

EXHIBIT 35

K/23



UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

December 22, 1997

MEMORANDUM TO: OI Case No. 3-97-013 File

THRU: Richard C. Paul, Director
Office of Investigations Field Office, Region III

FROM: Joseph M. Ulie, Special Agent
Office of Investigations Field Office, Region III

SUBJECT: MEMORANDUM OF TELEPHONE DISCUSSION WITH MR. MAX BINGHAM
(OI CASE NO. 3-97-013)

On this date, Mr. Max BINGHAM, former Project Manager, Morrison Knudsen Corporation, at the Point Beach Nuclear Power Plant, telephoned me to advise that he was unsuccessful in locating two documents requested by OI:RIII during his interview of December 3, 1997. One of the documents was an alleged memo written by Mr. Alain ARTAYET (alleged), involving his (ARTAYET's) recommendation that drop weight testing or Sharp V notch impact testing was not required, which ARTAYET refutes ever making such a recommendation nor of writing this memo, and which is corroborated by ARTAYET's former supervisor, Andy WALCUTT, who investigated this matter. The second document regarded obtaining an original fax addressed from A. J. WALCUTT to Max BINGHAM, dated January 14, 1997, related to ARTAYET's review of the Point Beach Nuclear Power Plant welding procedure specification procedures.

EXHIBIT 35

PAGE 1 OF 1 PAGE(S)

CASE NO 3 - 97 - 013



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

NOTICE OF SIGNIFICANT MEETING

THIS MEETING IS NOT OPEN TO PUBLIC ATTENDANCE

Name of MK Investigator: Stier, Anderson & Malone Law Offices

Name of Contractor: Morrison Knudsen Corporation

Name of Licensee: Wisconsin Electric Power Company

Name of Facility: Point Beach Nuclear Plant

Docket Nos: 50-266; 50-301

Date and Time of Meeting: Thursday April 9, 1998 at 9 a.m. (CDT)

Location of Meeting: U.S. Nuclear Regulatory Commission
Region III
801 Warrenville Road
Lisle, Illinois, 60532-4351

Purpose of Meeting: Meeting with MK investigators to present additional investigation information regarding Morrison Knudsen (EA 98-081).

NRC Attendees:

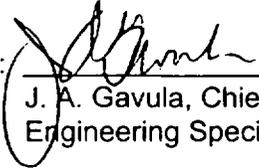
J. Caldwell, Deputy Regional Administrator, RIII
J. Lieberman, Director, Office of Enforcement, NRR
M. Stein, Enforcement Specialist, Office of Enforcement, NRR
B. Berson, Regional Counsel, Office of Regional Administrator, RIII
J. Grobe, Director, Division of Reactor Safety, RIII
J. Gavula, Chief, Engineering Specialist Branch 1
K. GreenBates, Reactor Engineer, Engineering Specialist Branch 1
B. Clayton, Enforcement Officer, Enforcement Investigation Coordination Staff
C. Weil, Enforcement Specialist, Enforcement Investigation Coordination Staff
J. Ulie, Special Agent, Office of Investigations, RIII

Licensee Investigator Attendees:

E. Stier, Stier, Anderson & Malone Law Offices
M. Cooper, Stier, Anderson & Malone Law Offices

NOTE: Attendance at this meeting by NRC personnel, other than those listed above, should be made known to K. S. GreenBates at (630) 829-9738 by COB April 3, 1998.

Approved by: _____


J. A. Gavula, Chief
Engineering Specialist Branch 1

See Attached Distribution

K/24

SIGNIFICANT LICENSEE MEETING DISTRIBUTION FOR ENFORCEMENT CONFERENCES

H. L. Thompson, Jr., Deputy Executive Director for Regulatory Programs
B. W. Sheron, Acting Associate Director for Technical Review, NRR
B. E. Boger, Acting Associate Director for Projects, NRR
J. Lieberman, Director, Office of Enforcement
J. R. Goldberg, Deputy Assistant, General Counsel for Enforcement, OGC
E. G. Adensam, Acting Director, Division of Reactor Projects III/IV NRR
Chief, PIPB, NRR
Region III Coordinator, OEDO
Project Directorate, NRR
Project Manager, Project Directorate, NRR
G. E. Grant, Director, Division of Reactor Projects, RIII
M. L. Dapas, Acting Deputy Director, Division of Reactor Projects, RIII
C. D. Pederson, Director, Division of Nuclear Materials Safety, RIII
R. J. Caniano, Deputy Director, Division of Nuclear Materials Safety, RIII
J. A. Grobe, Director, Division of Reactor Safety, RIII
DRP Branch Chief
DRS Branch Chiefs
H. B. Clayton, Enforcement/Investigations Officer, RIII
R. M. Lickus, Regional State Liaison Officer, RIII
PMNS (E-Mail)
RIII Public Affairs (E-Mail)

From: Jay Hopkins, *Allegation R III*
To: WND2.WNP4.JXL3 *Jean Lee, NRH*
Date: 3/23/97 3:24pm
Subject: "Heads Up" for Request for Tech Assist from Vendor Branch

This is a "heads up" that a formal request for technical assistance from the V Branch is on the way from RIII. Region III recently received an allegation th welding procedures developed and used by Morrison Knudson (MK) for the steam generator (SG) replacement projects at Pt. Beach U-2 in 1996 and DC Cook U-2 i 1988 may contain errors. The CI also indicated that the same group of manager who have worked on multiple projects for MK are making errors and may continue to make the same errors. Morrison Knudson is now involved in the St. Lucie SG project. (AMS No. RIII-1997-A-0035) Since this is potential a 10 CFR Part 2 issue, the Vendor Branch will probably be interested.

Additionally, the CI has filed a discrimination case with DOL and RIII-OI has the case a high priority. I believe~~d~~ that the initial OI interview is schedul 4/11/97. The RIII OI investigator is Joe Ulie. Mr Ulie has requested a weldi specialists to assist during the interview. Region III will be requesting tha provide the specialist for the interview. Coordination between RIII-OI and th specialists will be necessary.

Additionally, I am sending you (Jean Lee) a copy of the information from the A file by overnight delivery. It should be there Tuesday 3/25 or Wednesday 3/26

CC: JXU, HBC, RCP2, WJK, MSH, RLD2

K/25

CC: ULIE

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TELECOPIER TRANSMITTAL

DATE: 3/24/97 FILE NUMBER: 22729-0

Number of Pages (including cover sheet): 2

To: RICH DEVITTO, SPECIAL AGENT

Firm Name: U.S. NRC - REGION III

Telecopy #: 630/515-1438

Telephone No. To Confirm Receipt: _____

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From: LYNN R. ROGOZINSKI

Time of Transmission: AM 4:55 (PM) Sent By: Stacy

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K/26

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rogoszinski@ulmer.com

LYNN ROGOZINSKI

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Telephone (614) 228-6400

March 24, 1997

VIA OVERNIGHT MAIL
VIA FACSIMILE
(202) 565-5325

Chief Administrative Law Judge
U.S. Department of Labor
Suite 400, Techworld Building
800 K Street, N.W.
Washington, D.C. 20001-8002

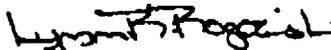
Re: Morrison Knudsen/Artayet/954644

Your Honor:

Please consider this as a request for hearing submitted on behalf of complainant Alain Artayet. This request for hearing is made pursuant to 29 C.F.R. § 24.4(2)(i) on the Occupational Safety and Health Administration's notice of determination issued on March 21, 1997 in regard to the above-referenced matter. The appellant respectfully requests that the Secretary conduct a full evidentiary hearing with respect to this appeal.

Steven D. Bell and the undersigned will be the attorneys of record for Mr. Alain Artayet. Please direct any further communications regarding this matter to Mr. Steven D. Bell at the above address.

Very truly yours,


Lynn R. Rogozinski

cc: Richard Edmister - Morrison Knudsen Corp.
Rob Medlock - OSHA, Dept. of Labor
Rich DeVitto - USNRC (by fax)

EWFD0CROGLYDATA\705464.D1

From: Joseph Ulie, OI/R111
To: WND2.WNP4.JXL3 Jean Lee, NRR
Date: 3/27/97 11:38am
Subject: Coordination Of C.I. Interview With Vendor Branch (RIII-97-A-00)

For reference, refer to Jay Hopkins March 23, 1997 e-mail to you,
"Subject: "Heads Up" for Request for Tech Assist from Vendor Branch".

OI:RIII has tentatively scheduled an interview with the Concerned Individual on Friday, April 11, 1997. The tentative interview is to be conducted at 10 a.m., at the Ulmer & Berne Law Office, Bond Court Building, 1300 East Ninth Street, Suite 900, Cleveland, Ohio 44114-1583. Please request the applicable Vendor Branch representative to advise me directly whether he/she is available for attendance at this interview. Regardless, I wish to speak directly with the assigned staff member.

I can be reached via e-mail at JXU or by telephone at (630) 829-9678. Please advise.

Also, FYI, etc., I will be out of the office after today until Monday, April 7th.

CC: JAH4 Jay Hopkins, Allegations/R111

K/27

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Direct Dial (216) 902-8831

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Cleveland, Ohio 44114-1583
Fax (216) 621-7488

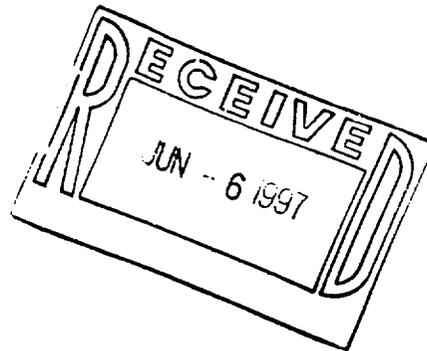
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Fax (614) 228-8561
Telephone (614) 228-8400

June 6, 1997

VIA FACSIMILE TRANSMISSION

Richard R. Edmister, Esq.
Associate General Counsel
Morrison Knudsen Corporation
MK-Ferguson Plaza
1500 West 3rd Street
Cleveland, OH 44113-1406



RE: Alain Artayet vs. Morrison Knudsen Corporation
Case No. 97-ERA-34

Dear Mr. Edmister:

On Thursday, June 5, 1997, we learned that an employee in the Office of General Counsel of Morrison Knudsen Corporation had contacted certain Morrison Knudsen Corporation employees who have been identified as witnesses expected to testify on behalf of Mr. Artayet in the above-captioned matter. At least one of the Morrison Knudsen employees contacted by the Office of General Counsel was left with the impression that his job would be in jeopardy if he testified on behalf of Mr. Artayet.

The "Whistleblower Protection" provisions of the Atomic Energy Act, codified at 42 U.S.C. § 5851, prohibits an employer from discharging or discriminating against its employees where those employees are to be witnesses in a proceeding brought under that same statute. See 42 U.S.C. § 5851(a)(1)(E). We would thus view any attempt made by Morrison Knudsen Corporation to intimidate witnesses scheduled to testify in this matter to be a violation of federal law.

We wrote to you yesterday to see if you would be available to participate in a conference call with Judge Leland on Monday, June 9, 1997. The purpose of this conference is to learn what statements have been made by Morrison Knudsen to its employees concerning their participation as witnesses in these proceedings, and to take any such action as may be appropriate as a result thereof.

K/28
6-11-97

ULMER & BERNE LLP

Keith A. Ashmus, Esq.
June 6, 1997
Page 2

As we requested yesterday, we would appreciate knowing whether you are available to participate in such a call.

Very truly yours,



Steven D. Bell

145:kmh

cc: Hon. Daniel Leland
LHWDOC\BELST\DATA\717901.D1

June 27, 1997

MEMORANDUM TO: Bruce A. Berson, Regional Counsel
Region III

FROM: Richard C. Paul, Director ^{Signed By}
Office of Investigations Field Office ~~Richard C. Paul~~
Region III

SUBJECT: MORRISON KNUDSEN CORPORATION: ALLEGED DISCRIMINATION AGAINST
A CORPORATE WELDING ENGINEER FOR RAISING WELDING CONCERNS
(OI CASE NO. 3-97-013)

On April 11, 1997, Mr. Alain S. ARTAYET, Concerned Individual, was interviewed by Messrs. Jerome F. SCHAPKER, Reactor Inspector, Engineering Specialist 1, Division of Reactor Safety, Region III (RIII), and Joseph M. Ulie, Special Agent, Office of Investigations (OI), RIII.

Attached is a copy of the aforementioned interview for your review to determine if a prima facie case of discrimination has been established. Following your review, please advise as to the conclusion of your review.

Since the OI investigation is pending, please ensure that appropriate measures are taken to safeguard the dissemination of the transcribed interview. OI approval is required for disclosure of this interview.

Attachment: As stated

To receive a copy of this document, indicate in the box "C" = Copy without attach/encl "E" = Copy with attach/encl "N" = No copy

OFFICE	OI:RIII	c						
NAME	<i>Ulie</i> Ulie/ct							
DATE	6/27/97							

K/29

July 8, 1997

CERTIFIED MAIL

Hartford Steam Boiler Inspection
& Insurance Company
ATTN: Mr. Walter Zimmerman
2443 Warrenville Road
Lisle, IL 60532

Dear Mr. Walter Zimmerman:

The U.S. Nuclear Regulatory Commission is currently conducting an investigation of employment discrimination involving Morrison Knudsen Corporation. Attempts to contact you by telephone have been unsuccessful. Therefore, I am writing this letter to you in the hope you will now contact me.

As part of our investigation, it is necessary to meet with you to discuss the inspection you conducted at Morrison Knudsen Corporation during December 1996.

Please contact me at (630) 829-9678 to discuss meeting arrangements and for me to answer any questions you may have in this regard.

Sincerely yours,

Joseph M. Ulie, Special Agent
Office of Investigations Field Office
Region III
U.S. Nuclear Regulatory Commission

JMU
OI:RIII
ULIE
7/8/97

OI:RIII
PAUL *RSK*
7/8/97 *FOA*
RP

K/30

-OI: RIII

From: Joseph Ulie
To: JAH4
Date: 9/5/97 11:45am
Subject: RE: MORRISON KNUDSEN, RIII-97-A-0035

Jay Hopkins, Allegations Coordinator / RIII

I spoke with the Concerned Individual for the subject case earlier today. During our discussion he mentioned that he was sending a letter to the NRC on the adequacy of Morrison Knudsen's (MK's) internal 10 CFR Part 21 review done for D.C. Cook. As I understand the Concerned Individual's concern, it regards his conclusion that MK should have reported alleged deficiencies he discovered during his January 15, 1997 review of MK's Field Welding Procedure Manual for D.C. Cook, Unit 2, versus the conclusion by MK not to report the alleged deficiencies to the NRC. Because of the technical nature of his concern, I recommended he address the letter to you (he said you originally spoke and corresponded with him) for dissemination to the appropriate NRC staff.

CC: HBC, RLD2, RCP2

K/31

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TELECOPIER TRANSMITTAL

DATE: 10/31/97 FILE NUMBER: 22729-0

Number of Pages (including cover sheet): 3

To: Joe Ulie

Firm Name: U.S. Nuclear Regulatory Commission, Reg. III

Telecop # 630/515-1438

Telephone No. To Confirm Receipt: 630/829-9500

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From: STEVEN D. BELL

Time of Transmission: AM PM Sent By:

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STEVEN D. BELL
Direct Dial (216) 902-8831

(216) 621-8400

October 31, 1997

VIA FACSIMILE TRANSMISSION

Keith A. Ashmus, Esq.
Thompson, Hine and Flory
3900 Society Center
127 Public Square
Cleveland, OH 44114

Re: *Alain Artayet v. Morrison Knudsen Corporation*
Case No. 97-ERA-34

Dear Mr. Ashmus:

Thank you for your prompt response to my October 31, 1997 letter.

It is important for you to understand the *true* facts concerning the circumstances under which Mr. Artayet was "laid-off" from Morrison Knudsen Corporation. Contrary to the statements contained in your letter of October 31, 1997, Mr. Artayet was never offered any other job within Morrison Knudsen Corporation. Mr. Artayet was asked whether he would consent to his name being placed in an organizational chart being submitted to DuPont as part of a proposal which Morrison Knudsen Corporation was making to DuPont to do work in Chattanooga, Tennessee. It was suggested to Mr. Artayet that he allow his name to be placed on the organizational chart as a proposed "Quality Control Manager." Mr. Artayet declined to allow his name to be placed on the bid documents as the proposed Quality Control Manager, and he was then told to pack his bags.

We are advised that Morrison Knudsen Corporation's proposal to perform work at the DuPont facility in Chattanooga, Tennessee was not accepted by DuPont. Thus, even if Mr. Artayet had allowed his name to be placed on the bid proposal documents, he would still be sitting at home unemployed. The proximate cause of Mr. Artayet's current position is the unlawful employment action taken against Mr. Artayet by Morrison Knudsen Corporation.

