario knowing about it or having input
23 into it or having had some discussion or some input. It
24 just would be surprising to me.

25 SPECIAL AGENT LOGAN: It was surprising to me,

1 too, because I asked him about some of them, and he said
2 he wouldn't have made the selections that were made for
3 them, and that he didn't make those selections.

4 MR. DEBARBA: Really?

5 SPECIAL AGENT LOGAN: Yes. The -- Larry
6 Chatfield had an opportunity to respond to a concern
7 raised by [] and he did his investigation *EX 7C 7E*
8 which, I guess, did not substantiate [] concern *EX 7C*
9 that he was discriminated against as a result of the '93
10 reintegration.

11 And you were interviewed by Mr. Chatfield, and
12 I was provided with a copy of the notes that you prepared
13 and what I'd like you to do -- I'm having trouble reading
14 these notes, they're handwritten notes and I'm sure you'd
15 have just as much trouble with my handwriting probably as
16 I'm having with yours. If you could kind of walk me
17 through the notes -- and I'll be happy to share them with
18 you -- I'll give you an opportunity to look at them as
19 well. Let's just go off the record.

20 (Whereupon, the foregoing matter went off the
21 record at 10:25 a.m. and went back on the
22 record at 10:32 a.m.)

23 SPECIAL AGENT LOGAN: All right. Mr. DeBarba,
24 you've had an opportunity now to review the three pages
25 which I believe constitute notes that you have prepared on

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1 a, I guess, a memo from Larry Chatfield dated September
2 12, 1994; your comments back to him are dated, I believe,
3 September 28 of '94. If we could start on page -- well,
4 it's page 2 of the document, one of two of the actual
5 questions.

6 And if you could kind of read this into the
7 record. And while the questions that are down here, Mr.
8 Chatfield's questions, are clear, it would probably help
9 to clarify the record if you would also read them as well
10 as the written response.

11 MR. DEBARBA: Right. Just to put it in
12 context, I was responding to a request that Larry had
13 given me relative to a concernee who had brought a
14 question to him, and he was asking for my help or support
15 in responding to the questions that he'd receive. Do you
16 want me just to read these bullets --

17 SPECIAL AGENT LOGAN: Read the bullets --

18 MR. DEBARBA: -- and then my handwriting?

19 SPECIAL AGENT LOGAN: -- and then the comments
20 after the bullets.

21 MR. DEBARBA: Okay. First one: "In
22 conjunction with concernee statement number 2," concernee
23 statement number 2 -- it doesn't say what that is. "The
24 concernee questioned the memory and the truthfulness of
25 the selection committee." And my response, my handwritten

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1 response: "The report reflects my memory very accurately.
2 PEP action plan 1.2.3 on selection was clearly used to
3 avoid potential for favoritism -- the reason the PEP
4 action plan was undertaken to begin with.

5 "Also, the selection process was patterned
6 after a similar process used" -- broken off there, but --
7 "in CSO, Customer Service Organization, who had gone
8 through a downsizing and deselection. Worksheets were
9 used during the process but were not retained to the best
10 of knowledge for confidentiality reasons." That was the
11 first point.

12 SPECIAL AGENT LOGAN: Okay. Now, were you
13 talking about -- for all the positions or just the
14 supervisor positions?

15 MR. DEBARBA: Right. No, I was talking about
16 the process that was set up that, to be clear, that
17 process was a process that was used at the vice president,
18 the director, and the manager level; at the supervisory
19 level it ended up being different.

20 SPECIAL AGENT LOGAN: Okay. I just wanted to
21 make sure I understand which process you went back
22 addressing here.

23 MR. DEBARBA: Go on to the next one?

24 SPECIAL AGENT LOGAN: Yes.

25 MR. DEBARBA: It says: "Please provide the

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1 names of all the people who had any input in the selection
2 process as it applied to the concernee."

3 SPECIAL AGENT LOGAN: Do you know who the
4 concernee was?

5 MR. DEBARBA: I believe I did.

6 SPECIAL AGENT LOGAN: Okay.

7 MR. DEBARBA: I believe I did. Yes, I did.
8 Yes, I would have had to otherwise I couldn't have
9 addressed it.

10 SPECIAL AGENT LOGAN: Well, it makes sense,
11 but I just wanted to make sure.

12 MR. DEBARBA: Right. Right. I put, "To the
13 best of my recollection, Opeka, Romberg, Scace, Stetz,
14 DeBarba, Eckenroth, Madoono, LaPlatney, Risley, Necci,
15 Pitman," and there's a circle around Bonaca with a
16 question mark.

17 SPECIAL AGENT LOGAN: Okay.

18 MR. DEBARBA: All right. "In conjunction with
19 concernee statement number 3, the concernee states, 'In
20 the absence of any objective candidate evaluation process,
21 the selection process most likely became a popularity
22 contest.' Can you comment on the concernee's conclusion
23 that the selection process became a popularity contest?

24 "There was nothing popular at all about
25 deselecting or having to release long-term employees who

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1 had made contributions to the company over the years. It
2 was a tough unpleasant job that had to be done and was
3 done using the best tool that we had while moving ahead
4 quickly."

5 Where are here? Right here? "In conjunction
6 with concernee statement number 4, the fact that no one in
7 the selection process can recall the concernee's name
8 being mentioned is disturbing to the concernee. In
9 conjunction with this thought, the concernee would like to
10 know why he was not mentioned or considered as a candidate
11 for various management positions. Did management believe
12 that he was not qualified for any of the managerial or
13 supervisory positions. If this belief is true, what is
14 the basis of the belief?"

15 And in handwritten, "I believe he was
16 considered amongst many others; however, his name doesn't
17 stand out, but frankly, no one's does. The discussions
18 were business-like, frank, and direct. We operated on a
19 belief that he was qualified but decided that others would
20 be more successful."

21 Next bullet. "In conjunction with statement
22 number 4, the concernee is of the opinion that his
23 deselection was based on his unpopular but correct
24 position on safety sensitive issues that had come to a
25 head around the time the selection process was going on.

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1 Can you identify the safety sensitive issues as well as
2 comment on his opinion?"