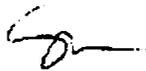
ULMER & BERNE LLP

Keith A. Ashmus, Esq.
October 31, 1997
Page 2

To reiterate: it is simply false for Morrison Knudsen Corporation to claim that Mr. Artayet refused a job assignment in Cleveland. No such offer has ever been made, and no such offer was ever refused by Mr. Artayet.

If Morrison Knudsen Corporation does not voluntarily reinstate Mr. Artayet by the end of next week, please be advised that we will invoke any and all legal remedies which are available to prosecute Mr. Artayet's entitlement to back pay.

Very truly yours,



Steven D. Bell

145:kmh
744595-1

cc: The Honorable Daniel L. Leland (by fax)
Joe Ulie, Nuclear Regulatory Commission, Region V (by fax)
Richard R. Edmister, Esq. (by fax)

November 21, 1997

MEMORANDUM TO: OI Case No. 3-97-013 File

THRU: Richard C. Paul, Director
Office of Investigations Field Office, Region III

FROM: *Joseph M. Ulie*
Joseph M. Ulie, Special Agent
Office of Investigations Field Office, Region III

SUBJECT: MEMORANDUM OF TELEPHONE DISCUSSION WITH MR. ALAIN ARTAYET
(OI CASE NO. 3-97-013)

On this date, at approximately 10 a.m., Mr. Alain ARTAYET, alleged in the subject case, telephoned me to essentially provide an update of his return to work at Morrison Knudsen Corporation, and to confirm that I received his fax transmittal (attached).

I confirmed that I had received his fax transmittal, and that I had provided a copy to Mr. Jay HOPKINS, Office Allegation Coordinator, RIII, NRC, as he had requested in his fax.

ARTAYET recapped that he was reinstated on Monday, November 10th, 1997, by Morrison Knudsen Corporation. He said he along with a Mr. George HLIFKA, were both considered the Morrison Knudsen Group (Corporate) Welding Engineers.

According to ARTAYET, he now reported to Mr. Lou PARDI, Executive Vice-President, Power Division, Morrison Knudsen Corporation, Cleveland, Ohio, which was a different reporting structure organizationally than at the time he was removed from the Corporate Welding Engineer's position on January 15, 1997. ARTAYET said he and HLIFKA now report to PARDI.

AGENT'S NOTE: PARDI was an individual involved in the decision to remove ARTAYET from his Corporate Welding Engineer's position.

ARTAYET said he has been assigned both nuclear and non-nuclear work activities since his return to Morrison Knudsen. He said, however, he is no longer allowed to access the quality assurance vault but that HLIFKA was. The significance of this he said was that he is continuing to be discriminated against at Morrison Knudsen.

ARTAYET mentioned that he had a pay problem he was currently pursuing with Kevin TOBIN, Director, Human Resource Department, Morrison Knudsen Corporation, concerning whether ARTAYET would be paid for both of the last two weeks (week(s) of November 10th and/or 17th).

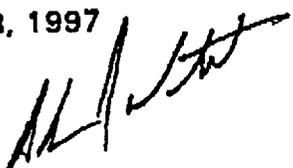
Morrison Knudsen is looking for a replacement for Andy WALCUTT, former Group Quality Director, and ARTAYET's former supervisor, according to ARTAYET. ARTAYET said WALCUTT is going to be working for Morrison Knudsen in the Ukraine. No other specific detail was mentioned.

K/33



INTER-OFFICE CORRESPONDENCE

M-QM-97-064

DATE: September 18, 1997
TO: File
FROM: A. J. Walcutt 
SUBJECT: Appointment of Group Welding Engineer (GWE)

misspelled
The purpose of this IOC is to document my appointment, as the Group Quality Director, of George Hilfka as the Group Welding Engineer. George is replacing Sal Anzalone in this capacity.

The responsibilities and authorities assigned to the GWE are defined in the MK/SGT 10CFR 50 Appendix B/NQA-1 QA Manual, the ASME Section III QA Manual, the ASME Section I/VIII QC Manual and the Quality Management Department Quality Assurance Instructions. This IOC authorizes George to implement these responsibilities and authorities.

While George has the authority to delegate authorities of the GWE, George will at all times remain responsible for the effectiveness of the MK welding program.

cc: L. Pardi
M. Cepkauskas
M. Bingham
D. Huffstodt
File

END

Page 1 of 1

Form 230-A 08/92

**MORRISON KNUDSEN CORPORATION****INTER-OFFICE CORRESPONDENCE**

DATE: September 15, 1997
TO: Distribution
FROM: Drew Edleman *DE*
SUBJECT: E&C Group Welding Engineer

I am pleased to announce the selection of George Hlifka as the Engineering and Construction Group's Welding Engineer. George is a degreed welding engineer, a certified welding inspector and a certified welding educator. His 18 years of construction and industrial experience, both nuclear and non-nuclear, includes welding, supervision and training of welders, development and qualification of weld procedures, development of specifications, and responsibility for code compliance.

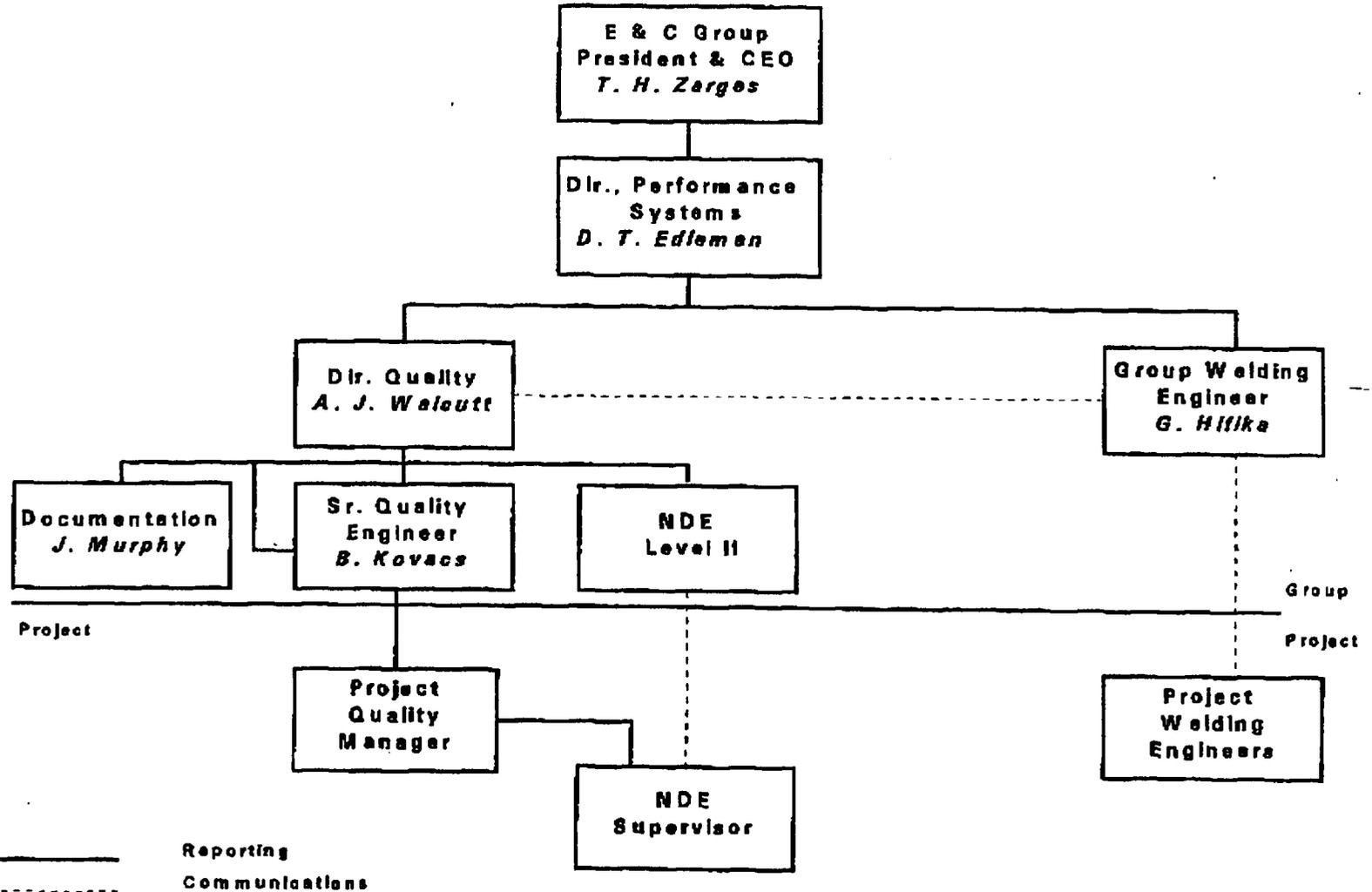
As the Group Welding Engineer, George is responsible for ensuring MK's welding programs meet applicable code and QA program requirements. He will serve as a technical consultant on welding related issues affecting design, fabrication and construction.

Please join me in welcoming George to the MK family, and I encourage you to help him understand how he can best serve you and your projects.

/ec

RECEIVED**SEP 17 1997****MK-Ferguson Group
Quality Management Department**

**Quality Department
Organization Chart**



Distribution:

T. H. Zarges
G. B. Williams
L. E. Pardi
J. M. Carmody
L. R. Thomas
A. J. Walcutt

M. C. Nicholson
K. R. Tobin
W. J. Jones
E. R. Recher

M. M. Cate
J. C. Garrett
A. B. Dawood

Randall Groh
Gary Andrus
Frank Benito
Willie Russell
Frank Gross
Cal Skow
Catherine Vonfeldt
Sam Artis
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Chet Ziegler
Steve Lovellette

Tom Hedges
Clay Coburn
John R. Sheldon
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Ted Dunn
Roa Evans

Jim LaFevers
Steve Warnock

Bruce Kramer

Riley Barlow
Tom Way
Mike Hicks
Alan Mitzner
Jerry Kirkland
Mike Baldwin

Lou Troendle
John Throgmorton
Jim Fields
Ron Drenning
Kenneth Roberts

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Detroit Regional Office	Troy, MI
Federal Reserve Bank	Cleveland, OH
Sun Company CM Services	Philadelphia, PA
MK/Etkin Dearborn Sewer Tunnel	Dearborn, MI
Central Region Operation	Englewood, CO
Boise Home Office	Boise, ID
San Francisco Operations Office	San Francisco, CA
San Antonio Operations Office	San Antonio, TX
New Frontiers Science Park	Essex, England
LMK-British Airways World	Middlesex, United Kingdom
Cargocentre	
Boeing Strategic Partnering	Auburn, WA
GAB/U.S. Steel	Cleveland, OH
Corning Asahi Project	Pleasant Gap, PA
Aristech Chemical Corporation	Cleveland, OH
DuPont-Washington Works	Washington, WV
University of Washington	Seattle, WA
Bronx Primary Schools	Bronx, NY
Illinois Closed Max. Security	Tamms, IL
Correctional Center	
San Francisco Airport Expansion	San Francisco, CA
Rappahannock Regional Jail	Fredericksburg, VA
The Idaho Center	Nampa, ID
Four Rivers Cultural Center	Ontario, OR
NYC Fire Stations Renovations	New York City, NY
Front Street Corridor	Boise, ID
Southside WWTP	Boise, ID
Saturn Corp.-Spring Hill Services	Spring Hill, TN
GM LAD Future Model	Lansing, MI
Conversions Plant 1	
GMT800 Program Management	Clawson, MI
Office	
GM MFD Marion Plant	Marion, IN
GM Arlington	Arlington, TX
GM Flint Buick City Assembly	Flint, MI
GM Wilmington	Wilmington, DE
GM Milford Proving Grounds	Milford, MI
GMT360 Program Management	Pontiac, MI
Office	
GM Opel - Poland Site	Gliwice, Poland
GM Opel - Thailand Site	Rayong, Thailand
Ford - Vietnam	Hanoi, Vietnam
Ford China	Detroit Office
MK/J. S. Alberici Chrysler	Cordoba, Argentina

Gus Franzen	Argentina MK/J.S. Alberici Chrysler Maintenance	Cordoba, Argentina
Shawn Pitt	MK/J.S. Alberici Chrysler Brazil Assembly Plant	Detroit office
Bob Lambert	MK Finsa de Mexico	Brownsville, TX
Khalid Cossor	MK - St. Louis office	St. Louis, MO
Clark Holley	MK-Seattle office	Seattle, WA
Frank Mastel	MK Columbia Office	Columbia, MD

MK Centennial

Daniel M. Wilson	MK Centennial	Arvada, Co
Michael Harrington	MK Centennial - Western Region	Pleasanton, CA
John Chmelir	MK Centennial - Mountain Region	Murray, UT
Bob Swanagon	MK Centennial - Central Region	Dallas, TX
William Ashton	MK Centennial - Eastern Region	Deerfield Beach, FL

O & M

Janice Trump	IBM Mechanicsburg	Mechanicsburg, PA
Art Boone	IBM Mechanicsburg	Mechanicsburg, PA
Mary Linder	Tektronix, Inc.	Beaverton, OR
Perry Kirby	Florida Toll Service	Orlando, FL

Power**Project Managers**

Rolf Amundson	Humboldt Bay	Eureka, CA
Max Bingham	St. Lucie Nuclear Station	Jensen Beach, FL
Duane Chaffee		
Robert Gilbert	Lambton Fine Gas Scrubber	Courtright, Ont., Canada
Tom Goedjen		
Jack Hammond	Navajo Scrubber Project	Page, AZ
William Hug	Ft. St. Vrain Project	Platteville, CO
Dennis Reese	Waltz Mill - Westinghouse	Pittsburgh, PA

Construction Managers

Jack Adams	St. Lucie Nuclear Station	Jensen Beach, FL
Daryl Crawford	MK Construction	Cleveland, OH
Michael Hendricks		
Jack Jenkins		
Steve Mager	St. Lucie Nuclear Station	Jensen Beach, FL
Christopher McDonald	Point Beach Steam Generator	Jensen Beach, FL
Robert Pommerening	St. Lucie Nuclear Station	Jensen Beach, FL
Paul Dan Price		
Steve Renner		
Raymond Tally	Tektronix, Inc. Plant Upgrade	Beaverton, OR
Robert Webster	University City Resource Rec. Fac.	Charlotte, NC

January 7, 1998

CERTIFIED MAIL

**Mr. Max J. Bingham
Project Director
The Steam Generating Team
Post Office Box 8
Jensen Beach, Florida 34958**

Dear Mr. Bingham:

During our meeting of December 3, 1997, at the St. Lucie Nuclear Power Plant, I requested you to provide two documents you believed may be in your possession.

The first document regarded your statement that you had a copy of a memo written by Mr. Alain Artayet concerning a recommendation made by Mr. Artayet that drop weight testing was not required. The second document regarded an original fax that may have been in your possession addressed to you from Mr. Andy Walcutt, dated January 14, 1997, related to Mr. Artayet's review of the Point Beach Nuclear Power Plant welding procedure specification procedures.

This letter is to document your telephone conversation with me on December 22, 1997, which advised me that your search in locating these two documents was unsuccessful.

If this understanding is inaccurate or incorrect in any manner, please inform me in writing at the address shown above. Also, if in the future you should locate these documents, please forward them to me.

Thank you for your prompt attention to this matter, and for your cooperation in the investigation being conducted by the U.S. Nuclear Regulatory Commission.

Sincerely yours,

**Joseph M. Ulie, Special Agent
Office of Investigations Field Office**

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Telephone (614) 228-8400

STEVEN D. BELL
Direct Dial (216) 902-8831

(216) 621-8400

FAX COVER SHEET

DATE:	February 10, 1998
TO:	Joe Ulic
COMPANY:	U.S. Nuclear Reg. Comm./Reg. III
FAX NO.:	(630) 515-1438
PHONE NO.:	
FROM:	Steven D. Bell

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STEVEN D. BELL
Direct Dial (216) 902-8831

February 10, 1998

VIA FACSIMILE TRANSMISSION

Richard R. Edmister, Esq.
Associate General Counsel
Morrison Knudsen Corporation
MK-Ferguson Plaza
1500 West 3rd Street
Cleveland, OH 44113-1406

Re: Alain Artayet vs. Morrison Knudsen Corporation
Case No. 97-ERA-34

Dear Mr. Edmister:

As you know, litigation continues between Morrison-Knudsen Corporation ("MK") and Alain Artayet. I continue to serve as counsel for Mr. Artayet in connection with that litigation.

MK has hired counsel to conduct an "investigation" which appears to concern the circumstances under which Mr. Artayet was removed from his position as MK's Group Welding Engineer (neither Mr. Artayet nor his counsel have ever been told the object or purpose of this "investigation"). At the request of MK, Mr. Artayet spent several days with those persons retained to conduct the investigation, and Mr. Artayet has attempted to otherwise be fully co-operative with the investigators.

The investigators have now asked Mr. Artayet to present himself for an on-the-record interview expected to last three (3) days. This interview is currently scheduled to take place in MK's corporate offices on February 16, 17 and 18.

I was present for much of the prior questioning of Mr. Artayet which was conducted by MK's investigators. The issues discussed at that meeting are the same questions involved in the pending litigation between Mr. Artayet and MK. It is thus imperative that Mr. Artayet be represented by counsel in any on-the-record interview being conducted by MK.

ULMER & BERNE LLP

Richard R. Edmister
February 10, 1998
Page 2

Inasmuch as the interview of Mr. Artayet is being conducted solely to benefit MK, Mr. Artayet is unwilling to bear the costs of paying his counsel to represent his interests during the interview scheduled for next week. We therefore request that MK agree to reimburse Mr. Artayet for his attorney fees incurred in connection with his interview by MK's investigators. In the absence of such an agreement, Mr. Artayet will decline to participate in the scheduled interview.

Please confirm for me in writing that MK will reimburse Mr. Artayet for his attorney fees. You may telefax such confirmation to me at the number shown above.

Very truly yours,



Steven D. Bell

cc: Keith Ashmus (by telefax)
Joe Ulie (by telefax)
Mary Jane Cooper (by telefax)
Alain Artayet

~~105~~

March 18, 1999

Mr. Michael G. Connors
Regional Administrator
U.S. Department of Labor-OSHA
230 S. Dearborn Street, Room 3244
Chicago, IL 60604

Dear Mr. Connors:

Mr. John Hermanson of your staff spoke with Mr. Joseph Ulie of my staff regarding an allegation that false information was provided to the Department of Labor during an Administrative Law Judge Hearing about employment discrimination involving the Morrison Knudsen Company (97-ERA-34 and ARB98-016). Enclosed please find the backup information related to this allegation.

If you have any questions about the information provided, please contact me at (630) 829-9672.

Sincerely,

Richard C. Paul, Director
Office of Investigations
Field Office, Region III

Enclosure: As stated

o/c 3-1997-013

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INVESTIGATION STATUS RECORD

Case Number:	3-1997-013	Case Agent:	ULIE, JOSEPH M
Allegation Number:	RIII-1997-A-0035	Date Opened:	03/13/1997
Docket Number(s):		ECD:	4/1999
Facility:	MORRISON KNUDSEN CORP.	Priority:	High
Case Code:	RP	Status:	
Source of Allegation:	Alleger		
Subject/Allegation:	ALLEGED DISCRIMINATION AGAINST A CONTRACT WELDING ENGINEER FOR RAISING WELDING CONCERNS		

Monthly Status Report:

02/28/1998: Case closed. Report of Investigation issued February 6, 1998.

03/31/1998: Awaiting enforcement action.

04/30/1998: OI participated in meeting with Morrison Knudsen consultant, Stier, Anderson & Malone Law Firm. OI learned that NRC sent proposed violation to Morrison Knudsen and Wisconsin Electric Power Company by letters dated March 25, 1998.

05/31/1998: No change, awaiting NRC action. On May 21, 1998, the U.S. Department of Labor, Administrative Law Judge approved a settlement agreement between Morrison Knudsen Corporation and ARTAYET.

06/30/1998: No change, awaiting NRC enforcement action.

07/31/1998: No change, awaiting NRC action.

10/31/1998: The NRC legal and enforcement staffs are reviewing a recently submitted report sent in by a law firm hired by Morrison Knudsen. The review is expected to be complete by December 3, 1998, when another NRC enforcement panel is planned.

11/30/1998: No change.

12/31/1998: The NRC staff has scheduled an Enforcement Conference with Morrison Knudsen Corporation for January 27, 1999.

01/31/1999: Pre-decisional enforcement conferences were held with two Morrison Knudsen employees and the Corporation, in general, on January 26 and 27, 1999. An Agency decision on this case is pending.

02/28/1999: By letter dated February 12, 1999, J. Patrick Hickory, Counsel to Morrison Knudsen, provided information he alleges affects the credibility of statements made by Mr. Alain Artayet, alleger in this investigation, during the hearing on his DOL complaint before the ALJ, and later during Artayet's interviews before Stier, Anderson and Malone, another law firm retained by Morrison Knudsen to perform an independent review of Artayet's discrimination complaint. A review of these assertions was completed by OGC, concluding no relevant new information nor inconsistencies within Artayet's testimony were found. The NRC staff is continuing to process a potential escalated enforcement action (EA 98-081) involving alleged employment discrimination by Morrison Knudsen.

K/37

INVESTIGATION STATUS RECORD

Case Number:	3-1997-013	Case Agent:	ULIE, JOSEPH M
Allegation Number:	RIII-1997-A-0035	Date Opened:	03/13/1997
Docket Number(s):		ECD:	
Facility:	MORRISON KNUDSEN CORP.	Priority:	High
Case Code:	RP	Status:	CLO
Source of Allegation:	Alleger		
Subject/Allegation:	ALLEGED DISCRIMINATION AGAINST A CONTRACT WELDING ENGINEER FOR RAISING WELDING CONCERNS		

Monthly Status Report:

03/31/1999: No change.

Completion Date:	02/06/1998	Total Staff Hours:	588.0
Issue Date:	02/06/1998	Months Open:	-0.7
DOJ Actions:	DEC, 02/03/1998	OE Action:	
All OI Violations:	HI - S	DOJ Referral:	02/03/1998

February 6, 1998

MEMORANDUM TO: A. Bill Beach, Regional Administrator
Region III

FROM: Richard C. Paul, Director
Office of Investigations Field Office
Region III

SUBJECT: MORRISON KNUDSEN CORPORATION: ALLEGED
DISCRIMINATION AGAINST THE CORPORATE WELDING
ENGINEER (OI CASE NO. 3-97-013)

Attached, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter.

This report is forwarded to the action office for information purposes. Since the action office has the responsibility for advising alleged of the status and disposition of allegations, they are authorized upon receipt of the Report of Investigation to advise the alleged that the investigation has been completed. After the NRC and/or other concerned Federal agencies have taken whatever action they deem appropriate, the action office will notify the alleged that his/her allegations were either substantiated, partially substantiated, or not substantiated and may, if required, furnish the alleged with a copy of the OI Report of Investigation after appropriate proprietary, privacy, and confidential source information has been deleted. Any additional information provided the alleged will be dispositioned through the Director, OI, and will be furnished on a case-by-case basis.

Neither this memorandum nor the report may be released outside the NRC without the permission of the Director, OI. Please ensure that any internal office distribution of this report is controlled and limited only to those with a need-to-know and that they are aware of the sensitivity of its contents. Treat as "Official Use Only."

Attachment:
Report w/exhibits

cc w/attachment:
J. Lieberman, OE
L. Chandler, OGC
H. Clayton, OE:RIII

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5 & 7C
FOIA- 2000-0014

cc w/report
A. C. Thadani, DEDE
T. T. Martin, AEOD
S. J. Collins, NRR

Distribution:

c/f

sf 3-97-013

D. Lewis, OI:HQ (1 report w/exhibits; 1 report only)

B. Barber, OI:HQ w/Title Page & Synopsis

4/1

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Title: MORRISON KNUDSEN CORPORATION

ALLEGED DISCRIMINATION AGAINST THE CORPORATE WELDING ENGINEER

Licensee:

Case No.: 3-97-013

Morrison Knudsen Corporation
MK-Ferguson Plaza
1500 West 3rd Street
Cleveland, OH 44113-1406

Report Date: February 6, 1998

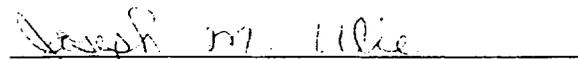
Control Office: OI:RIII

Docket No.: N/A

Status: CLOSED

Reported by:

Reviewed and Approved by:



Joseph M. Ulie, Special Agent
Office of Investigations
Field Office, Region III



Richard C. Paul, Director
Office of Investigations
Field Office, Region III

Participating Personnel:

Anthony McMurtray, Senior Resident Inspector, Point Beach Nuclear Power Plant,
Division of Reactor Projects, Region III

Jerome Schapker, Reactor Inspector, Engineering Specialists Branch 1,
Division of Reactor Safety, Region III

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PROSECUTION.

SYNOPSIS

This investigation was initiated on March 13, 1997, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if the former Corporate Welding Engineer (CWE) for Morrison Knudsen Corporation had been discriminated against for raising safety concerns.

Based on the evidence developed during the investigation, it is concluded that there is sufficient evidence to substantiate the alleged employment discrimination against the former CWE.

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LIST OF INTERVIEWEES

Exhibit

ARTAYET, Alain S., former Corporate Welding Engineer, Morrison Knudsen Corporation (MK).....	3
BALLARO, Charles W., former Welding Engineer, Point Beach, MK.....	11
BINGHAM, Max J., Project Manager, Point Beach, MK.....	14
CEPKAUSKAS, Marty, Site Project Director, Point Beach, Steam Generator Team, Ltd (SGT), MK.....	15
EDLEMAN, Drew, Director, Performance Systems, MK.....	16
EVANS, Paul R., former Welding Engineer, Point Beach, MK.....	12
GORDEN, Eugene "Rusty", Project Welding Engineer, Point Beach, MK.....	13
PARDI, Louis E., Vice-President, Power Group, MK.....	17
TOBIN, Kevin, Director, Human Resource Department, MK.....	21
WALCUTT, Andrew, Director, Quality Group, MK.....	19
ZARGES, Thomas, President & Chief Executive Officer, Engineering, Construction, & Environmental Group, MK.....	20
ZIMMERMAN, Walter C., Inspector, Hartford Steam Boiler Inspection and Insurance Company.....	10

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DETAILS OF INVESTIGATION

Applicable Regulations

- 10 CFR 50.7: Employee Protection (1996 Edition).
- 10 CFR 50.10: Deliberate misconduct (1996 Edition).
- 42 U.S.C. 5851: Section 211 of the Energy Reorganization Act of 1954.

Purpose of Investigation

This investigation was initiated on March 13, 1997, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), to determine if the former Corporate Welding Engineer (CWE) for Morrison Knudsen Corporation (MK) had been discriminated against for raising safety concerns.

Background (Exhibit 1)

On February 18, 1997, Alain ARTAYET, the former CWE for MK, filed an employment discrimination complaint with the U.S. Department of Labor (DOL). ARTAYET said he was responsible for providing oversight to welding activities performed in nuclear power plants where MK performed construction services. On January 1, 1997, Hartford Steam Boiler Inspection and Insurance Company (Hartford) transmitted to MK a quality assurance (QA) audit which identified that certain welding procedures used by MK at Point Beach Nuclear Power Plant (Point Beach) were not in compliance with applicable welding codes and standards. ARTAYET's review of Point Beach welding procedures following and as a result of the Hartford QA audit concluded that 14 of 18 welding procedures used by MK at Point Beach failed to meet relevant QA standards. On January 14, 1997, ARTAYET was informed that the MK Vice President of the Power Division (Louis PARDI) was "unhappy" with the contents of his report and that ARTAYET was "expendable" as MK's CWE. On January 15, 1997, ARTAYET was asked to review MK's Field Welding Procedure Manual for the D.C. Cook Nuclear Power Plant (D.C. Cook). ARTAYET identified deficiencies in this manual and completed an internal MK document for 10 CFR Part 21 notification. Later, on January 15, 1997, ARTAYET was summoned to a meeting with an MK manager (Drew EDLEMAN) where he was informed that the CEO (Thomas ZARGES), had made a decision to fire (and/or remove) ARTAYET from his position as CWE. On February 7, 1997, ARTAYET accepted a transfer to a non-nuclear position at an MK project (DuPont Washington Works Project) in Parkersburg, West Virginia.

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ARTAYET reported to the MK project in Parkersburg, West Virginia, on approximately February 11, 1997. On March 13, 1997, an ARB was held to discuss the above information, and OI was asked to initiate an investigation to determine if ARTAYET was discriminated against.

AGENT's NOTE: MK is a joint venture partner with Duke Engineering and Services Company that formed Steam Generator Team, Ltd (SGT), to conduct work activities including specifically, steam generator replacement projects. A Novation Agreement transferred the MK contract to SGT in the spring of 1995. For purposes of this Report of Investigation, the acronyms MK and SGT are synonymous (Exhibit 2; Exhibit 13, pp. 5-6; Exhibit 20, pp. 4-5; Exhibit 33).

Interview of Allegor (Exhibit 3)

ARTAYET, the former CWE within the MK organization, was interviewed by OI:RIII on April 11, 1997, regarding his alleged employment discrimination complaint. He said he had been the CWE from June 1988 to February 10th (1997) (Exhibit 3, pp. 3, 5, 67).

AGENT's NOTE: EDLEMAN actually removed ARTAYET from the CWE position on January 15, 1997 (Exhibit 16, pp. 7-10).

According to ARTAYET, overall he was responsible for all of the welding programs for MK including the QA Program aspects, both nuclear and non-nuclear related. ARTAYET explained that MK has corporate welding procedures and project specific welding procedures. He said the QA manual requires the project welding engineer to use the corporate welding procedures to prepare the site specific procedures (Exhibit 3, pp. 8-9, 48, 50-51).

Eugene "Rusty" GORDEN, the (lead) project welding engineer, was the person ARTAYET dealt with on the project level for the Point Beach project along with Paul EVANS, former welding engineer, Point Beach, MK. ARTAYET said he was involved at the beginning of the Point Beach project during approximately January 1996 with some preliminary activities (not further specified). He said he had visited the Point Beach site twice, once in June and once in July. He said possibly he was on-site a third time during August 1996. ARTAYET said he may have had six or seven conversations between July and December (1996) with GORDEN about the project (Exhibit 3, pp. 17, 24-26).

While at the Point Beach site in July 1996, ARTAYET, his supervisor; Andrew WALCUTT, and Max J. BINGHAM, Project Manager, Point Beach, MK, met.

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according to ARTAYET. ARTAYET said the discussion lasted 45 minutes. ARTAYET said BINGHAM was not comfortable with his work nor his personality, and mentioned how he (BINGHAM) held a grudge against ARTAYET for asking a question back in 1989 regarding the D.C. Cook work MK was doing at that time. ARTAYET said BINGHAM thought ARTAYET was a troublemaker and was going to cause problems for BINGHAM. At the end of the meeting, they agreed to contact each other if any further problems occurred, according to ARTAYET (Exhibit 3, pp. 17-21, 24).

ARTAYET said he knew BINGHAM talked with PARDI at corporate about his (BINGHAM's) concerns with him (ARTAYET). ARTAYET said about two weeks before Christmas, WALCUTT informed him that CEPKAUSKAS had told PARDI that he (CEPKAUSKAS) was sick of hearing about ARTAYET on the (Point Beach) project. ARTAYET said CEPKAUSKAS felt he (ARTAYET) was not competent because ARTAYET had said Scharpy V notch impact testing (and/or drop weight testing) was not required. ARTAYET said as a degreed welding engineer, he recognized that this testing is required. ARTAYET said, subsequently, PARDI called ARTAYET into his office about one week before Christmas and removed him from all nuclear work activities. ARTAYET said he had no further communication with BINGHAM since July (1996) regarding BINGHAM's work or personality-related concerns with him (ARTAYET). ARTAYET said he had not communicated with CEPKAUSKAS for about a year and a half. ARTAYET said WALCUTT generated a document trying to explain that he (ARTAYET) did not misinform anyone about the drop weight testing issue and that there was no issue here (Exhibit 3, pp. 21-22, 26-32; Exhibit 22).

ARTAYET said he (initially) refused to delegate to GORDEN the authority to perform procedure qualifications records (PQRs) testing because he didn't know GORDEN's technical (welding) expertise. As a result, ARTAYET helped the MK project personnel in qualifying (or at least attempting to qualify) the welding procedures for the project at the Memphis DuPont site. He said he was told it would cost about \$80,000 to conduct the qualifying tests. BINGHAM was not happy with this amount of money being spent on this testing. ARTAYET said approximately two of the eleven tests conducted failed. He said the failures occurred because GORDEN had changed certain variables involving welding rod tensile strength. Consequently (by letter dated August 1, 1996), ARTAYET delegated GORDEN authority (for the preparation and qualification of Welding Procedure Specifications (WPSs) and for supervising and control of welding the test coupons to qualify the WPSs) to do all the functions as project welding engineer except procedure qualification. GORDEN completed the remaining qualifying PQR tests on-site at Point Beach (Exhibit 3, pp. 32-38; Exhibit 4).

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ARTAYET said he requested GORDEN to send him the Point Beach welding procedures, which GORDEN said he would do as a courtesy. ARTAYET said he knew five of the procedures did not comply with Section III or IV requirements (ASME), which included thickness violations, and faxed his comments to GORDEN. ARTAYET said later he telephoned GORDEN who told him the Point Beach procedures were being revised to address ARTAYET's concerns (Exhibit 3, pp. 39-42; Exhibit 5).