3 The response: "His opinion is incorrect. I
4 never viewed his positions as unpopular, and the subject
5 never came up during our selection process. He listed
6 them: TBSCCW, Frankly, I'm not aware to
7 this day that he was In
8 fact, I specifically recall his involvement when I had
9 occasion to be briefed or asked the question.

10 "The was removed from his
11 responsibility for two reasons: one, he had a
12 disproportionate share of workload and needed to focus on

13
14 We were getting clobbered by regulators and
15 generally lacked direction. It was believed that Dick
16 Schmidt had," and I can't read the bottom part of it.
17 It's cut off.

18 SPECIAL AGENT LOGAN: Something "skills to
19 provide the necessary direction," is that --

20 MR. DEBARBA: "Necessary skills and"
21 something.

22 SPECIAL AGENT LOGAN: All right. Page 2 of 2.

23 MR. DEBARBA: "In conjunction with concernee
24 statement number 5, the concernee is commenting on the
25 overall selection process as described in NSCP report

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1 OE103B. In this light, the concernee is trying to
2 understand how the process was applied to his individual
3 case."

4 I wrote in there: "We looking" -- it's written
5 incorrectly. It should have said "we're looking." "We're
6 looking for the best available candidate to fill a new
7 position that was predominately site-based and less
8 specialized, i.e., mechanical/civil engineering, not
9 balance of plant engineering or engineering mechanics. It
10 was a new," underlined, "organization for which there were
11 no incumbents." I think that's the end of it.

12 SPECIAL AGENT LOGAN: Does that second line
13 also address concernee?

14 MR. DEBARBA: Oh, yes, I think it does go on.
15 Right. "The concernee was highly specialized, analytical,
16 and corporate focused. The committee was looking for
17 candidates using the assessment criteria who provided a
18 new business focus as a compliment to technical skills.
19 The concernee in this regard was no different than:

20] Hodge, Cornelius, or McMullen." EX NC

21 All right. "Can you comment further" -- oh, I
22 guess that's the same part of the same question.

23 SPECIAL AGENT LOGAN: Yes, I think so. Yes.

24 MR. DEBARBA: Do you want me to read that --
25 "Can you comment"?

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1 SPECIAL AGENT LOGAN: No, that's okay.

2 MR. DEBARBA: "As a final issue in this area,
3 the concernee mentions being confused as to why management
4 now holds him in high regard and would consider him for
5 future positions. Can you comment on his question as to
6 what has changed between then and now, and does it imply
7 that he was not held in high regard at the time of the
8 reorganization? If so, why?"

9 The response: "Nothing has changed. Always
10 have held him high regard. He simply was not our choice
11 for those," underlined, "positions at that," underlined,
12 "time. I believe he could very well be a good choice for
13 supervisor somewhere some time."

14 Next item. "In conjunction with concernee
15 statement number 6, the concernee mentions projects
16 which were taken away from him after he raised concerns or
17 took positions not popular with management. Can you
18 comment on the concernee's reassignments on the projects?
19 Note." Comment is: "See previous page. Only reassignment
20 I'm familiar with is EX
nc

21 And it says, "Can you comment on what his
22 safety concerns or unpopular positions might have been?"
23 The response: "They were not unpopular with me. It's not
24 unusual in engineering space to have differing technical
25 views. The only one that I am aware of is with TBSCCW

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"While others believe that from a practical standpoint that the heat exchanger had operated satisfactorily in this regime for many years, including inspections during refueling outages, the question surrounded as a specific design criteria, I believe."

The last item. "In conjunction with concernee's statement number 7, the concernee suggested a corporate culture punitive in nature. Can you comment on this opinion?" The comment: "I'm not sure, but he may be referring to the situation involving personally don't believe that culture existed within engineering services at that time or now."

"I have personally taken and supported many positions which had direct impact on operations of the plants without being chastised. I would not tolerate such within my organization. I am, however, tolerant of differing technical positions and bringing such to a conclusion."

SPECIAL AGENT LOGAN: Is there anything with regard to your comments that you'd like to change or elaborate on at this point based on what you know today?

MR. DEBARBA: I think we did clarify the point

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1 on the supervisory selection, the selection criteria as it
2 relates to supervisors being different from that of
3 directors and managers. I think I've clarified that
4 before.

5 SPECIAL AGENT LOGAN: What about corporate
6 culture? You still feel there's no corporate culture that
7 tends to discriminate or is punitive in nature?

8 MR. THEBAUD: What time period are you
9 referring to? Now? Or are you referring to when Mr.
10 DeBarba wrote this back in early 19 -- well, in
11 September --

12 SPECIAL AGENT LOGAN: He wrote this September
13 28, 1994.

14 MR. THEBAUD: Right. So are you asking him
15 whether --

16 SPECIAL AGENT LOGAN: Well, his opinion as of
17 today -- does he still believe that that's the case at
18 Northeast Utilities?

19 MR. DEBARBA: From my --

20 SPECIAL AGENT LOGAN: He might not have been
21 aware of it in 1994. But are you aware of anything today
22 that would have changed your opinion with regard to '94?

23 MR. DEBARBA: No. From my experience, I don't
24 believe that there is a corporate culture that is punitive
25 in nature. I do know that there are perceptions on the

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1 part of people who have voiced during surveys and the
 2 like, maybe lack of trust and concerns of retaliation and
 3 that type of thing, so I think that there are some
 4 perceptions out there.

5 I am not aware, nor do I believe that there is
 6 a culture that is punitive in nature that is intentionally
 7 looking to punish people for raising concerns. My
 8 experience has not been that.

9 SPECIAL AGENT LOGAN: What about in terms --
 10 if we don't just talk about it in raising concerns -- I
 11 think that's a pretty black and white issue -- but it's
 12 taking positions which are not the popular positions. I
 13 think one of the issues that came up was raised by [

14] as talked about the EX 7C
 15 and, I guess, what, I guess a fairly
 16 , I think. EX 7C

17 I mean, that was something that was pressed --
 18 that was being done, it shouldn't have EX 7C
 19 been done, it wasn't safe. I think as it turned out that
 20 the was not approved by the NRC, but was EX 7C
 21 eventually approved after the request went in. I think
 22 that's the case, isn't it? The NRC did approve it
 23 eventually?