AGENT's NOTE: ARTAYET said his comments were faxed on November 16, 1996 (Exhibit 3, p. 39), however, the fax cover sheet shows the fax was sent on November 6, 1996 (Exhibit 5, p. 1).

ARTAYET made reference that WALCUTT wanted ARTAYET to review the D.C. Cook welding procedures and/or the differences between these procedures and the Point Beach welding procedures in early December (1996) and then again on January 15, 1997 (Exhibit 3, pp. 43-45, 55-58).

AGENT's NOTE: By letter dated April 23, 1997, OI:RIII provided documentation regarding D.C. Cook to the NRC technical staff for review. Additional technical related documentation was obtained during the investigation and is included as Exhibit 24 to this Report of Investigation (Exhibits 23-24).

ARTAYET said on December 30-31, 1996, Hartford conducted the annual audit of MK's QA Program. He said three of the four audit findings were related to welding procedures at the Point Beach project. On January 6, (1997), MK received the Hartford audit report and WALCUTT ordered ARTAYET to review all the Point Beach welding procedures, according to ARTAYET. ARTAYET said 14 of the 18 welding procedures were found to be in noncompliance. Following ARTAYET's review of the Point Beach welding procedures he documented his conclusions in Quality Finding Report (QFR) No. QFR-01, which was completed by 9:00 a.m. on January 14, (1997), and given to WALCUTT, according to ARTAYET. ARTAYET said WALCUTT informed PARDI of the QFR information during that same morning. WALCUTT told ARTAYET that PARDI said ARTAYET was expendable, but CEPKAUSKAS and BINGHAM were not, according to ARTAYET. ARTAYET said at this point he felt his job was threatened (Exhibit 3, pp. 41, 45-55; Exhibits 6-7).

The next day (January 15, 1997), about 10:00 a.m., ARTAYET said he was called to EDLEMAN's office. EDELMAN reported to WALCUTT (administratively). ARTAYET said EDLEMAN immediately told him there was a problem and informed him of his removal as the CWE. ARTAYET said EDLEMAN told him that he met with ZARGES and PARDI at 8:00 that morning and it was decided to remove ARTAYET from his (CWE)

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position. According to ARTAYET, the reason given to him for his removal by EDLEMAN was because of the conflict between ARTAYET, and the Point Beach project personnel, BINGHAM and CEPKAUSKAS. ARTAYET said those project managers such as BINGHAM are considered "Gods" by MK. According to ARTAYET, EDLEMAN said ZARGES was not comfortable in firing ARTAYET because ZARGES respected ARTAYET's technical expertise and ZARGES wanted to keep ARTAYET's expertise within the company. ARTAYET said EDLEMAN told him ZARGES had given EDLEMAN three months to find a new position within MK for ARTAYET. ARTAYET said he was given no documentation showing he had been removed as the CWE (Exhibit 3, pp. 59-64, 74).

ARTAYET said WALCUTT was shocked when he heard ARTAYET had been removed from his position but he said he had heard that possibly this would happen. ARTAYET said WALCUTT was even asked to remove him from his position but refused to do that (Exhibit 3, pp. 67-68).

ARTAYET said he was offered an area field engineer position with MK at the DuPont Washington Works Project in Parkersburg, West Virginia, on February 7, 1997. The position was offered by Dave ADAMS, and Jim GARRET, which ARTAYET accepted. ARTAYET said he accepted this position because it had taken a month to get this offer and he was concerned that if he didn't take it, he could be laid off (Exhibit 3, pp. 75-82).

ARTAYET summarized what he considered to be the changes in his job assignment between his former CWE position to the more recent area field engineer position. He acknowledged his responsibilities at the DuPont Washington Works Project were solely for the Parkersburg, West Virginia site versus his former corporate-wide responsibilities as the CWE. He said in his new position he works outdoors versus his former position, which was an office-type environment. He said his work schedule use to be 5-eight hour days, whereas, in the area field engineer position, it is 4-ten hour days. ARTAYET said he has to travel home on weekends (due to the position change so he can be with his family). ARTAYET said he doesn't have a home in Parkersburg but is staying with a friend (Exhibit 3, pp. 83-92).

AGENT's NOTE: According to ARTAYET, he was advised by an MK Human Resources Officer (not further identified) of his reinstatement being effective on November 10, 1997. ZARGES testified that ARTAYET was reinstated as a welding engineer with MK, Parkersburg, West Virginia, is approximately 180 miles from Cleveland, Ohio (Exhibits 20, pp. 19-22; Exhibit 32).

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Coordination with NRC Staff

On March 12, 1997, an Allegation Review Board (ARB) reviewed the technical and employment discrimination allegations, and requested that OI:RIII conduct an initial interview of the alleger. The ARB assigned a "high" priority for investigative purposes to the employment discrimination allegation.

Subsequently, on August 4, 1997, another ARB was convened in RIII to further discuss the information surrounding ARTAYET's concerns. At this ARB, it was determined that the employment discrimination investigation should continue on a "high" priority basis.

Jerome SCHAPKER, Reactor Inspector, Engineering Specialists Branch 1, Division of Reactor Safety, RIII, provided technical support as requested by OI:RIII during the investigation. Furthermore, Anthony McMURTRAY, Senior Resident Inspector, Point Beach, Division of Reactor Projects, RIII, obtained information from the licensee in support of the OI investigation (Exhibit 2).

Coordination with the Regional Counsel

Bruce BERSON, RIII Counsel, participated in the ARB held on March 12, 1997. It was determined that, [REDACTED]

] EX 5

Evidence

The various documents obtained by OI:RIII, which are listed in the Exhibit Section of this report, were reviewed (Exhibits 1-2, 4-9, 18; 22-35). Copies of witness interviews conducted by OI:RIII and/or through the DOL Hearing process are also attached as exhibits to this report (Exhibits 3, 10-17; 19-21).

Document Review

Point Beach Steam Generator Replacement Contract Activities (Exhibit 2)

McMURTRAY obtained information from the licensee relevant to when various MK work activities occurred at Point Beach.

According to the information provided by the licensee, MK was awarded a contract in August 1994. Following the transfer of the MK contract to SGT, SGT established a full-time presence on-site in the spring 1995. The Steam

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Generator Replacement project refueling outage commenced in October 1996. SGT demobilized from the site in March 1997 and completed it's work activities in mid-August 1997.

DOL Information

By DOL letter dated March 21, 1997, addressed to Chuck WEIL, Allegations Coordinator, RIII, the NRC was informed that the DOL fact finding investigation concluded the Complainant's (ARTAYET's) allegations were without merit (Exhibit 8).

Subsequently, on October 28, 1997, at a DOL Hearing on the discrimination complaint, the DOL Administrative Law Judge's Recommended Decision and Order was to reinstate ARTAYET, based on MK's violation of the discrimination provisions of the Energy Reorganization Act (42 USC 5851) (Exhibit 9).

The DOL Recommended Decision and Order was forwarded for final decision to the DOL Administrative Review Board, which is pending.

Analysis of Evidence

An Analysis of Evidence was performed to examine those elements involved in determining if discrimination occurred.

1. Protected Activity

MK established a full-time presence at Point Beach in the spring of 1995 in preparation for the Steam Generator Replacement project, and permanently demobilized from the site during approximately August of 1997 (Exhibit 2).

ARTAYET performed a quality assurance function which constituted protected activity (Exhibit 3, pp. 5, 8-9.; Exhibit 9, p. 7).

Following a Hartford QA audit (conducted December 30-31, 1996), ARTAYET reviewed the MK welding procedures used at Point Beach, and concluded that 14 of 18 welding procedures used by MK at Point Beach failed to meet relevant QA standards. ARTAYET delivered a memorandum listing these inadequacies to WALCUTT on January 14, 1997, who then provided this information to BINGHAM (via telecopy) and PARDI (Exhibit 1, Exhibit 3, pp. 52-55; Exhibit 7, Exhibit 18; Exhibit 19, pp. 58-61).

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Further review by ARTAYET on January 15, 1997, concluded that certain of MK's Field Welding Procedure Manual documentation for D.C. Cook were also deficient and informed WALCUTT of this. Subsequently, ARTAYET filled out a 10 CFR Part 21 related form (MK form captioned "Determination Checklist For 10 CFR Part 21 Applicability") and provided this to his management (Exhibit 1; Exhibit 3, pp. 55-59, 69-73; Exhibit 9, p. 4).

2. Knowledge of ARTAYET's Protected Activity

As a result of MK receiving the Hartford audit report on January 6, 1997, WALCUTT asked ARTAYET to review all the (MK) welding procedures for Point Beach. ARTAYET identified welding procedure deficiencies during his review of these procedures, which he gave to WALCUTT in a eight page report on January 14, 1997. Furthermore, WALCUTT provided a copy of ARTAYET's report to PARDI and BINGHAM. WALCUTT, PARDI, and BINGHAM were all supervisors with MK. PARDI, who EDLEMAN indicated was the individual behind the removal of ARTAYET as the CWE, acknowledged seeing the memo drafted by ARTAYET that identified the Point Beach welding procedure deficiencies before he (PARDI) made the final recommendation to remove ARTAYET on January 15, 1997. WALCUTT said he told PARDI the Point Beach procedure problems weren't ARTAYET's fault (Exhibit 3, pp. 52-55; Exhibit 7; Exhibit 9, p. 4; Exhibit 16, pp. 6-10, 16-17; Exhibit 17, pp. 41-43; Exhibit 18; Exhibit 19, pp. 41-42, 48-49).

As noted previously, on January 15, 1997, ARTAYET informed WALCUTT that he had also identified welding procedure deficiencies similar to the Point Beach deficiencies during a review of the D.C. Cook welding procedures (Exhibit 3, pp. 55-59, 69-73; Exhibit 9, p. 4).

3. Unfavorable Action Taken Against ARTAYET

ARTAYET was removed from his CWE position on January 15, 1997, by EDLEMAN, following discussions with PARDI and ZARGES. Subsequently, ARTAYET was transferred to an area field engineer site position with MK (at the DuPont Washington Works Project) in Parkersburg, West Virginia, on February 7, 1997 (Exhibit 3, pp. 59-67, 75-76, and Exhibit 9, pp. 4-5).

ARTAYET was subsequently laid-off by MK from the DuPont Washington Works Project effective September 30, 1997 (Exhibit 31).

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AGENT'S NOTE: According to ARTAYET, he was advised by an MK Human Resources Officer (not further identified) of his reinstatement being effective on November 10, 1997. ZARGES testified that ARTAYET was reinstated as a welding engineer with MK (Exhibits 20, pp. 19-22; Exhibit 32).

4. Did the Unfavorable Action Result from ARTAYET Engaging in a Protected Activity

ARTAYET informed WALCUTT of deficiencies with the Point Beach welding procedures, who, in turn, informed PARDI and BINGHAM, each of whom are MK supervisors, and all of which occurred on January 14, 1997. On January 15, 1997, ARTAYET was removed from the CWE position by EDLEMAN following discussions with PARDI, and after he (EDLEMAN) discussed this decision with ZARGES. EDLEMAN said PARDI was pretty adamant about ARTAYET's removal during their discussion on January 15, 1997. EDLEMAN acknowledged PARDI was the one behind getting ARTAYET removed as the CWE. PARDI acknowledged seeing the memo drafted by ARTAYET identifying the Point Beach welding procedure deficiencies before he made the final recommendation (to remove ARTAYET) on January 14, or 15, 1997 (Exhibit 3, pp. 52-55; Exhibit 16, pp. 8-10, 17; Exhibit 17, pp. 41-43; Exhibit 19, pp. 58-59).

The DOL Recommended Decision and Order indicated MK cited the following reasons for ARTAYET's removal: (1) his overall performance (or lack thereof) as CWE, including his recommendation that drop weight testing not be used; (2) the deficiencies found in the Hartford audit; and (3) the friction between certain Point Beach project personnel and ARTAYET. PARDI confirmed that the decision to remove ARTAYET was based generally on these reasons (Exhibit 9, pp. 4-5, 8; Exhibit 17, pp. 9-12, 34).

With regard to the concern of ARTAYET's performance, in 1995, ARTAYET was rated [REDACTED] in his performance review, and in 1996, he was rated [REDACTED] in his performance review. WALCUTT, ARTAYET's former immediate supervisor, also testified that ARTAYET always performed competently and professionally as a welding engineer and had many years of experience in the field from a craft viewpoint. EDLEMAN acknowledged that none of the things discussed in the January 15, 1997 meeting (with PARDI) to remove ARTAYET as CWE were mentioned in ARTAYET's 1996 performance evaluation dated only 23 days earlier. Additionally, regarding ARTAYET's alleged recommendation that drop weight testing not be used, WALCUTT testified he investigated this issue in November (1996). WALCUTT said he told Lou (PARDI) and CEPKAUSKAS that these issues

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were not valid, nor could he find any such evidence during the investigation he conducted on this matter. Furthermore, neither PARDI, CEPKAUSKAS, nor BINGHAM could produce a document they alleged existed showing that ARTAYET had recommended drop weight testing not be used (Exhibit 9, pp. 7-8; Exhibit 13, pp. 28-32; Exhibit 14, pp. 21-23; Exhibit 15, pp. 7-10; Exhibit 16, pp. 27-28; Exhibit 17, pp. 6-7, 30-37; Exhibit 19, pp. 9-11, 13, 37-42, 46-49; Exhibit 22; Exhibits 27-28).

With regard to the Hartford audit findings, PARDI acknowledged that the deficiencies found during the Hartford audit identified a problem with the Point Beach site-specific welding procedures. ARTAYET said three of the four audit findings were related to welding procedures at the Point Beach project. ZIMMERMAN detailed each of his findings and confirmed that three of the four findings regarded the welding procedures at Point Beach. WALCUTT indicated that GORDEN was responsible for the welding procedure problems at Point Beach because the site-specific welding procedures were developed by and/or under GORDEN. WALCUTT confirmed that ARTAYET never signed off on any of the site-specific welding procedures. PARDI acknowledged that Section 9.2.5 of the MK QA Manual required the Project Welding Engineer (GORDEN) to develop the project or site-specific WPSs. WALCUTT said he told PARDI that the Point-Beach problems were not ARTAYET's fault (Exhibit 3, pp. 45-51; Exhibit 9, p. 8; Exhibit 10, pp. 16-21; Exhibit 17, pp. 17-30; Exhibit 19, pp. 37-42, 52-54; Exhibit 34, pp. 1, 8).

With regard to the personality conflicts (friction/communication-related) between the project personnel (BINGHAM, and/or others) and ARTAYET; WALCUTT and ARTAYET each indicated they thought the July 1996 meeting between themselves and BINGHAM had settled all the issues. WALCUTT said he believed the communication-related issue was the only valid reason for removing ARTAYET, yet, he made no reference to this concern in ARTAYET's (1996) "Employee Performance Review," which was dated only twenty-three days prior to ARTAYET's removal as CWE. WALCUTT agreed during his testimony that he did not raise this as an issue in ARTAYET's 1996 performance evaluation. When EDLEMAN was asked if anything even implied that ARTAYET was having trouble getting along with others inside or outside MK, he responded, "it doesn't state that here" (in ARTAYET's 1996 performance evaluation) (Exhibit 3, pp. 17-21, 24; Exhibit 9, pp. 7-9; Exhibit 16, pp. 27-28; Exhibit 19, pp. 46-47, 61-63; Exhibit 28).

Another potential problem related to the friction concern, regards the PQR work ARTAYET was attempting to qualify for the Point Beach project, which failed, in part. WALCUTT said he found that the test requirements used by

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ARTAYET in Memphis (for the Point Beach project) were different than those later used by the project personnel at Point Beach (Exhibit 19, pp. 11-13).

The evidence indicates because ARTAYET identified deficiencies with the welding procedures used by MK at Point Beach (protected activity) on January 14, 1997, and provided this information to WALCUTT, who then provided this information to PARDI and BINGHAM on the same day, that this was at least a contributing factor in the decision to remove him (ARTAYET) on January 15, 1997.

Agent's Analysis

The evidence indicates ARTAYET made a prima facie showing by a preponderance of the evidence that his identifying deficiencies with the welding procedures used by MK at Point Beach on January 14, 1997, was at least, a contributing factor in the decision to remove him (ARTAYET) on January 15, 1997, whereas, MK was unable to show by clear and convincing evidence, that they would have removed ARTAYET when they did, in the absence of him engaging in the protected activity.

The DOL Administrative Law Judge determined that MK's reason(s) for terminating ARTAYET were "pretextual." Also ARTAYET's removal within twenty-four hours after he engaged in protected activity raised, according to the Administrative Law Judge, "the inference as a matter of law" that ARTAYET's removal was in retaliation for his protected activity.

Conclusion

Based on the evidence developed during the investigation, it is concluded that there is sufficient evidence to substantiate the alleged employment discrimination against ARTAYET.

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SUPPLEMENTAL INFORMATION

On February 3, 1998, William P. SELLERS, Esq., Senior Legal Advisor for Regulatory Enforcement, General Litigation and Legal Advice Section, Criminal Division, U.S. Department of Justice, Washington, D.C., was apprised of the results of the investigation. Mr. SELLERS advised that, in his view, the case did not warrant prosecution and rendered an oral declination.

By memorandum dated April 23, 1997, from Richard C. Paul, Director, OI:RIII, to H. Brent CLAYTON, Enforcement Officer, RIII, technical related documentation obtained by OI:RIII was provided for NRC staff technical review and additional documentation recently obtained by OI:RIII is also being provided for NRC staff review as exhibits in this Report of Investigation.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, OI Case No. 3-97-013, dated March 13, 1997.
2	Point Beach Steam Generator Replacement Contract undated.
3	Transcript of Interview of ARTAYET, dated April 11, 1997.
4	Letter from ARTAYET to GORDEN, dated August 1, 1996.
5	Telecopy message from ARTAYET to GORDEN, dated November 6, 1996.
6	Hartford Steam Boiler Inspection and Insurance Company 1996 Management Review of MK's QA Program, dated January 1, 1997.
7	Quality Finding Report No. QFR-01, dated January 15, 1997.
8	Letter from Rob MEDLOCK, Area Director, DOL, to Chuck WEIL, Allegations Coordinator, RIII, dated March 21, 1997.
9	Memo from J. HOPKINS, OAC, RIII, to R. PAUL, OI, RIII, dated October 30, 1997, having attached the DOL ALJ's Recommended Decision and Order.
10	Transcript of Interview of ZIMMERMAN, dated August 7, 1997, with attachment.
11	Transcript of Interview of BALLARO, dated September 16, 1997.
12	Transcript of Interview of EVANS, dated November 12, 1997.
13	Transcript of Interview of GORDEN, dated December 3, 1997.
14	Transcript of Interview of BINGHAM, dated December 3, 1997.
15	Transcript of Testimony of CEPKAUSKAS, dated June 11, 1997.
16	Transcript of Testimony of EDLEMAN, dated June 11 & 12, 1997.

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- 17 Transcript of Testimony of PARDI, dated June 11, 1997.
- 18 Memo from WALCUTT to BINGHAM, dated January 14, 1997.
- 19 Transcript of Testimony of WALCUTT, dated June 12, 1997.
- 20 Transcript of Interview of ZARGES, dated January 8, 1998.
- 21 Transcript of Testimony of TOBIN, dated June 12, 1997.
- 22 Memo from WALCUTT to File, dated November 4, 1996.
- 23 Memo from R. PAUL to H. CLAYTON, Enforcement Officer dated April 23, 1997.
- 24 Memos from WALCUTT to File, dated February 28, 1997, & March 18, 1997 with an attached completed "Determination Checklist For 10 CFR Part 21 Applicability, also dated March 18, 1997; and a memo from PARDI to WALCUTT, dated January 27, 1997.
- 25 E-mail from EDLEMAN to TOBIN, dated January 30, 1997.
- 26 Affidavit by EDLEMAN, dated March 20, 1997.
- 27 ARTAYET's "Employee Performance Review" for 1995, dated December 19, 1995.
- 28 ARTAYET's "Employee Performance Review" for 1996, dated December 23, 1996.
- 29 Affidavit by PARDI, dated March 20, 1997.
- 30 Memo from WALCUTT to ZARGES, dated January 28, 1997.
- 31 Letter from Steven D. BELL to Keith A. ASHMUS, dated October 31, 1997.
- 32 Conversation Record by J. HOPKINS, dated November 10, 1997.
- 33 "Quality Program Resolution" for SGT, undated.
- 34 MK QA documentation having various dates.

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35 Memo from Joseph M. Ulie, Special Agent, OI:RIII, to the OI Case No. 3-97-013 File, dated December 22, 1997.

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Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 4 F 1C
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EXHIBIT 3

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF INVESTIGATIONS

INTERVIEW

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IN THE MATTER OF: :

INTERVIEW OF : Docket No.

ALAIN ARTAYET : (not assigned)

:

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Friday, April 11, 1997

Ulmer and Berne Law Office

Bond Court Building

Suite 900

1300 East Ninth Street

Cleveland, Ohio

The above-entitled interview was conducted
at 10:00 a.m.

BEFORE:

JEROME F. SCHAPKER Investigator

EXHIBIT 3

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APPEARANCES:

On Behalf of the Witness:

STEVEN D. BELL, ESQ.

LYNN ROGOZINSKI, ESQ.

Ulmer and Berne, LLP

Bond Court Building

1300 East Ninth Street

Suite 900

Cleveland, Ohio 44114

On Behalf of the Nuclear Regulatory Commission:

JOSEPH M. ULIE, ESQ.

Special Agent

U.S. Nuclear Regulatory Commission

Office of Investigation

801 Warrenville Road

Lisle, IL 60532-4351

1 MR. ULIE: Today's date is April 11, 1997,
2 at approximately 9:55 a.m., Eastern Standard Time.

3 For the record, this is an interview of
4 Alain Artayet, spelled A-r-t-a-y-e-t. The location of
5 this interview is at the Ulmer and Berne Law Office in
6 the Bond Court Building, 1300 East Ninth, Suite 900,
7 Cleveland, Ohio, 44114-1583.

8 Present at this interview are Mr. Steven D.
9 Bell, spelled B-e-l-l, Ms. Lynn Rogozinski, spelled
10 R-o-g-o-z-i-n-s-k-i, both attorneys with the law firm of
11 Ulmer and Berne, and Mr. Jerome F. Schapker,
12 S-c-h-a-p-k-e-r, reactor inspector with the United
13 States Nuclear Regulatory Commission, Region III
14 office. And Joseph M. Ulie, spelled U-l-i-e, special
15 agent with the United States Nuclear Regulatory
16 Commission Office of Investigations. As agreed, this
17 interview is being transcribed by Court Reporter, Ms.
18 Norma Carlin.

19 The subject matter of this interview regards
20 an employment discrimination complaint filed with the
21 Nuclear Regulatory Commission against Morrison Knudson,
22 Corporation, a contract company to certain NRC
23 licensees.

24 The investigation is gathering information
25 to determine if Morrison Knudson Corporation personnel

1 discriminated against Mr. Artayet because he notified
2 company officials of potential violations of Morrison
3 Knudson's Quality Assurance Program.

4 This interview will also allow Mr. Artayet
5 time to write any information relevant to the subject
6 matter of the interview for which he may wish to make a
7 part of this record and proceeding.

8 Mr. Artayet, if you would please stand and
9 raise your right hand?

10 THE WITNESS: Sure. I would like to say me
11 name is Artayet not Artanet.

12 MR. ULIE: I apologize.

13 THE WITNESS: That's okay.

14 Whereupon,

15 **ALAIN S. ARTAYET**

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

18 MR. ULIE: Please be seated.

19 THE WITNESS: Thank you.

20 **EXAMINATION**

21 BY MR. ULIE:

22 Q. Before I begin, do you wish Mr. Bell and Ms.
23 Rogozinski to be present during this interview?

24 A: Yes, sir.

25 Q. And are they both here representing you?

1 A. Yes, sir, they are both my attorneys.

2 Q. And for the record if you would provide your
3 full name?

4 A. Sure. Alain, spelled A-l-a-i-n, Artayet,
5 A-r-t-a-y-e-t.

6 Q. Do you have a middle initial?

7 A. Yes. S for Serge, spelled S-e-r-g-e.

8 Q. And were you the corporate welding engineer
9 for Morrison Knudson Incorporation?

10 A. Yes, sir. I was the corporate welding
11 engineer for about nine and a half years.

12 Q. And during what time period was it that you
13 held that position?

14 A. Since June of 1988 to February 10th, when I
15 was relocated down in Parkersburg, West Virginia.

16 Q. And when you were hired by Morrison Knudson,
17 is this the position you were hired to fill?

18 A. Yes, sir.

19 Q. And was this considered a permanent or a
20 temporary position?

21 A. Permanent.

22 Q. And how do you know this?

23 A. How do I know this? Because it's required
24 to have a permanent welding engineer as a part of the
25 Quality Assurance Program.

1 Q. What I'm referring to, was it through orally
2 -- were you told it -- or was there some documents?

3 A. Well, I was told. I asked, "Is this a
4 permanent position?"

5 They said, "Well, there's nothing permanent,
6 but this is as close as you're going to get to a
7 permanent position."

8 It's a corporate position, so that's why I
9 selected the position because it's a corporate
10 position. It's more permanent than being on a
11 construction project, which is usually temporary. At
12 the end of the contract, you're laid off.

13 Q. All right, let me ask it in this manner.

14 A. Um-hum.

15 Q. Was there a finite period of time that was
16 specified when you were hired to your employment?

17 A. What do you mean by that?

18 Q. Did they tell you it was a one-year or it
19 was intended to be a two-year position?

20 A. Oh, no, they told me it could be a 10, 15,
21 20 year position.

22 Q. So, in other words, it was intended to be a
23 permanent career position?

24 A. Yes, sir.

25 Q. And what is your academic background in

1 welding?

2 A. Where do you want to start? Academically?

3 Q. Starting with college.

4 A. Okay. I started work in school in 1981 on
5 the east side of Cleveland at the Lakeland Community
6 College. Me first degree is an associates of applied
7 science degree in mechanical engineering technology,
8 specializing in welding, and I graduated from Lakeland
9 Community College in June of [REDACTED] EX7C

10 And at that point I transferred to Ohio
11 State University; moved me family down there. I stopped
12 working and went for three years down at Ohio State
13 University. I graduated in [REDACTED] with a bachelor of EX7C
14 science in welding engineering from OSU.

15 Q. Okay, and do you have any other sort of
16 specialized course work that you have taken in welding?

17 A. No, sir. That's about it.

18 Q. Okay, and what experience do you have of
19 welding requirements that involve the nuclear industry?

20 A. I've worked in the nuclear industry for
21 about seven years total as a welder. Before I went to
22 Lakeland Community College and Ohio State, I was a
23 pipefitter welder, and I still hold a union card for
24 working in the union, so I was a pipefitter.

25 I worked at the Perry Nuclear Plant here on

1 the east side for about four and a half years while I
2 went to Lakeland Community College. The work that I've
3 done with MK since the beginning, since 1988, by the
4 time they were involved with the D.C. Cook Nuclear Power
5 Plant steam generator replacement in 1988. So, when I
6 hired for MK, at that point I had to learn real quick
7 the rules and regulations of MK. I have also worked TVA
8 in 1987, I believe. We can verify the exact dates later
9 if you want more.

10 Q. But that job involved welding activities and
11 responsibilities?

12 A. Yes, sir. As a welding engineer trainee in
13 the nuclear engineering division of the TVA.

14 I worked at the Perry Plant also during the
15 start-up phase of the Perry Nuclear Power Plant, also as
16 a planner, a work planner, basically doing all the
17 planning for the start-up phase, making the
18 modifications for the Perry Plant during the start-up.
19 And that was in 1986, I believe.

20 Q. Okay, with regard to your corporate welding
21 position, what were your assigned responsibilities?

22 A. From a nuclear standpoint?

23 Q. Why don't you go overall and then you can be
24 more specific.

25 A. Okay. Overall, I was responsible for all of

1 the welding programs for MK to be the corporate welding
2 engineer.

3 I have the responsibility of the Quality
4 Assurance Program for the nuclear environments, the 10
5 CFR 50, Appendix B, program also; I have
6 responsibilities there. I have work charts to indicate
7 that.

8 I was also responsible for the Quality
9 Control Program for the nonnuclear applications.
10 Overall, I controlled all welding procedures from the
11 corporate level standpoint.

12 I did get also involved with welding
13 activities on projects. I was involved during audits on
14 nonnuclear and the nuclear side of the house, being the
15 MK side of the house. I performed insurance claims on
16 -- let's say tanks blew up and things like that. I
17 would get involved with insurance claims to do failure
18 analysis; assist in doing that.

19 Do you want me to keep going?

20 Q. Let's just make it clear. MK is an acronym
21 for Morrison Knudson Corporation?

22 A. That's correct.

23 And I got involved with just about every
24 welding phase of the Company involved with GM work,
25 involved with Boeing work. All the contracts. At one

1 point I was working like 15 different contracts
2 simultaneously for MK all over the world. I've traveled
3 in Mongolia to do welding over there. Also for the
4 energy sector for the U. S. Government with the contract
5 MK had with them.

6 I have worked also in France for the nuclear
7 side of the house, traveled over to see Framampome part
8 of the steam generator. I was involved there with the
9 narrow-groove welding application.

10 Q. I'm more interested in the U. S. nuclear
11 industry.

12 A. I'm sorry.

13 Q. And your responsibilities for MK. If there
14 is anything else --

15 A. Basically, I dealt with the welding
16 representative for each contract. I was the point of
17 contact for support and administration for welding for
18 MK.

19 Q. All right, now if you would start out with,
20 I would like to go through the MK chain of command, if
21 you will, or table of organization.

22 A. Sure.

23 Q. Starting with the corporate welding engineer
24 position.

25 A. Do you want me to show you --

1 Q. And if there are documents that you need to
2 refer to, feel free to do that.

3 A. All right.

4 Q. But if you could identify who your immediate
5 supervisor was when you first began at MK?

6 A. Sure, when I first began, I was hired by
7 Merlin Grayson. He's the one that came to Ohio State
8 and interviewed me and hired me. He used to be the
9 corporate welding engineer for MK.

10 Q. And what was his title?

11 A. He was the director of welding and quality.
12 I replaced a Mr. Don Huffstodt that used to
13 be the corporate welding engineer for MK.

14 Q. And if you would spell his last name.

15 A. H-u-f-f-s-t-o-d-t. He's the corporate
16 engineer, again, for MK. They transferred him to the
17 steam generator, the D.C. Cook steam generator job that
18 I referred to earlier. [REDACTED]

19 [REDACTED]
20 Q. With respect to your supervisor, how long
21 did he remain your supervisor?

22 A. He was me supervisor for three to four
23 years.

24 Q. So, approximately until about 1992;
25 1991-92?

1 A. Yes, somewhere in there.

2 There was a lot of corporate changes that
3 occurred since I've been with MK. The -- let's see,
4 Merlin Grayson was moved to the Boise office at the end
5 of four years. I worked for him.

6 Then Dorsal Baden was -- became the director
7 of welding and quality at that point. He retired two
8 years later. And then Mr. Andy Walcutt, who is
9 presently my supervisor, is the quality director for
10 MK.

11 Q. And you spell his last name W-a-l-c-u --

12 A. W-a-l-c-u-t-t.

13 And I have organizational charts I can show
14 you here. This is the Quality Assurance Program for
15 MK. The revision I have is January 3, 1995. The latest
16 revision for this manual is 8/20/96.

17 Q. Okay, what I would like to make clear is
18 your -- you identified who your immediate supervisor was
19 when you started.

20 A. Yes, sir.

21 Q. And then who replaced him?

22 A. Nobody has replaced him yet.

23 Q. I thought in 1991 to 1992.

24 A. That was Dorsal Baden who used to work and
25 then Andy Walcutt used to work also for Dorsal Baden.

1 Q. At what time did he take over?

2 Approximately.

3 A. Geez, about 1992/93 time frame.

4 Q. And then he was your supervisor up until
5 what time?

6 A. Until last February of this year.

7 Q. Until you were reassigned or removed?

8 A. Yes, removed to the corporate office sent to
9 Parkersburg.

10 And, as you can see, Andy Walcutt is the
11 group quality director for MK. And I'll show you the
12 organizational chart. This is the Quality Assurance
13 Program for MK. This is the organizational chart. This
14 is the group quality director, Andy Walcutt. And I'm
15 the group welding engineer from the corporate. This is
16 the group meaning corporate and the project level
17 organization.

18 I reported directly to Mr. Andy Walcutt.
19 Mr. Andy Walcutt directly reports to Tom Zarges, who is
20 the president and CEO.

21 Q. And the organization chart that we're
22 looking at is in the Quality Assurance Manual in .5
23 section of chapter of the manual and it's titled
24 Morrison Knudson Corporation organization chart dated
25 August 6, 1996.

1 A. It's important to note that this is the
2 Quality Assurance Program at 1500 West 3rd Street in
3 Cleveland, Ohio.

4 Q. Fine. And then the president, he reported
5 to the CEO?

6 A. The CEO, Mr. Tom Zarges. He's president and
7 CEO.

8 Q. Have there been any changes during your
9 employment from '88 to the '97 time frame of the
10 individuals that were in the positions of president and
11 CEO?