24 MR. DEBARBA: Yes, it did.

25 SPECIAL AGENT LOGAN: You know, so the -- I

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1 think the issue concerned following up on what appeared to
2 be a discrepancy in the license and the culture is not
3 responsive to that. And so, I'm not saying that, you
4 know, it's you raised a safety concern, I'm going to step
5 on you. It's a question of not being responsive much like
6 Mr. Partlow talked about in his letter.

7 MR. DEBARBA: Well, timeliness was something
8 that Mr. Partlow talked about, and we agreed, timeliness
9 has been an issue. We've made progress in that area. We
10 do some things much different than we've done before.
11 That is an issue. But, I don't think it's correct to
12 construe timeliness and a punitive culture in the same
13 way; they're not the same. And what I do not see are
14 things done in a punitive way. Certainly some things
15 could have been done in a more timely way. It does not
16 mean that they were done to punish. It's not -- that's
17 not the case. It's not my experience.

18 SPECIAL AGENT LOGAN: How would you compare
19 that to the memo that Matt Kupinski wrote to Mario Bonaca
20 talking about a chilling environment? Do you recall that
21 memo? It was several years after the reorganization
22 concerning CU-29, generally, but it did reference back to
23 the 1992, '93 time frame on the CU-29. How would you
24 compare that kind of environment? If you'd like I'll get
25 the memo so you can read it again.

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1 MR. DEBARBA: Well, I responded to that in one
2 of the previous interviews.

3 SPECIAL AGENT LOGAN: You did. You did. And,
4 I guess, I'm asking you in terms of -- you said timeliness
5 and not punitive nature, and yet, clearly what's talked
6 about there is a chilling environment which -- I mean, can
7 that be a result of timeliness and not being punitive?

8 MR. THEBAUD: Do you want to get the memo?

9 SPECIAL AGENT LOGAN: It's here some place. I
10 know counsel's got it too just in case I don't --

11 MR. THEBAUD: To be honest with you I don't
12 have it with me.

13 SPECIAL AGENT LOGAN: It does date back to the
14 '92, '93 time frame. I think in the beginning there
15 that's why I asked that.

16 MR. DEBARBA: Okay.

17 SPECIAL AGENT LOGAN: We were talking, I
18 guess, the chilling environment that was referred to in
19 the Kupinski memo, the timeliness versus punitive nature.
20 I'm getting a feeling that timeliness in some way is
21 relevant to punitive in that I think Tim Martin has talked
22 about engineering problems away; I think other people have
23 said you can pencil whip a problem; procrastinate long
24 enough it goes away. Isn't that all a part of the timing
25 of a response to an issue? Didn't that chilling

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1 environment exist in '92 at about the time, '92, '93, when
2 this reorganization was taking place?

3 MR. DEBARBA: No, I think that -- first off,
4 the memo that we're looking at is a draft memo from
5 Kupinski to Bonaca with copies to Guerci and myself, and
6 it has to do with lessons learned on the Millstone 1 CU-
7 29. And after we had a review of the CU-29 -- this was in
8 the 1995, June of '95 time frame, May and June -- that
9 that decision was made to declare one CU-29 not operable
10 which was a very conservative based decision. It involved
11 lots of people in the organization.

12 And we view those situations where you have a
13 fairly charged environment that makes a critical decision
14 like this as a real opportunity to go in and assess
15 ourselves. And part of our culture has been to improve
16 ourself and looking at ourselves right at the moment when
17 you have situation to find ways to improve ourselves. So
18 I think this is indicative of a healthy, questioning
19 attitude of going back and saying, "Let's tear this apart
20 and see what we can learn from this and where we might be
21 able to improve ourselves."

22 This is a perspective that Matt shared with
23 the group and there was a discussion upon it. Certainly
24 his opinions might differ and did differ from perspectives
25 of other people of other parts of the organization,

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1 particularly at the site-based part of the organization.

2 And he specifically uses words in there of
3 senders and receivers were words that I specifically used.
4 And that's all in the idea of making sure that we all keep
5 our ears open, and we become very good listeners, and we
6 become good communicators back and forth, and we have two
7 hundred percent accountability at every interface to make
8 sure we don't lose things in the crack.

9 I complimented the people for doing a good job
10 in this case of coming to a technical decision not based
11 on lengthy periods of time and using a -- I forget what
12 words were used previously -- technically arrogant way of
13 pursuing something or a legalistic approach to something.
14 Here's a case where people actually went out and hired
15 technical experts to provide opinion, extrapolated that
16 data and made a conservative decision in a period of days
17 or a week or two as opposed to months or longer than might
18 have taken in previous years.

19 And so I think a lot had been improved. And
20 this was all in a broader context of migrating our
21 organization ultimately to be site-based where our roles
22 and responsibilities were a lot clearer. So I think that
23 there were really lessons learned here to improve our
24 performance overall. I get people so they can talk openly
25 and directly about these issues without a situation

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1 becoming polarized where there are accusations.

2 I don't think that anybody in this entire
3 situation was viewed as being pointed a finger at and
4 saying that you're a bad person in some way, shape or
5 form. There were questions: could we do things better and
6 will we listen better? But not in the context that
7 somebody -- somebody is being punished in any way, shape,
8 or form.

9 SPECIAL AGENT LOGAN: Well, I think you talked
10 about this -- see it going on as an issue that was
11 resolved in a very short period of time. I think the memo
12 points out that it took a very long period of time to
13 finally resolve this issue.

14 MR. DEBARBA: Relative to what?

15 SPECIAL AGENT LOGAN: Several years. I think
16 that's why it points by saying that this -- that this
17 issue first arises in the '92, '93 time frame. But my
18 understanding is that Mario Bonaca asked Matt Kupinski to
19 do a lessons learned on this because it took so long. He
20 had expected the period of time even when they had the, I
21 guess the, the Kelsey Study in that it still took several
22 weeks after that for them to resolve the issue, and in his
23 mind it was anything but a short period of time; it was an
24 extended period of time, and that's why he told Matt
25 Kupinski to write this memo in the first place.