12 A. Yes, sir.

13 Mr. Keaton Price who used to be the
14 president and CEO for MK.

15 Q. When was that if you can specify?

16 A. That was again between 198 -- that I know of
17 -- 1988 to about the 1992 time frame again.

18 Q. And then who was it that took over as
19 president after him?

20 A. After him was Tom Zarges.

21 Q. The current president?

22 A. Yes, sir.

23 Q. And then the CEO, has that changed?

24 A. The CEO is still -- for the Cleveland office
25 is still Tom Zarges. Also, Tom Zarges reports to the

1 Boise office, and the CEO there is Mr. Bob Tinstman.

2 MR. BELL: Just for ease of reference,
3 what do you guys want to do about these? My suspicion
4 is you're probably going to want the whole QA manual,
5 aren't you?

6 MR. ULIE: Yes, sir, we will.

7 MR. BELL: Okay.

8 MR. ULIE: And so at some point if we can
9 just ask you to make a copy.

10 MR. BELL: I'll start making a list of
11 everything we identify.

12 MR. ULIE: All right, why don't we start
13 with the QA manual as being Number 1.

14 MR. BELL: Okay. And then what we can do
15 is when we're done today, we'll send them out and get
16 them copied and we can Fed Ex them to you if that's all
17 right with you.

18 MR. ULIE: That's fine. At this point we
19 might as well just ask too. We were going to ask for
20 that Hartford steam boiler inspection and audit, if you
21 happen to have to copy of that.

22 THE WITNESS: Sure.

23 MR. ULIE: If you could put that on the
24 list. That was that audit report done by the insurance
25 company.

1 And as we go along, Jerry, if there are
2 documents that are relevant, you need to --

3 MR. SCHARKET: Okay.

4 MR. BELL: Okay. At some point, as you've
5 seen, Howard has brought a couple of boxes and stuff.
6 Maybe at a break, you guys can look through it at your
7 leisure and see if there's anything that you want.

8 THE WITNESS: Feel free.

9 MR. ULIE: That's fine.

10 BY MR. ULIE:

11 Q. If you could mention any names as we get
12 into speaking with respect to the discrimination
13 complaint --

14 A. Oh, sure.

15 Q. -- that you may be mentioning just to at
16 least familiarize us.

17 A. Yes, sir. No problem.

18 Q. And can you identify any other individuals
19 you may be mentioning names?

20 A. Yes, sir.

21 Okay, from the project level standpoint,
22 which I have limited communication with, the project
23 director is Mr. Marty Cepkauskas.

24 Q: Spell it.

25 A. C-e-p-k-a-u-s-k-a-s, and the person

1 reporting directly to him is Max Bingham,
2 B-i-n-g-h-a-m.

3 The person that I dealt with on the project
4 level was the project welding engineer. His name is
5 Rusty Gorden, G-o-r-d-e-n. As you can see in the org
6 chart here, I have to the project welding engineer,
7 communication, oversight, administration and technical
8 support, like I stated earlier.

9 Q. Okay, now, why don't you just take your time
10 and describe in your own words what led up to the
11 employment discrimination complaint.

12 A. Okay. Back in July of last year, of 1996 --
13 the exact time frame I think it was the middle of July
14 -- I had a conversation with Max Bingham, which Mr.
15 Andy Walcutt also witnessed the conversation.

16 We had a 45-minute discussion about why Mr.
17 Bingham was not comfortable with me work. He kept
18 talking about how incompetent he thought I was, how he
19 attacked me professionally from a standpoint of
20 questioning everything that I did, questioning me
21 approach to how I do work as a welding engineer, advised
22 me to be more diplomatic in relaying technical
23 information to them. He thought I was too aggressive
24 and a troublemaker, in his words, although I've never
25 sent any written information indicating that they were

1 incompetent or so on and so forth. I'll always relate
2 to them from a technical viewpoint, referencing what
3 technical documents I'm dealing with in translating the
4 information to them.

5 I asked him, "What good have I done?" you
6 know, from his perspective.

7 And he said that I did a good job with the
8 welding procedures for MK, the corporate welding
9 procedures that we use in the the nuclear and nonnuclear
10 side of the house.

11 He indicated also that the material joining
12 manual, which is for welding, brazing and bonding, I
13 developed that for MK to assist projects in following
14 the rules and understanding what needs to be done from a
15 welding standpoint.

16 So, he said those two things that I had done
17 were good work on my part. Everything else that he
18 pointed out to me was all negative. He attacked my
19 personality, saying that I was too intimidating to
20 people. I'm very friendly with people. I've never
21 called anybody names. You know.

22 Q. Now, all of this what you're describing,
23 this is Max Bingham --

24 A. The conversation we had before.

25 Q. -- the conversation with him?

1 A. Yes.

2 Q. And this was during the July of '96 time
3 frame?

4 A. Right. And Max Bingham at the time was the
5 project manager.

6 Q. The site project manager?

7 A. The site project manager.

8 Q. For what site?

9 A. For the Point Beach Nuclear Power Plant,
10 located in Two Rivers, Wisconsin. That contract there
11 is a steam generator replacement project for Unit 2.

12 Q. And if you could just describe the
13 association that you would have with him?

14 A. I have directly no association --

15 Q. For that job, I meant.

16 A. For that job? None whatsoever, other than
17 being a project manager. And he never called me or --

18 Q. He had no official supervisory position over
19 you during that job?

20 A. No, sir, none whatsoever.

21 Q. Did you have any over him?

22 A. No, sir, none whatsoever.

23 Q. But since you were the corporate welding
24 engineer and he's the site project manager, he was
25 utilizing your services for welding purposes?

1 A. Yes, through his project welding engineer,
2 correct, for welding purposes. That's correct.

3 Q. So, not even on a temporary basis you were
4 reporting to him?

5 A. Not really. I only reported to him on an
6 as-needed basis that he would go through his project
7 welding engineer, Rusty Gorden, that I mentioned
8 earlier.

9 Q. Is it fair to say that it was your technical
10 expertise is why you were brought in for this particular
11 work activity that you were involved in?

12 A. Yes. At the time what we were doing was we
13 were getting ready to do a Section III survey for
14 renewing our stamps for the nuclear side of the house.

15 And during that time frame, I had heard that
16 he wanted to talk to me. I didn't know what it was
17 about, and at the end of the audit -- or, I'm sorry, it
18 was not an audit. At the end of our preliminary review,
19 I was asked to go and speak to him.

20 And during that, we had a 45-minute
21 discussion about him not being that comfortable or being
22 uncomfortable with me, which at that point I was totally
23 puzzled. That was the first time that I ever heard
24 about that.

25 He mentioned how he held a grudge against me

1 for asking a question back in '89; January '89. I asked
2 questions about the D.C. Cook Nuclear Power Plant work
3 that they did there.

4 I asked how they performed drop weight
5 testing. It was a technical question. I was a young
6 man coming out of college. I didn't know how they
7 performed that, so I just asked the question. And he
8 thought by me asking that question at that point, he
9 projected that I was a troublemaker and that I was going
10 to cause problems for him.

11 He informed me of this last July of 1996,
12 which I was surprised that he had held a grudge so long
13 against me. He never talked to me about it.

14 Q. Do you know if he provided any sort of
15 performance appraisal of you to your supervisor?

16 A. No, sir, he never did, as far as I know.

17 And then he had mentioned that other project
18 managers had problems with me. Andy Walcutt took it
19 upon himself to call other project managers on the
20 nuclear and nonnuclear side of the house, and nobody had
21 problems with me other than this project manager. So,
22 at that point Andy Walcutt, again, being my supervisor,
23 recognized that the only problem that I had was with
24 this project manager.

25 Q. Do you have any knowledge that he spoke to

1 anyone within the corporate structure that would have
2 been your supervision about any of these concerns he had
3 with you?

4 A. Yes, I believe he talked to the division
5 executive or vice president of the Power Division, Mr.
6 Lou Pardi, P-a-r-d-i. I know they've been talking a
7 lot. What about, I don't know.

8 Q. And this is back in July '96 time frame or
9 when?

10 A. Yes. They talk off and on, him and Marty
11 Cepkauskas. Both of those guys report to Lou Pardi, so
12 I do know they've had conversations about me. Andy
13 Walcutt informed me of that.

14 Q. And why don't you continue on then from July
15 of '96.

16 A. Sure. So we successfully passed the
17 survey. The project handled doing the preparation of
18 the survey. This was the first time since I had been
19 working with MK that the project actually did that.

20 In the past it was me handling the survey,
21 the documentation, preparing all welding documents, the
22 entire package for the survey where I prepared -- I'm
23 not sure. You're probably, Jerry, familiar with the
24 surveys. There is a lot of documentation that gets
25 involved with that.

1 And I prepared everything basically for both
2 the repair portion of the Section 11 requirements and
3 also ASME, Section III.

4 Q. That was for D.C. Cook for this --

5 A. Yes, sir, for D.C. Cook.

6 And also since 1992, part of me earlier
7 responsibilities that I described to you is getting
8 involved with surveys and audits performed by utility
9 companies, Hartford Steam Boiler, where I was involved
10 as a technical representative doing those type of
11 activities.

12 Q. Let me just ask you before we get off the
13 July '96, the conversation, was it only one conversation
14 that you had with --

15 A. With Max Bingham? Yes, sir, that was the
16 last conversation.

17 Q. What was the conclusion of that?

18 A. The conclusion of that, it was like a
19 father-to-son talk. I believe Max was, I think, trying
20 to help me at the same time, trying to get along with
21 them a little bit easier; whatever that was.

22 And that's when I first realized that he had
23 some kind of personality conflict with me. That was the
24 first time that I was aware of that.

25 Q. Did he make any reference that he was going

1 to pursue --

2 A. Yes, sir.

3 At the end of the conversation, he said if
4 there was any problems, we had both agreed that he was
5 going to call me or I was going to call him, either
6 way. And there was never since July of '96 to the
7 present day any conversation between me and Max
8 Bingham.

9 Q. Was there any reference by him at the end of
10 your conversation or at any time that he planned on
11 pursuing with your management discussion that you had
12 had or concerns he had that he was going to tell your
13 management?

14 A. No, sir, none whatsoever.

15 Q. All right. Continue on.

16 A. Okay. So, I continued working for the Point
17 Beach project off and on, communication with Rusty
18 Gorden and also Paul Evans, E-v-a-n-s. I later found
19 out that Paul Evans was the welding engineer for that
20 project. Technically, I dealt with him.

21 Q. We've mentioned Point Beach and D.C. Cook.
22 Was that July '96, was that Point Beach or was that
23 D.C. Cook?

24 A: That was Point Beach.

25 Q. That was Point Beach? Okay.

1 A. Yes. D.C. Cook was in 1988.

2 Q. Okay.

3 A. That was their last steam generator
4 replacement before Point Beach.

5 So, anyways, I continued working with them.
6 Very little writing was performed between myself and
7 Rusty Gorden, maybe six or seven conversations between
8 July and December.

9 Q. Is that how long that job lasted for you?

10 A. Yes, sir. Well, actually, I was involved
11 way at the beginning of the Point Beach project with
12 some preliminary activities.

13 Q. Approximately when was that?

14 A. I would say January of '96, time frame.

15 Q. And when you say "involved," were you doing
16 that from a corporate office or from your office or did
17 you --

18 A. Yes, from me office, yes. All of the work
19 that I did for the Point Beach was from me office. I
20 only had two trips at Point Beach.

21 Q. And when you had that conversation with Max,
22 were you on site or was that in your office?

23 A. That was on site and that was the second
24 trip at Point Beach.

25 Q. Those two trips, how long were those trips

1 and when did they occur? Approximately.

2 A. The first trip I had was a one-day trip,
3 which was in June, I think.

4 Q. Of '96?

5 A. Of '96. And the second trip was in July.
6 I'm sorry. Make that three trips. And the second
7 trip? The second trip was about two days.

8 Q. And that was the time frame when you met
9 with Max?

10 A. Yes, sir.

11 And the third trip -- hopefully I'm not,
12 getting these confused -- the third trip was dealing
13 with the survey activities.

14 Q. And when was that? Approximately.

15 A. I think August of '96.

16 Q. Okay.

17 A. So, again, we had very little
18 communication. All of a sudden Mr. Lou Pardi calls me
19 in his office the week before Christmas of '96, and
20 before that time frame, I was also aware -- Andy
21 informed me that Marty Cepkauskas, who is the project
22 director that Max Bingham reports to, had called Lou
23 Pardi and Marty Cepkauskas told Lou Pardi that he was
24 sick of hearing about Alain Artayet on the project.

25 And he felt that I wasn't competent. He

1 felt that I was misinforming the project. At that
2 point, Andy Walcutt informed me that Marty Cepkauskas
3 had said that I told them that Scharpy V notch impact
4 testing was not required on this nuclear project.

5 Q. What time frame was that?

6 A. That was probably the week before my being
7 called up to Lou Pardi's office, which is two weeks
8 before Christmas.

9 I have heard that there was a conversation
10 between Lou Pardi and Marty. And, again, nuclear power
11 plants require Scharpy impact testing. That would be a
12 ridiculous statement being made by Marty Cepkauskas,
13 which he's also in RPE section, registered professional
14 engineer. If he knew anything about a degreed welding
15 engineer, he would recognize that I would know that
16 Scharpy impact testing is required.

17 At that point we thought maybe there is some
18 confusion with Marty Cepkauskas and the communication;
19 that maybe they were never informed that drop-weight
20 testing was not required.

21 So, Andy Walcutt generated a document trying
22 to explain that there was no issue here; that Alain did
23 not misinform. And I do have that document we can
24 provide to you, separating the issue from drop-weight
25 testing to Scharpy impact testing.

1 And he just put it in his file. I don't
2 think he sent it to Max or Marty. And then the week
3 after that, Lou Pardi again gets me back to his office
4 on the fourth floor. I go up and we had about a
5 two-hour conversation as to why he was removing me from
6 the Nuclear Division work that they do, steam
7 generators, specifically. That's the only nuclear work
8 going on for MK right now is steam generator work.

9 And at that point he told me that the reason
10 they were removing me from the nuclear side of the house
11 was because I had personality conflicts with Marty ,
12 Cepkauskas and Max Bingham.

13 Q. Who was this that was telling you this?

14 A. Lou Pardi. Sorry. Lou Pardi was saying
15 that to me.

16 And I said, "What do you mean personality
17 conflict? I have no personality conflict with these two
18 individuals. I respect them both."

19 I told him we had a conversation with Max
20 Bingham last July. I felt our differences were
21 resolved. I haven't heard anything from Max since, so I
22 thought everything was still fine.

23 So, this totally surprised me. I had had no
24 communication at all between Max and I or Marty
25 Cepkauskas. Marty Cepkauskas and I haven't talked for a

1 year and a half.

2 Q. So, Lou Pardi was telling you all of this?

3 A. Yes, all of this. And I was trying to
4 explain to Lou that they were going to remove me from
5 the nuclear side of the house.

6 Q. Do you remember the date that you had this
7 conversation with Lou?

8 A. Like I said, it was within the week just
9 before Christmas. Maybe the 16th of December; somewhere
10 in that time frame. I'm not sure. In the middle of the
11 week.

12 Q. Do you have a document that you can
13 reference that you have something specific that you were
14 looking for?

15 A. Yes. Well, I was just looking for a
16 calendar to try to --

17 Q. Right here. If you have one, that's fine.
18 If not, don't worry about it. I thought maybe there
19 were some specific notes that you had that you wanted to
20 reference.

21 A. No. It was just a calendar which I thought
22 I would have needed to get more specific on dates.

23 MR. SCHAPKER: This document here, the
24 Quality Finding Report is dated January 15, '97.

25 THE WITNESS: Yes, sir.

1 MR. SCHAPKER: Was that about the time
2 period that this occurred? You said it was what? The
3 middle of that week?

4 MR. ULIE: Christmas.

5 THE WITNESS: This was before Christmas.
6 This came up later on, which I'll go into more details a
7 little bit. This is pretty lengthy.

8 MR. ULIE: That's fine.

9 THE WITNESS: I apologize for that.

10 BY MR. ULIE:

11 Q. So, if you would --

12 A. Actually, like December 16th, 17th.

13 Q. And that was the first time you had heard
14 that you were going to be removed or reassigned from
15 your position of corporate welding engineer?

16 A. No, sir. That was when I was told I was
17 removed just from the nuclear side work; from the
18 nuclear work.

19 Q. That's fine. Clarify it. Go ahead.

20 A. And then I was told that I was going to
21 continue doing also power-related welding functions and
22 also nonnuclear work, the chemical plants, the GM plants
23 and that was going to continue. So, the only thing they
24 were removing me from was from the nuclear side of the
25 house and that's it.

1 As far as power work, I could work as coal
2 burners as the welding engineer. They had no problem
3 with that. Lou was comfortable with that.

4 And then he said that he wanted to maintain
5 my corporate welding engineering functions on everything
6 else other than just nuclear.

7 Q. So, nonnuclear areas?

8 A. Yes, correct.

9 And he felt that since I had a personality
10 conflict with Marty and Max, I would not be effective in
11 doing my job.

12 Q. On the nuclear side?

13 A. Yes, sir.

14 Q. That was the reason he gave you?

15 A. Yes, sir, that was the reason he gave for
16 that.

17 With two hours of discussion, he and I just
18 talking saying -- I'm telling him, "I believe they are
19 making a mistake. I'm very good in the nuclear side of
20 the house. I fell pretty strongly that I'm" -- I'm not
21 an expert. I hate the word, "expert." But I'm pretty
22 good.

23 Q. Now, Lou is?

24 A. Lou is this guy. The division executive but
25 also the vice president of the group.

1 Q. And who was your supervisor at this time?

2 A. Still Andy Walcutt.

3 Q. And was Andy present during this
4 discussion?

5 A. No, sir, he was not.

6 Q. Was there a reason that it was not your
7 supervisor -- that it was Lou that was having these
8 discussions with you about this transfer?

9 A. Yes. I never understood that, but I guess
10 he felt that he could just call me up and remove me from
11 the position. He never went through Andy Walcutt. Andy
12 Walcutt was not present during the discussion.

13 Q. Did you go to Andy Walcutt after this
14 discussion?

15 A. Yes, sir. I told him that, and he was
16 totally surprised about the whole thing also.

17 Q. And, if you would, please continue.

18 A. And then we had an audit on December 31st --
19 I'm sorry. Before we get into that, I would like to
20 talk about the welding procedures at Point Beach, the
21 history of what happened after the July conversation
22 with Max.

23 I helped them in qualifying the welding
24 procedures for the project. At the time, I did not know
25 Rusty Gorden personally and I felt uncomfortable with

1 his technical expertise.

2 The first trip I had at Point Beach I met
3 Rusty and we had a conversation about code
4 interpretations. And at that point, I saw that he did
5 not agree with me interpretations of the ASME Section
6 III codes and Section IV codes.

7 So, there came a time when I was supposed to
8 delegate him the authority to perform procedure
9 qualifications. And I refused to do so on the grounds
10 that in my viewpoint, which I was entitled to and me
11 professional decision, was to not delegate him as the
12 project -- for performing welding procedure
13 qualifications.

14 I knew at that point that they were not
15 happy with that. I told them that I would be taking all
16 responsibilities and activities for doing welding
17 procedure qualifications.

18 We had all the procedures qualified at the
19 Memphis DuPont site in Tennessee. And I took full
20 charge and responsibility for qualifying welding
21 procedures. We spent about \$80,000.00 on qualifying
22 these procedures using that site in Memphis.

23 And I was told that Max Bingham was not
24 happy in having spent \$80,000.00 for nothing in his
25 viewpoint. During the procedure qualification, they

1 kept changing their minds with what they call essential
2 variables -- and I'm sure Jerry knows what that means --
3 and changing also what they call supplementary essential
4 variables, in terms of tensile strength of electrodes,
5 the time for post weld heat treatment. The Scharpy
6 impact temperatures, they kept changing those figures.
7 And this is while they were in the middle of procedure
8 qualification. They were dealing with Westinghouse and
9 the client, Webco.

10 Q. And when you say "they," could you be more
11 specific?

12 A. "They" being Rusty Gorden, basically, called
13 me on the phone saying, we don't know what we want for
14 welding rod tensile strength, again, the time and
15 temperature for post weld heat treatment, Scharpy impact
16 testing.

17 Q. Could you spell Mr. Gorden's last name?

18 A. G-o-r-d-e-n.

19 Q. Was Rusty a nickname?

20 A. I'm sorry, yes. His full name is Eugene.
21 Sorry about that. I have always referred to him as
22 Rusty.

23 Let's see what else they kept changing.
24 That's about all. All these conditions, which we were
25 sometimes in the middle of testing and they would call

1 me up and say, "We're not sure if we want to test at
2 that temperature or not." They made my job extremely
3 hard to try and satisfy them because of these
4 conditions.

5 And I recognized the importance of each of
6 these changes would just throw everything we had done
7 out of the window to comply with the nuclear
8 requirements.

9 They were not happy with the results. We
10 failed, I believe, two tests out of eleven tests that we
11 performed. We failed the tensile requirements on one of
12 them and the Scharpy impact testing on a couple of them,
13 which at that point it means all they had to do is
14 rewelded the coupon and use lower heat inputs from a
15 welding standpoint and be able to meet the requirements
16 for doing the work on the steam generator.

17 And they were not happy that we didn't pass
18 these tests. According to them, you're always supposed
19 to pass these tests. And I replied to them that, "Hey,
20 these things happen as part of doing business. You try
21 these conditions. If they don't meet them, then you try
22 to improve your welding conditions in order to meet the
23 Section III welding requirements." And I thought this
24 was routine.

25 At that point they started saying I was

1 incompetent; didn't know what I was doing. We basically
2 had what I would call a professional conflict. They
3 didn't understand, in my opinion, the details that I
4 do. The details being the Section III requirements and
5 the Section IV requirements.

6 I proceeded in continuing doing my
7 business. I found out that they redid just about all of
8 the testing from their perspective on site at the Point
9 Beach Nuclear Power Plant, which they spent additional
10 money in doing that.

11 Why they did that -- they were supposed to
12 let me know what they were doing. They decided not to.
13 At that point they even had somebody sign the Proper
14 Procedure Qualification Record and PQR, which I found
15 out he had done, which is in violation of our Quality
16 Assurance Program.

17 And I was asked to send a letter to them
18 permitting him to do the Procedure Qualification
19 Signature. I'm the only one who is responsible for
20 doing that. The only person that could do that, which I
21 had delegated, was Mr. Eugene Gorden, Rusty again.

22 And he said that he delegated Paul Evans to
23 sign this PQR and then I told them that's -- and Andy
24 Walcutt told them this was a quality assurance
25 violation. "You can't just delegate somebody. Alain

1 delegated Eugene. You have no authority to delegate
2 Paul Evans," meaning Eugene has no authority.

3 Q. What was the time frame that this all
4 occurred?

5 A. I don't have the exact dates on the PQR.

6 Q. Approximately?

7 A. That would probably be early November that
8 this happened.

9 Q. Of '96?

10 A. Yes, sir.

11 Q. And just for my benefit, tie this back to
12 me. We're speaking about the events that led up to the
13 employment discrimination complaint.

14 A. Yes, sir, and this is all part of it.

15 Q. Okay, you're going to tie this around for
16 me?

17 A. Yes, sir, eventually. Sorry.

18 Q. That's fine.

19 MR. ULIE: Jerry, you had a question?

20 MR. SCHAPKER: Yes. Did you say that Rusty
21 Gorden, Eugene Gorden, was authorized to sign PQR's?

22 THE WITNESS: Yes, sir. I delegated him --

23 MR. SCHAPKER: Okay. I thought earlier
24 you said that you had conflicts with him and did not
25 authorize him to do those things.

1 THE WITNESS: Well, later on I authorized
2 him to do -- yes, thanks for correcting me. You're
3 right.

4 I think I authorized him to be the project
5 welding engineer, except for procedure qualifications.
6 And I have a letter of delegation that I wrote. Thanks
7 for correcting me, Jerry, you're right. When you asked
8 that question differently, I thought a little
9 differently.

10 MR. SCHAPKER: Okay.

11 THE WITNESS: What I had done is delegate
12 him to do all the functions as project welding engineer
13 for the Quality Assurance Program except Procedure
14 Qualification.

15 MR. SCHAPKER: So, he wasn't authorized to
16 sign PQR's or implement PQR's?

17 THE WITNESS: That's correct. And if I'm
18 wrong, I'll go back through my records to verify that.

19 MR. ULIE: Before we end today, if you
20 have that record.

21 THE WITNESS: Yes, sir.

22 MR. ULIE: You can look for it a little
23 bit later.

24 THE WITNESS: Yes, sir.

25 MR. ULIE: That way we can be able to get

1 it on the record.

2 THE WITNESS: Right now? Bear with me,
3 I'm like just going from what is on the top of head
4 here. I've been involved in a lot of things since
5 having to learn a new position where I'm at too.

6 Okay. So, I asked for them to send me the
7 welding procedures for Point Beach. At that time in
8 November, they had like nine of them qualified. They
9 said they didn't want me to review it, but they would --
10 "they" being Eugene Gorden -- would send to me as a
11 courtesy for me to look at them. So, they did.

12 At the time they had nine procedures. Five
13 of them, I felt -- well, I knew did not comply with
14 Section III requirements. So, I faxed them, I believe
15 it was on November 16th, comments on five of those
16 procedures, consisting of about five pages in the fax.
17 And I followed up with a phone call to make sure that he
18 would revise the procedures at Point Beach to reflect my
19 comments which I had made.

20 BY MR. ULIE:

21 Q. Could you be more specific as far as those
22 five? What were the inadequacies?

23 A. The inadequacies were thickness violations
24 for post weld heat treatment versus no post weld heat
25 treatment. And I will go more into those details. I

1 have copies of the welding procedures that I can show
2 you. I can lay it on the table and go through each one
3 of them to show you -- that would support this document,
4 the QFR there.

5 So, basically -- I lost my train of thought
6 here.

7 MR. BELL: The question was, what were the
8 five areas?

9 THE WITNESS: Yes, the five areas. There
10 was a lot of things wrong with them. Some of them were
11 thickness violations. Code violations of Section IV.
12 Details from the standpoint of --

13 MR. ULIE: Would it be easier if we took
14 time now and we went off the record and you gathered
15 your documents?

16 THE WITNESS: Yes.

17 MR. ULIE: We're going to go off the
18 record for Alain to gather his documents.

19 THE WITNESS: Sure.

20 (Whereupon, a short recess
21 was taken off the record)

22 MR. ULIE: Back on the record.

23 THE WITNESS: What I'll do is I will
24 continue discussing, for the benefit of Jerry here, the
25 technical problems. I've gone through this QFR for

1 Point Beach here. A lot of things were thickness
2 violations related to post weld heat treatment and
3 Scharpy impact testing. Heat input violations related
4 to that.

5 And some of it was minor, what I call,
6 typographical errors involved with that also.

7 BY MR. ULIE:

8 Q. Is that a report you're reading from?

9 A. Yes, sir.

10 Q. Can you identify that report?

11 A. Sure. This is a part of the Quality Finding
12 Report Number QFR-01, which was written by Mr. Andy
13 Walcutt. And he asked me to write an eight-page report
14 describing all of the violations related to quality
15 assurance, Section III in 10 CFR 50, Appendix B. Andy
16 ordered me to write this report as a result of the audit
17 findings by Hartford Steam Boiler.

18 Before I go into more details, though, I
19 would like to lead up to before the audit, to indicate
20 that I tried my best to help Eugene Gorden in making
21 sure that the welding procedures were not addressed,
22 because one of the rumors that they had said is that I'm
23 a troublemaker and I don't help in resolving problems.

24 I want to show that I did try to do that
25 early in November of '96, getting back to those nine

1 procedures I reviewed. I sent the information of five
2 procedures, which were dissimilar to the exact welding
3 procedures there in this report. Of course, later on
4 there were more procedures added and I had comments on
5 those also. And those are covered in the Quality
6 Findings Report.

7 And I had faxed again the information to
8 Rusty Gorden. I followed up with a phone call. That's
9 part of how I work. If people didn't respond to me, I
10 followed up with a phone call to make sure they were
11 addressing it.

12 At that point Rusty Gorden told me that they
13 were revising all the procedures for Point Beach and
14 they would address me concerns.

15 And so I said, "Okay, fine."

16 That was just a conversation between me and
17 Rusty over the phone. At the time I was at Parkersburg
18 DuPont site helping them with some problems that they
19 had over there. Actually, I was filling in for somebody
20 on the site for about a week and a half at the DuPont
21 site in Parkersburg where I'm at right now.

22 So, I faxed the information to Rusty, made
23 the phone conversation. I thought everything was going
24 to be resolved. Andy and I went to ASME Code Committee
25 meetings in Colorado Springs, Colorado. That was early

1 December.

2 I participate in the ASME Section IV Code
3 Committee. I'm a member of the brazing subgroup. I
4 also participate in the performance and qualifications
5 sections for Section IV. I've been involved with code
6 committees for about four years now; maybe five.

7 And he and I went to Colorado Springs. We
8 came back from Colorado Springs and in the in-box was a
9 stack about a half inch thick of welding procedures that
10 were revised at Point Beach.

11 Andy Walcutt was totally surprised at the
12 amount of revisions that they had done on that site
13 related to welding procedures. So, at that point he
14 decided on his own, he came afterwards and told me he
15 looked at the previous revisions we had at D.C. Cook.

16 He wanted to see what was the difference in
17 the amount of revisions at Point Beach versus D.C.
18 Cook. And, again, this was early December. He figured
19 out that there were too many revisions at Point Beach.
20 He came to the conclusion that things were out of
21 control on that site from a welding standpoint, meaning
22 why did we generate so many revisions?

23 Usually, when there is a lot of revisions,
24 it shows low credibility because nobody can make up
25 their minds what they want on the welding procedures.

1 Q. This was Andy Walcutt that said --

2 A. Yes, Andy --

3 Q. And he said things were out of control?

4 A. Yes.

5 Q. And he was referring to D.C. Cook?

6 A. To D.C. Cook. What he did is he looked at
7 the amount of revisions at D.C. Cook. And there was
8 like maybe one or two revisions on maybe five or six
9 welding procedures. At Point Beach there was a
10 tremendous amount of revisions. Some of them were up
11 to, I don't know, two or three revisions on the
12 procedures.

13 So, he compared them and came to the
14 conclusion that they were not sure what they were doing
15 from a welding standpoint.

16 Q. Now, was he referring to creating these
17 revisions?

18 A. Eugene Gorden was supposedly in charge of
19 all this. And you'll see in front of these welding
20 procedures a cover sheet attached to the Point Beach
21 procedure. And Eugene Gorden is the project welding
22 engineer signing this.

23 Q. And Andy was concerned with Gorden?

24 A. Right.

25 Q. Not with your work activity?

1 A. No. Correct. He was just looking at Eugene
2 Gorden and coming to conclusions because Rusty Gorden
3 was also the project welding engineer at D.C. Cook. So,
4 he's always been the project quality engineer for the
5 steam generators.

6 Q. I think you were going to explain whether it
7 was valid or not that Andy had these concerns.

8 A. Oh, yes, it was valid. That's obvious to me
9 that so many revisions on a welding program indicates
10 uncertainty, inconsistencies for making these
11 revisions. Which, in a sense, you could question their
12 credibility.

13 So, Andy Walcutt came to that conclusion
14 himself. And at that point I said, "Well, what are we
15 going to do?" They didn't address my comments in
16 looking at the revision. I said, "me comments were
17 never addressed."

18 And Andy said, "We're two weeks from an
19 audit from Hartford Steam Boiler. We don't have the
20 time to make these revisions on these procedures before
21 the audit."

22 On December 30th and 31st, we had the audit
23 from Hartford Steam Boiler. Mr. Walter Zimmerman, who
24 is the local A and I here, who is also involved with the
25 Perry Nuclear Plant, came in to perform what we call our

1 annual nuclear audit.

2 The Quality Assurance Program is required to
3 be audited on a yearly basis. That is ordered by Tom
4 Zarges who is the CEO. He writes a letter to the
5 Hartford Steam Boiler requesting for an audit to be
6 performed for 10 CFR 50, Appendix B, and also the ASME
7 Section III. So, the audit was performed by Mr. Walter
8 Zimmerman.

9 During the audit came the welding portion.
10 And Wally asked me to -- he wants to know how many
11 welding procedures were qualified for the nuclear side
12 of the house for 1996. At that point I says, "Somewhere
13 around 11 procedures." And I says, "I have a database
14 here that keeps track of all the welding procedures, so
15 we can keep the numbering sequence organized in a proper
16 fashion."

17 So, I showed him on a computer all the
18 welding procedures that were assigned to Point Beach.
19 There was a PBSGR indicating Point Beach Steam Generator
20 Procedures. So, he could go through them and tell me
21 which ones he wanted to look at.

22 I had a file in the computer saying it was
23 pending. So, he asked me, "Why is that file pending?"

24 I said -- relating back to the PQR that was
25 signed by somebody that was not delegated, meaning --

1 what's his name -- Paul Evans. And so I said, "You
2 know, if this person was not authorized to do that, and
3 that's why we're doing a pending because we were waiting
4 for them to change the dates to indicate that this was
5 performed before the letter that I sent delegating them
6 to do that and it's coming back."

7 And so I had to delegate Paul Evans to
8 perform on the Signature Qualification for the PQR. So,
9 the PQR was shown to him, along with the welding
10 procedure to Wally Zimmerman.

11 And he said, "What else is wrong with this
12 procedure?" Before he started looking into the
13 details.

14 I said, "Well, the PQR testing was performed
15 by Taussig." And they are known as Body Coat Taussig.
16 Taussig was part of our approved supplier for doing
17 testing of welding procedures. However, Body Coat
18 Taussig was not an approved supplier.