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1 MR. DEBARBA: Let me just give you my
2 perspective on that because I think that you've actually
3 tied a couple of things together. In the 1992, '93 time
4 frame, we had organizations that were not reporting
5 together. We had a site-based organization, we had a home
6 office based organization, and during that period of time
7 the information that existed at that time is not the same
8 information that existed now.

9 A decision was made in the 1992, '93 time
10 frame -- I'm not sure exactly how long it took -- but it
11 concluded that that valve was operable to the best of my
12 understanding and recollection.

13 SPECIAL AGENT LOGAN: There were lots of
14 decisions in the 1993 and '94 time frame.

15 MR. DEBARBA: Well, no, this is -- I'm talking
16 specifically in the '92, '93 time frame on this when it
17 came up. And it was based at least in part on legal input
18 and what not into that ultimate decision that this issue
19 appeared again in 1995 based on some new input.

20 And based on that new input in a new
21 organization that had combined engineering basically
22 through that 1993 reorganization that we talked about
23 earlier in this interview got to a conclusion that was
24 totally technically based and ended up being a
25 conservative decision in a much shorter period of time

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1 well within the guidelines that we have within our
2 organization procedurally for doing operability reviews.

3 And from our judgment it was a good step
4 forward. Are we 100 percent satisfied that that's good
5 enough? No. We're always looking for ways to improve
6 ourself. And that's what the context of this letter is.
7 In fact, I think Matt's closing comment is: "It should be
8 acknowledged that this also includes constructive inputs
9 and observations from [redacted] It is hoped that this is
10 not construed in a negative manner, but as a genuinely
11 intended effort to provide an honest assessment that we
12 can learn from and which will make our organization
13 better."

14 So I think that's clearly indicative of the
15 context that this is viewed in.

16 SPECIAL AGENT LOGAN: Okay. Why don't we just
17 go off the record for a minute.

18 (Whereupon, the foregoing matter went off the
19 record at 10:59 a.m. and went back on the
20 record at 11:01 a.m.)

21 SPECIAL AGENT LOGAN: Your feeling is then,
22 Mr. DeBarba, that in light of the fact that the memo --
23 again, we're talking about the Kupinski memo -- that even
24 though it mentions the issue first existed in '92, '93
25 time frame, that that was an issue which was distinct from

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1 the one that was resolved in 1995 and was the basis for
2 this memorandum?

3 MR. DEBARBA: Correct.

4 SPECIAL AGENT LOGAN: One of the points that
5 Mario Bonaca made to me, he said that "The plant should
6 have given more attention to [] because of his EX7C

7 In addition, another
8 engineer with even more [] was asked to EX7C
9 make a call on the condition of the valve.

10 "After review of the second opinion supporting
11 [] conclusions regarding CU-29, instead of taking the EX7C
12 action the issue was assigned to yet another individual
13 and no remedial action was taken." He said, "At that
14 point, CU-29 issue should have been resolved in a few
15 days, not three weeks." And that was one of the reasons
16 that he directed Matt Kupinski to write what we looked at
17 earlier as the June 6, 1995, memo.

18 So I guess his position was it was not a rapid
19 reconciliation of a problem; it was one that had dragged
20 out longer than it should have, and he did point out that
21 the issue did start in the '92, '93 time frame although it
22 was resolved, I guess, intermittently and did arise again.
23 But even at the point when it arose again, he felt it
24 still took too long based on the information that was
25 available.

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1 MR. DEBARBA: That's why I focused so much on
2 this idea of senders and receivers and 200 percent
3 accountability because one of the things that we've come
4 to understand as an organization is that that's an area
5 that we need to focus on. And if you look at the training
6 programs we now are going to be putting all our people
7 through, this "Covey Seven Habits of Highly Effective
8 People," habit number 5 is -- says something like: "Seek
9 first to understand before you seek to be understood,"
10 which says a lot about senders and receivers.

11 And I think that it's easy for people to reach
12 a conclusion quickly that they were dismissed or they
13 weren't heard or what not. But the question really is:
14 have you done everything that you need to do to
15 understand? In other words, seek first to understand, ask
16 some questions yourself. Have you really understood this
17 issue yourself and done what you should? It's easy to be
18 a victim or to point the finger at yourself. It's more
19 appropriate, I think, to make sure you have 200 percent
20 accountability at those interfaces. That's what we're
21 trying to really promote here.

22 SPECIAL AGENT LOGAN: So back to the selection
23 of supervisors. Let me ask you again. Was [] one EX 170
24 of those individuals that you considered for a supervisory
25 assignment in 1993 in the new organization?

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1 MR. DEBARBA: Well, when you say consider, I
 2 think that basically everybody in the organization had,
 3 you know, was on equal footing in that sense of
 4 consideration. We selected the people we felt were the
 5 best, the best candidates for those positions regardless
 6 of where they were previously.

7 SPECIAL AGENT LOGAN: Well, did that mean that
 8 you did consider him specifically as opposed to
 9 generically? I think you've given me sort of a generic
 10 answer -- yes, everybody was a candidate; however we made
 11 the best selections. That doesn't really get to the issue
 12 of did I consider [] did I look at him in terms of
 13 could he have taken the job that, for instance, went to
 14 -- did I say is [] a good
 15 candidate for this job or is, perhaps, a better
 16 one? I mean that kind of an analysis not -

17 MR. DEBARBA: We didn't do that -- we didn't
 18 do that kind of analysis. Our analysis was really given
 19 this position, who do we feel is a good candidate for that
 20 position? Who were the people who were good candidates or
 21 who is a good selectee for that particular position? And
 22 we had some discussion on it. So it wasn't a matter of
 23 consideration of is there an incumbent because there
 24 really are no incumbents for these jobs that we're talking
 25 about here.

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1 SPECIAL AGENT LOGAN: Well there were a few
2 incumbents that lost their jobs along the way. Not in
3 your organization, per se, but in the --

4 MR. DEBARBA: Right, for most of the
5 engineering jobs we're talking about here there weren't
6 real incumbents. But we're really talking who were the
7 best people available for those positions as opposed to
8 who had been a supervisor before -- that really didn't
9 enter into the discussions.

10 SPECIAL AGENT LOGAN: Was there a list put on
11 a board that said this is our pool of incumbents and this
12 is our pool of possibles or did it go that far?

13 MR. DEBARBA: I don't think it went that far.
14 I don't think we did that.

15 SPECIAL AGENT LOGAN: Just this is the
16 position --

17 MR. DEBARBA: Right. Here is the new
18 organizational structure. Who do we have in the
19 organization that might be a good fit or might be a high
20 potential candidate who is not currently in any kind of
21 management rank?

22 SPECIAL AGENT LOGAN: So by the same token, if
23 you'd been having problems with a particular person -- and
24 I use the term "problems" in a very general sense, but if
25 you had had problems with a particular person, that person

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1 would not have been one that you would have raised their
2 name for consideration. Whether the problem was based on
3 the fact that they were a poor performer or whether the
4 problem was based on another issue their names instead of
5 being raised would have just been left tabled. You
6 wouldn't have offered them as a candidate for this new
7 position.

8 MR. DEBARBA: I think that what we were
9 looking at were who are the people who had the best
10 capability of -- for doing these jobs. We were not
11 looking at historical matters. I don't recall any
12 discussion coming up at all about previous performance
13 people taking unpopular decisions, which I think you're
14 alluding to -- just didn't enter the picture.

15 SPECIAL AGENT LOGAN: It didn't enter the
16 picture in that -- you're saying no one mentioned it, not
17 that it didn't come in saying, "Well, let's consider
18 [] and someone said, "Well, you know, what
19 about the TBSCCW and how he handled that" -- that type of
20 thing you said didn't come up -- did not come up. Right?

21 MR. DEBARBA: Right.

22 SPECIAL AGENT LOGAN: Okay.

23 MR. DEBARBA: Right.

24 SPECIAL AGENT LOGAN: But, the selection
25 process was more of who do we want as opposed to who don't

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1 we want.

2 MR. DEBARBA: Well, it's a matter of who would
3 be the best fit for that particular position. We got some
4 new positions here that had some characteristics that we
5 were looking for, and we were trying to fit the best
6 people into those positions and do it quickly. Time was
7 important here.

8 SPECIAL AGENT LOGAN: You were also looking
9 for team players, right?

10 MR. DEBARBA: Looking for the best people in
11 the positions. People could work with others, yes, that's
12 important.

13 SPECIAL AGENT LOGAN: Team players,
14 predictable, performance --

15 MR. DEBARBA: You want high performers, yes.

16 SPECIAL AGENT LOGAN: Non-threatening.

17 MR. DEBARBA: Non-threatening? You want
18 people who can work with each other.

19 SPECIAL AGENT LOGAN: Would you say that
20 someone would not be considered if they had been taking
21 strong positions against management?

22 MR. DEBARBA: I don't know. I don't think it
23 was viewed that the people you're talking about took
24 strong positions against management. In fact, if
25 anything, I think the people that you're referring to are

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1 soft spoken people, are not threatening.

2 SPECIAL AGENT LOGAN: [EX 7C

3] EX 7C

4 MR. DEBARBA: Yes. I don't think I view them
5 as threatening; they're very soft spoken. I mean, I can
6 see other people in the organization as being far more
7 outspoken than that.

8 SPECIAL AGENT LOGAN: I certainly can, too.

9 So just let me clear it up. I think we've covered it, but
10 just let me clear it up now. [] name wasn't EX 7C
11 mentioned, as you recall.

12 MR. DEBARBA: As the best of my recollection,
13 that's correct.

14 SPECIAL AGENT LOGAN: It wasn't mentioned
15 either for a position, and it wasn't mentioned negatively
16 in any respect. It just wasn't mentioned.

17 MR. DEBARBA: Right. Right. And I would say
18 the same probably for all the people who were deselected,
19 the vast majority of them. I'm just kind of thinking
20 through the names of the people who were deselected --
21 like , a number of them. EX 7C

22 SPECIAL AGENT LOGAN: Right. When the names
23 were blocked in -- who actually wrote the names in? Was
24 that something John Opeka himself did or was someone
25 acting as sort of a scribe for him during that meeting?

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1 MR. DEBARBA: You know, I don't recall.

2 SPECIAL AGENT LOGAN: All right. When you say
3 that the names were offered and it was based on a
4 consensus -- you indicated that earlier -- was there a
5 vote taken at the meeting? Was a consensus --

6 MR. DEBARBA: No.

7 SPECIAL AGENT LOGAN: How did the discussion
8 get to putting, say, name or
9 name actually in that little box? EX
7C

10 MR. DEBARBA: I think that typically there
11 would be a discussion on the merits of the person that's
12 being proposed. And there may be some discussion that
13 ensued. And if somebody had a question about somebody,
14 that question was pursued. Somebody might -- I can't
15 remember any specific instances -- but there may have been
16 someone's name proposed and somebody said, "Oh, gee, you
17 know, I've worked with that person," or, "That person
18 worked for me at one point in time, and I've observed
19 this."

20 You know, "How has his performance been
21 lately? Are you still observing that characteristic?
22 I've got this question in my mind," or, "Yes, you got that
23 person, but what about this person? Did you consider that
24 person because I think that person would be a good
25 candidate, too, for that job." So it was with those kind

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1 of discussions that ultimately led to a consensus relative
 2 to, "Okay, we've got that person or persons as
 3 candidates -- any questions? Yes, there's some questions"
 4 -- questions get answered. Either a change is made or
 5 it's left. That's the way it went.

6 SPECIAL AGENT LOGAN: And getting back to
 7 Mario Bonaca's group. Do you recall any of the
 8 discussions which regarded -- or which concerned the
 9 filling of those vacancies in Bonaca's group?

10 MR. THEBAUD: Let's turn to it so we know who
 11 we're talking about. Among the supervisors?

12 SPECIAL AGENT LOGAN: Among the supervisors
 13 that's below the manager level.

14 MR. DEBARBA: Among the supervisors? EX 7C

15 SPECIAL AGENT LOGAN: Well, there were several
 16 supervisors. I think there were that we talked EX 7C
 17 about briefly -- -- but there
 18 may be a

19 MR. DEBARBA: No,
 20 was a later addition to Kupinski's group. I
 21 think that those names were -- whether it was on a board
 22 or a sheet or something were there, I think that there
 23 probably was a discussion. Generally, best of my
 24 recollection that these people were positively viewed by
 25 everybody to the best of my recollection.

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1 SPECIAL AGENT LOGAN: Do you recall what, if
2 any, comments Bud Risley may have had with regard to
3 people who were being selected for Mario Bonaca's group?

4 MR. DEBARBA: No, I don't. I don't remember
5 specific comments.

6 SPECIAL AGENT LOGAN: With regard to Mr.
7 Risley, he's now on an assignment to INPO?

8 MR. DEBARBA: Yes, he is.

9 SPECIAL AGENT LOGAN: Is that a promotional
10 assignment?

11 MR. DEBARBA: No, it's not.

12 SPECIAL AGENT LOGAN: What kind of an
13 assignment is it?

14 MR. DEBARBA: It's a learning assignment.
15 It's a training assignment. It's experiential. And it's
16 also to help us in our relationships with INPO. We have
17 for some time been really trying hard to promote this
18 loanee reverse loanee program that INPO offers. We
19 basically pay every year for two people to basically take
20 that position. And if we don't have anybody go down you
21 still pay for it. So I think that for us not to take
22 advantage of that, we're missing an opportunity.

23 And most other utilities have fairly senior
24 people spend periods of time at INPO and then return back
25 to their organization. In the past we have not been able

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1 to take advantage of that, and we've been really pushing
2 to do that. I stated an opinion I would like to see all
3 of our directors at some point in time do a stint at INPO
4 for a year, a year and a half period of time.

5 And I think it was in mid-95 that we had this
6 discussion in talking to each one of them -- I asked each
7 one of them to consider it, and some of the people
8 responded back that well, they'd like to do but they
9 couldn't do it right now. I think Mr. Necci's and Mr.
10 Pitman had some comments along that line that they
11 couldn't do it right now because of personal family
12 reasons.

13 And Mr. Risley said that although it would be
14 difficult that he could do it and felt that he would be
15 interested in doing that. He was interested in INPO; he
16 had gone to a summer course at MIT that was sponsored by
17 INPO in one of their executive management leadership
18 development courses and was interested in going out and
19 finding out what the best in the industry are doing and
20 bringing that knowledge and experience back to NU, and
21 also using this as an opportunity to try to help shape in
22 those beliefs and feelings of NU.

23 If you have no one there to understand what NU
24 is all about people might come away with a wrong
25 impression. And I think part of his job there is to help

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1 make sure that we as a company are clearly understood in
 2 that line. So I think it's a lateral. He has no paid
 3 degradation; his pay grade is the same. And we've told
 4 him that upon his return he would be returning to a
 5 similar or higher position -- that's our expectation.
 6 I've told that to the INPO managers down there.

7 I visit periodically. I was in Atlanta less
 8 than a month ago at a conference and, you know, speak with
 9 Mr. Risley, talked to his superiors, see how he's doing.
 10 And it's, you know, he still reports to me in that regard.
 11 So I'm still concerned for his development and the like.

12 SPECIAL AGENT LOGAN: Okay. Talked to you a
 13 little bit about the EX 7C

14 that was done, I guess, in the time frame. EX 7C
 15 Are you familiar with that?

16 MR. DEBARBA: Yes, I am.

17 SPECIAL AGENT LOGAN: I understand that EX 7C

18 EX 7C

19

20 MR. DEBARBA: That's correct. You're

21 referring to the Yes. EX 7C

22 SPECIAL AGENT LOGAN: Who -- if you could just
 23 walk through that with me for a minute. It's my
 24 understanding that the decision was made EX 7C

25 EX 7C

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1 that was done by the staff at the corporate level, that
2 decision was backed off on and a decision was then made to
3 go forward with the is that *EX 7C*
4 correct?

5 MR. DEBARBA: Yes, that's correct.

6 SPECIAL AGENT LOGAN: What -- if you could
7 kind of summarize for me why that decision was changed.

8 MR. DEBARBA: Why was it changed from a --

9 SPECIAL AGENT LOGAN: From *EX 7C*

10

11 MR. DEBARBA: -- from a *EX 7C*

12 I think when they looked at the economics of the decision
13 and the needs analysis. When we're making large
14 expenditures like that our practice is to look at
15 alternatives that if they looked at the alternatives on a
16 cost justified basis, on an economic analysis, it showed
17 that the *EX 7C*

18 I think there was a fairly detailed economic
19 analysis done on the two options -- that's to the best of
20 my recollection.

21 SPECIAL AGENT LOGAN: Do you recall who had
22 the lead on that?

23 MR. DEBARBA: On doing the economic analysis?

24 SPECIAL AGENT LOGAN: Yes.

25 MR. DEBARBA: I believe it was our Capacity

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1 Planning Group typically does that work. I'm not sure if
2 that's what they are currently called. It may be
3 something similar to that.

4 SPECIAL AGENT LOGAN: Do you recall what role
5 [redacted] had in that? EX 7C

6 MR. DEBARBA: [redacted] was involved from the EX 7C
7 standpoint that -- let's see -- I think -- I'm not sure
8 how he directly connected into it, but I know he was -- he
9 was either asked to participate by the plant staff or --

10 SPECIAL AGENT LOGAN: I thought he was doing
11 an [redacted] on that. EX 7C

12 MR. DEBARBA: Well I'm not sure who asked him
13 to do it or how he became involved. That's not clear to
14 me how he was involved. But I know [redacted] was involved, and I EX 7C
15 know [redacted] was, in looking at it, was of the belief that the
16 [redacted] made more sense.

17 SPECIAL AGENT LOGAN: Do you recall what the -
18 - what the [redacted] EX 7C

19
20 MR. DEBARBA: You mean the EX 7C
21 [redacted] I don't remember
22 specifically, but I know we run those kind of analyses.
23 My recollection is that it favored the EX 7C

24 SPECIAL AGENT LOGAN: I guess at one point Mr.
25 Opeka had gone to the board. I guess they went overseas -

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-- EX7C

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MR. DEBARBA: That's correct.

SPECIAL AGENT LOGAN: -- and had made a pitch or explained to them that, in fact,

EX7C

Are you familiar with those two meetings?

MR. DEBARBA: No. No. I don't attend board meetings. I knew that both options were being looked at -- where in sequence of time, who communicated with whom I'm not real familiar.

EX7C

SPECIAL AGENT LOGAN: Okay. Do you recall endorsing the

EX7C

MR. DEBARBA: Yes, I recall that it was -- there were some very strong opinions on the matter and that I supported [] opinion from an

EX7C

that the was the preferred choice. Even though you can't argue with a

EX7C

being better because the problems of the past are gone; I mean, you've got something that's -- It's like buying a

EX7C

SPECIAL AGENT LOGAN: We know how many lemons there are in the new car market.

MR. DEBARBA: Well, you don't know. But I

1 think if you ask most people they would rather have a new
2 car than they would have a used car. And can you fix your
3 used car so that it will be all right? Yes, you can. And
4 is it less expensive? Yes, it is less expensive, but you
5 always have these questions. If you're the plant
6 operator, you want the new car; right? That's quite
7 clear. If I were a plant operator I would want the same
8 thing.

9 So that engineering -- in fact, my role was to
10 make sure that if we say the is the economic ~~EXC~~
11 option, that it is a robust decision that can be
12 supported; because if it doesn't work, then engineering
13 has failed in its responsibility. We had to make sure
14 that that was the right one. And it's ~~EXC~~
15 obvious that the operators will always want a new thing.
16 You know, I think most people would.

17 SPECIAL AGENT LOGAN: And I'll just show you
18 for the record a memo that you wrote and signed from your
19 office to John Opeka, July 20, 1993, which endorses that
20 second option. Would you take a look at it for just a
21 minute?

22 The reason I'm showing you this is the
23 question has to do with buyer endorsements. Was there a
24 prior endorsement that you had made for replacement of the
25 turbine which would have preceded this memo?

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1 MR. DEBARBA: I don't see any reference. If I
2 had I think I would have referenced it. Yes, but I don't
3 think that that was my report. Usually if I had a
4 reference I would have included it in a reference here.
5 Your question, Keith, was did I --

6 SPECIAL AGENT LOGAN: Had you endorsed in
7 writing the prior to this time? EX 7C

8 MR. DEBARBA: I don't recall. I do indicate
9 here that there was some new information from EX 7C
10 -- So
11 it looks like maybe some new information came in at this
12 time frame. But quite clearly, we're recommending the
13 choice. EX 7C

14 SPECIAL AGENT LOGAN: The work that was done.
15 and the that were done, was there any EX 7C
16 consideration given to the people that had worked on the
17 study to show the involved in the EX 7C
18 Were there any spot recognitions, letters
19 of appreciation, or anything else that had gone out to any
20 of the players involved in that?

21 MR. DEBARBA: I don't recall. Not for me.

22 SPECIAL AGENT LOGAN: Okay. You indicated
23 that you thought that it was clear that there was kind of
24 an effort to EX 7C
25 - it was not the first choice of the operators or managers

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1 at Do you think there was any animosity as a result of that decision? Ex 7C

2
3 MR. DEBARBA: Animosity? I think there was
4 disappointment. I think that they would have preferred to
5 have I don't think there was any animosity. I certainly never felt it, and I was the
6 one that made the recommendation. Ex 7C

7
8 SPECIAL AGENT LOGAN: Well, there were
9 certainly others that made the recommendation to you which
10 you then endorsed. So, you didn't feel that there was
11 anything coming back to you nor to any of the other
12 individuals who worked on that?

13 MR. DEBARBA: No, I know people -- I worked at
14 for years, so I knew. I was in charge of Ex 7C

15
16 So I know how people feel about it and at times
17 that is the right thing to do; it's a lot simpler to do
18 that than it is to Ex 7C

19 So, yes, you know, we're familiar with the
20 fact that people would be disappointed about that, that
21 they would just like to have the new device in there and
22 running and not have to be concerned about it anymore.

23 SPECIAL AGENT LOGAN: Last point again --
24 let's go back to that '93 reorg again. When decisions
25 were being made to place supervisors in those new slots --

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1 were there supervisory or performance evaluations
2 available on those individuals who were current
3 supervisors? Were they available to you for review or for
4 anyone to review if they had questions?

5 MR. DEBARBA: I don't think so. I mean, if
6 somebody ultimately wanted them, could they get them?

7 SPECIAL AGENT LOGAN: No, no.

8 MR. DEBARBA: Yes, they could.

9 SPECIAL AGENT LOGAN: Were they available?

10 MR. DEBARBA: Were they in the room or
11 something? No.

12 SPECIAL AGENT LOGAN: Most likely have things
13 here in this room. No. Okay.

14 MR. DEBARBA: I don't recall that at all.

15 SPECIAL AGENT LOGAN: You don't recall [] } EX
16 name being mentioned one way or the other with regard to }
17 [] if we can just briefly again about him? Do you EX
18 recall his name as point of discussion for any of the }
19 supervisory slots? } 7C

20 MR. DEBARBA: I really don't recall that.

21 SPECIAL AGENT LOGAN: And did you consider
22 him? Obviously you didn't nominate him that we've heard
23 so far. But you considered him for a position in the new
24 organization in '93.

25 MR. DEBARBA: You know, I don't recall his

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1 name being, you know, discussed, or his name appearing on
2 a chart or proposing his name.

3 SPECIAL AGENT LOGAN: I think one person said
4 they thought his name was discussed.

5 MR. DEBARBA: It's possible. I just don't
6 recall it. Don't forget, we're talking --

7 SPECIAL AGENT LOGAN: I understand.

8 MR. DEBARBA: -- you know, probably, I don't
9 know, fifty names here during the course of the
10 discussion, maybe more.

11 SPECIAL AGENT LOGAN: It was a couple years
12 ago. So.

13 MR. DEBARBA: Right.

14 SPECIAL AGENT LOGAN: I understand. I thought
15 with maybe all the memory recollection and refreshing
16 that's been going on that it might have all popped up.

17 MR. DEBARBA: No.

18 SPECIAL AGENT LOGAN: No?

19 MR. DEBARBA: No.

20 SPECIAL AGENT LOGAN: Okay. That's all the
21 questions that I have at this time. Is there anything
22 that you'd like to add to the record?

23 MR. THEBAUD: We'd like to take a break and
24 come back and let you know.

25 SPECIAL AGENT LOGAN: I guess we can do that.

1 Let's go off the record.

2 (Whereupon, the foregoing matter went off the
3 record at 11:33 a.m. and went back on the
4 record at 12:05 p.m.)

5 CROSS EXAMINATION

6 SPECIAL AGENT LOGAN: Mr. Thebaud, there's a
7 couple items that you indicated you wished to place on the
8 record at this time.

9 MR. THEBAUD: Yes, there are. Thanks very
10 much for the opportunity to do that. Earlier in your
11 discussion with Keith he was talking about a conversation,
12 apparently, that he had with Mario Bonaca -- I don't have
13 the exact quotes, obviously, that were used -- but
14 something to the effect that Mario would not have made
15 necessarily the selections that were made of him that
16 arose out of the 1993 reorganization.

17 MR. DEBARBA: Yes.

18 MR. THEBAUD: Did you ever comment on that?

19 MR. DEBARBA: Yes. It's one of surprise in
20 that to this day I'm not aware of Mario's displeasure with
21 the selectees absent one, a possibility, and that would be
22 with Mr. Kupinski. I do recall during discussions of the
23 manager selectees of him raising questions relative to
24 both Mr. who was the
25 and Mr. who was somebody that was being proposed

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EX
7C

1 for this new manger position, and him ultimately
 2 concluding that he felt that -- he felt positive about Mr.
 3 not being there and that Mr. taking that ^{EX}_{7C}
 4 position.

5 I know he felt that way. I know he felt
 6 somewhat uneasy about Mr. , but in general viewed ^{EX}_{7C}
 7 that given the overall circumstances, that he was willing
 8 to work with Mr. to give him every opportunity to ^{EX}_{7C}
 9 be successful. But I'm not aware of any other concerns.
 10 that he may have had about any of the other selectees.

11 MR. THEBAUD: Was is it during the time that
 12 he was expressing concerns about either Mr. or ^{EX}_{7C}
 13 Mr. ? Did he say he also had specific concerns
 14 with some of the supervisors?

15 MR. DEBARBA: I have no recollection on that.

16 MR. THEBAUD: Do you know whether at the time
 17 of this reorganization was occurring in the November,
 18 December 1993 time frame -- do you know whether Mr. Bonaca
 19 knew ^{EX}_{7C}

20 MR. DEBARBA: Yes, I do know.

21 MR. THEBAUD: How do you know that?

22 MR. DEBARBA: Well, Mr. prior to that, ^{EX}_{7C}
 23 had been for a number of years -- years or more --

24 been in the and was a

25 in that organization, fairly high ^{EX}_{7C}

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1 ranking. His job as a
2 was one to interface with the
3 a lot.

EX
7C

EX
7C

4 He had come from
5
6 group and was viewed as
7 a technical expert in that particular area and was viewed
8 very positively by people in the

EX
7C

9 So, in that sense, I would say that Mario
10 would have known and did know and viewed him
11 positively.

EX
7C

12 MR. THEBAUD: You were just describing a
13 little bit in your answer background -- can you tell
14 me whether or not at the time that was slotted to the
15 position that he obtained as a supervisor in the 1993
16 reorganization, you supported his selection for that
17 position?

EX
7C

EX
7C

18 MR. DEBARBA: Yes, I did.

19 MR. THEBAUD: Can you tell us without
20 repeating everything you just said why you thought he was
21 the right choice for the job?

22 MR. DEBARBA: Sure. I think, you know,
23 an outstanding technical background in that particular
24 area. That function included some work as well as
25 was the expert we had in the company on

had EX
7C

EX
7C

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EXTC

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He had extensive experience and knowledge of all of our plants from a standpoint. He had been of years. He was easy to work with. People enjoyed working with him. He had a real keen insight into and was very good at getting -- a good questioning attitude, real good at insights into design changes, was sought out for his opinion quite often.

EXTC

EXTC

EXTC

He was already a basically the same level as a supervisor and was viewed very positively in terms of a person for that kind of a slot.

EXTC

MR. THEBAUD: During the time again of the reorganization or shortly thereafter, did Mr. Bonaca ever express the opinion to you that either

EXTC

should have been given supervisory positions?

MR. DEBARBA: No.

MR. THEBAUD: Changing the subject slightly. Towards the end of the interview with Mr. Logan, you were talking about the

EXTC

-- in that time frame, and you mentioned that at one point I think there was a document that reflected a memorandum that you had sent, putting

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1 forward your recommendation -- do you know whether Mr.
2 Opeka reacted favorably or unfavorably to the
3 recommendation to EX 7C

4 MR. DEBARBA: He was very favorable to having
5 a option. EX 7C

6 MR. THEBAUD: Why was that?

7 MR. DEBARBA: Well, I think he wanted to have
8 options that included different scenarios rather than
9 having only one choice, and that was the most expensive
10 investment of capital -- one that was more spread out over
11 time that included lower levels of expenditures timed over
12 a longer period of time. So I think he was looking at --
13 he was pleased to see a second option.

14 MR. THEBAUD: I think that's everything. Just
15 let me double check here. That's all. Thank you.

16 SPECIAL AGENT LOGAN: Okay. Mr. Gutierrez?

17 MR. GUTIERREZ: I have nothing.

18 SPECIAL AGENT LOGAN: Mr. DeBarba, is there
19 anything else that you'd like to place on the record at
20 this time?

21 MR. DEBARBA: No, not at this time.

22 SPECIAL AGENT LOGAN: Thank you for coming.

23 MR. DEBARBA: Thank you.

24 (Whereupon, the above interview of Eric

25 DeBarba came to a conclusion at 12:15 p.m.)

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C E R T I F I C A T E

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: INTERVIEW OF ERIC DEBARBA

Docket Number: (NOT ASSIGNED)

Place of Proceeding: WATERFORD, CONNECTICUT

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



PAUL THORN
Official Reporter
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