19 So, I told him that was a violation that we
20 had found in the PQR also. So, we were waiting on how
21 to address -- because it was pending, how to address
22 this, whether we're going to audit Body Coat Taussig as
23 a new vendor now because we're required by nuclear
24 programs, every time we have a vendor who changes the
25 name, we're supposed to audit them to verify that the

1 people involved with Taussig were the same as when it
2 became Body Coat Taussig, the management, the procedures
3 and so on and so forth, to verify that everything is
4 consistent.

5 But that never occurred. So, Wally
6 Zimmerman says, "I want to see all the rest of the
7 procedures for Point Beach."

8 So, I showed him basically this product
9 view, a duplication of the manual that's right in front
10 of me. And he just flipped the page and found another
11 procedure -- I forget which one it is, but it's written
12 down -- and he asked me to provide him with a corporate
13 welding procedure.

14 We have corporate welding procedures and
15 project specific welding procedures. Our Quality
16 Assurance Manual here requires that the welding
17 engineer, the project welding engineer, use the
18 corporate welding procedures to prepare the site
19 specific procedures.

20 The heat input on the procedure they flipped
21 to had -- I had established maximums. And I'll go into
22 them later on how I went about explaining that for
23 Jerry's benefit about the technical aspects of how heat
24 input is so I could relate it as a corporate welding
25 engineer. I was going too fast -- later on I'll go into

1 details on how I select the heat input for welding
2 procedures from the corporate standpoint for people on
3 projects to follow.

4 And in reviewing the procedures on the
5 project, that one procedure that he flipped the page to,
6 and the corporate procedure, he saw that the heat input
7 they had selected was higher than what I had established
8 on the corporate welding procedures.

9 Q. And when you say, "they"?

10 A. "They" being the Point Beach welding
11 procedure.

12 So, Wally Zimmerman said, "Well, there is
13 another violation. They are supposed to follow up what
14 is established by corporate. Alain established a
15 maximum. Why did they decide to go to a higher
16 maximum? They can't do that. There's a code violation
17 for them to do that."

18 Q. And they didn't have your approval?

19 A. They did not have me approval.

20 Again, there was a code interpretation
21 problem on the project, which I'll go into later for
22 Jerry, explaining that.

23 Q. Let me just ask --

24 A. Sure.

25 Q. -- are there circumstances where project

1 specific procedures, certain steps, such at the heat
2 treatment could be in excess as long as they get
3 approval from you? Something like an exemption?.

4 A. No, sir, because if -- those are essential
5 variables. I cannot give the approval to exceed those
6 essential variables.

7 Q. What is the basis for the corporate welding
8 procedures? Is there a national standard that's being
9 used?

10 A. Yes, sir. ASME, Section IX, is used and in
11 the format also.

12 Q. And that's what you're referring to as far
13 as that criteria?

14 A. Yes, sir, those criterias, those essential
15 variables and sub essential variables.

16 MR. SCHAPKER: Are the corporate welding
17 procedures, the PQR's, the procedure qualification of
18 record for the projects to use to reference as -- for
19 the WPS's and welding procedures specifications?

20 THE WITNESS: Yes, they are. I developed
21 those, the PQR things, if that's what you're asking?

22 MR. SCHAPKER: Right.

23 THE WITNESS: I developed the welding
24 procedures, I assigned the PQR. And then I send this to
25 the project and they, in turn, develop the whole project

1 specifics requirements.

2 Every nuclear client -- every client has
3 their own requirements. So, there are permitted through
4 the Quality Assurance Program to go ahead and generate
5 the project specific welding procedure, provided that
6 they stay within the essential variables and the
7 supplementary essential variable for Scharpy impact
8 testing. And those are the rules that we follow for
9 ASME, Section III and Section IX.

10 So, at that point Wally knew that there was
11 another problem, which is part of the finding and the
12 report that you'll see. Out of four findings, three of
13 them were related to welding procedures at the Point
14 Beach project.

15 And, again, this audit was only performed at
16 the corporate level; not at the project level. So,
17 Wally turns to Andy Walcutt and he says, "It's obvious
18 that we have problems with the Point Beach welding
19 procedures. Andy, you know what to do about this."

20 And Andy said, "Yes. We'll wait for your
21 report, and we'll address your concerns; your
22 findings."

23 So they finally concluded. On January 6th,
24 we got the report from Wally Zimmerman at Hartford
25 Stream Boiler, which you have over there in front of

1 you. And as you can see at the bottom of the findings
2 there, three of them out of the four were related to
3 welding. And you can see what I mentioned about Paul
4 Evans, about the allegation. There was none there for
5 Mr. Paul Evans to sign the PQR's. There was one for
6 Rusty Gorden, which I had done later on because they
7 went ahead and qualified their own procedures, getting
8 back to your question, Jerry.

9 MR. SCHAPKER: Okay.

10 THE WITNESS: I'll provide that too.

11 BY MR. ULIE:

12 Q. Now, when you're referring to a letter dated
13 January 1, '97, from Walter Zimmerman, the lead auditor
14 to --

15 A. Tom Zarges?

16 Q. Yes.

17 A. He was the CEO.

18 Q. And it was received on January 6th?

19 A. January 6th by Andy Walcutt. So far I'm
20 good with the dates. I was just going off memory
21 before.

22 So, Andy got the report, this audit report
23 here, and orders me to review all 18 welding procedures
24 for Point Beach. I took a week and a half to review
25 those procedures at Point Beach. Out of 18, 14 of them

1 were found to be in non, quote, compliance.

2 The report that's written on there, the
3 Quality Finding Report 01, is the effort on my part to
4 assemble all 18 procedure code violations and the
5 Quality Assurance Program violations.

6 Q. Just to be sure --

7 A. Yes, sir.

8 Q. -- because we're talking about various
9 documents, the Quality Finding Report you're referring
10 to is Numbered C-96-022?

11 A. Yes, sir.

12 Q. And it's dated January 15, 1997?

13 A. Yes, sir, that's when it was completed.

14 So, after I had completed my evaluation of
15 all the procedures, I gave this report to Andy Walcutt.

16 Andy Walcutt takes it up to Lou Pardi. And
17 I also know they had a conversation -- that Andy had a
18 conversation with Max Bingham about the report that I
19 had just completed.

20 On the 14th of January, Andy, he had an
21 appointment with Lou Pardi, so we were supposed to
22 complete this report by 10:00 on the Fourteenth, which I
23 completed by 9:00, about an hour before his
24 appointment.

25 He calls up Lou Pardi. Lou Pardi was in the

1 middle of a meeting, and he said he could not talk to
2 Andy until after lunch. Well, it turns out that they
3 finished earlier before lunch. Andy goes up to Lou
4 Pardi's office, which he had an appointment, and
5 discusses the details on me report for the Quality
6 Finding Report.

7 In trying to make Lou Pardi aware of what we
8 were about to do in sending the information to that, so
9 if there was going to be heat, he would be aware of
10 where it came from. It was written by me, and Andy was
11 presenting this as the Quality Assurance Department
12 Report to the site.

13 Andy on the Fourteenth -- so, they had a
14 discussion. Andy comes down to where we were eating
15 lunch. I was eating lunch with Bruce Kopacs, who also
16 works in the Quality Assurance Department as the quality
17 engineer, staff engineer. And Bruce and I were having
18 lunch, and Andy Walcutt walked down with us and I asked
19 him, "Andy," I said, "well, what did Lou say about the
20 report?"

21 And Andy said that Lou was very pissed. He
22 was not happy with the report.

23 So, we don't like to talk too much about
24 work during lunch. So, after lunch all three of us went
25 back up to the office. I walked into Andy Walcutt's

1 office and I said, "Andy, what else did Lou say about
2 the report?" Because he was not happy. So, I wanted to
3 know what else he had said.

4 At that point Andy informed me -- this is
5 again on the 14th of January -- he informs me right
6 after lunch that Lou Pardi had said that Alain Artayet
7 was expendable and Marty Cepkauskas and Max Bingham were
8 not.

9 So, at that point I felt that since the
10 report was presented to Lou Pardi, I felt that my job
11 was threatened at that point. Andy was not comfortable
12 but he warned me of what Lou had said.

13 So, I went home that night and told me wife
14 that I had a feeling that I was going to get fired for
15 making this report.

16 Q. And this was Andy that had told you this;
17 what Lou said?

18 A. Yes, sir.

19 So, I told my kids also warning them that I
20 may get fired. So, the next day, I came into work and
21 Andy Walcutt was gone most of the morning, and I didn't
22 know what was going on.

23 So, at about 8:00, he opens up the D.C. Cook
24 manual in front of me and tells me to review the D.C.
25 Cook manual to see if there are any problems with this.

1 And at that point I was using bad language. And I said,
2 "Why do you want me to look at this manual?" Which, I
3 was aware it was in his office, and I've never really
4 looked at it to evaluate it.

5 And he presented it to me and he says, "I
6 want you to tell me what the problems are in here."

7 I says, "Andy, why do you want me to look at
8 this manual? You know darn well that I'm going to have
9 the same problems we had at the Point Beach procedure
10 which were written by Rusty Gorden were going to be the
11 same problems at D.C. Cook."

12 Q. That's because they wrote the same --

13 A. Yes, sir, he wrote both programs.

14 I says, "You know goddamned well I'm going
15 to find" -- I was using the F- word. I'm trying not to
16 use it. I says, "I'm going to find the same problems
17 with these D.C. Cook procedures. You're exposing me to
18 probably more problems here. This was done ten years
19 ago." I'm assuming I'm going to have some technical
20 problems.

21 He said, "I insist. I want you to tell me
22 if there are problems with these procedures."

23 The quality directors were talking to me at
24 that point because my boss had giving me orders to do
25 this. I asked a question under Section III and I

1 understand the entire environment he was putting me in.

2 And I says, "Okay." So, I told him to come
3 around to my desk. And the book is about three inches
4 thick. So, we go through the welding procedure portions
5 and, of course, I'm finding the same technical problems
6 that I had with the Point Beach procedures, again, with
7 the thicknesses and so on and so forth.

8 And I said, "There are obvious problems with
9 these procedures." And then I flipped to another
10 procedure accidentally. I looked at the PQR and the D.C.
11 Cook PQR had E-7018-A-1 on the PQR. I flipped to the
12 welding procedure and I see that only E-7018 was used.

13 So, at that point I told Andy I said, "Andy,
14 this is a code violation if this procedure was supposed
15 to indicate E-7018-A-1." I looked at the figures in the
16 back, and I saw that they had used about a
17 three-quarter-inch thickness, which to me means that if
18 you have any thicknesses higher than five-eighths on
19 carbon steel materials, you're supposed to do Scharpy
20 impact testing. And, I knew at that point that we were
21 dealing with what they call a supplementary essential
22 variable.

23 And there's a paragraph in Section IV, which
24 I think is QW-404.12 -- I believe that's the right
25 paragraph -- indicates that if you change AWS

1 classifications, AWS, which stands for American Welding
2 Society, if you change the classification of the rod
3 from E-7018-A-1 to E-7018, you would have to re-qualify
4 your procedure.

5 And at that point I told Andy, "This is an
6 obvious code violation," which means that from when they
7 welded with this procedure, they did not have a welding
8 procedure qualified to use this rod, E-7018.

9 At that point looking at it, it looked to me
10 like it was done on carbon steel, which I knew was the
11 feed water system and the main steam for the steam
12 generators. D.C. Cook has four steam generators, Unit
13 II.

14 So, Andy says, "This is too big a problem to
15 address right now. I want to concentrate on the Point
16 Beach procedure." And he takes the manual and walks
17 away and puts it back in his office.

18 So, I said to myself, "What is this man
19 doing? He's exposing me to this problem ten years
20 ago."

21 Q. So, now you were aware of this problem at
22 D.C. Cook with the procedure?

23 A. Right.

24 Q. Okay.

25 A. So, as -- so, he left me with this problem

1 in my head. The next day he takes the plane to address
2 the Point Beach procedures down to the St. Lucie
3 project.

4 Q. I'm sorry, say that --

5 A. The St. Lucie project, which is the new
6 steam generator work that MK is doing.

7 Q. Okay, what did he do?

8 A. He just took the plane. This was Wednesday.
9 Wednesday was January 15th.

10 Q. Okay.

11 A. On the Sixteenth -- well, we didn't talk to
12 each other after the -- on the Fifteenth after I was
13 removed. I'm sorry. I'm going too fast.

14 Q. He took the D.C. Cook manual and put that
15 away and then he said he wanted to talk about Point
16 Beach some more or take care of your problem?

17 A. No, sir. He just took the D.C. Cook manual
18 back to his office and that was the end of that
19 conversation.

20 Q. Okay.

21 A. Two hours later, I was called up to Drew
22 Edleman's office.

23 Q. And his title?

24 A. He's the director of performance systems.

25 Q. Okay.

1 A. He controls the budget for the Quality
2 Assurance Program, meaning supposedly he's our boss.
3 Andy Walcutt reports to Drew Edleman.

4 Q. Andy took you up?

5 A. No, sir, I was by myself.

6 Q. You went up by yourself?

7 A. Yes, I went up by myself. I was asked to go
8 up to see Drew Edleman by myself.

9 Q. Who asked you to go up? Andy?

10 A. Drew Edleman called up. He called me
11 secretary. And I do have the phone directory about the
12 phone conversation with me. And it was like about 10:00
13 that morning or 10:15. Drew Edleman calls me down, and
14 like I said, Andy Walcutt was gone most of the morning
15 and I didn't know what the heck was going on. Because
16 usually he was in his office and we would communicate.
17 So, he had exposed me to this problem and he's not
18 there. So, I don't know what the hell is going on.

19 So, all of a sudden I get this call -- and
20 don't forget the day before, they said I was expendable,
21 so I knew something was going to happen. So, I get a
22 call from Drew Edleman.

23 I go up to Drew Edleman's office --

24 THE WITNESS: Should I tell him what I did
25 before that?

1 MR. SCHAPKER: Go ahead.

2 BY MR. ULIE:

3 Q. Please.

4 A. Okay. I went to my friend's office on the
5 way up, and I asked for [REDACTED]

6 [REDACTED] I was very nervous.

7 I didn't know what was going on. They had threatened my
8 job. I felt like something bad was going to happen.

9 So, [REDACTED] EX

10 [REDACTED] I went up to Drew Edleman's office, and Drew
11 Edleman starts proceeding immediately that I was going
12 to -- if you want [REDACTED] 7C

13 [REDACTED]

14 He immediately tells me that there is a
15 problem; that they are removing me from my position.
16 Not only knowing that I was removed from the nuclear
17 side of the house before Christmas, they were removing
18 me from the rest of the Company activities. This was
19 the day after I had finished this report.

20 And I says, "What the heck is going on? Why
21 are they doing this?"

22 He says, "We had a meeting"--- "we" being
23 Drew Edleman, Tom Zarges and Lou Pardi -- at 8:00 that
24 morning, he told me. All three of them had a meeting
25 and had decided to remove me from me position.

1 Q. The meeting that you were having with Drew,
2 was that on the 16th of January?

3 A. That was on the 15th of January.

4 Q. In the afternoon?

5 A. Yes, sir. The day after the report was
6 complete. No, sorry, that was 10:00 in the morning.

7 Q. The meeting that you were having with
8 Drew --

9 A. Drew Edleman was 10:00 in the morning on the
10 15th of January.

11 Q. Okay, I don't want to digress too much, but
12 the conversation that you had prior to that with Andy,
13 and you said that he had put the D.C. Cook procedures
14 away, was it on that same day?

15 A. Yes, sir.

16 Q. Which was?

17 A. It was on January 15th at 8:00 in the
18 morning, 8:30; somewhere in there.

19 Q. Go ahead. You mentioned about Drew and then
20 you mentioned about these three individuals.

21 A. Yes, sir.

22 Q. I missed that.

23 A. Yes, sir. Drew Edleman, immediately, as I
24 was coming in, maybe a minute later states that Tom
25 Zarges, Lou Pardi and Drew Edleman himself had a meeting

1 about 8:00 or 8:30 and had decided at that point to
2 remove me from my position.

3 He indicated that Tom Zarges -- I'm going to
4 repeat basically [REDACTED] At that
5 point, he told me that Tom Zarges was not comfortable in
6 getting rid of me because he respected me technical
7 expertise and he wanted to keep that within the
8 Company. This is what Drew Edleman is telling me.

9 And they felt that they were going to remove
10 me from me position, and Tom Zarges had ordered Drew
11 Edleman to give him three months to find me a new
12 position within MK.

13 So, I told Drew, I says, "What's going on?
14 Why are they doing this? Is this as a result of my
15 report that I wrote yesterday?"

16 And he says, "No, no, no." He says, "We're
17 doing this because you have a conflict with Max and
18 Marty Cepkauskas."

19 And I says, "They removed me for that reason
20 before Christmas. So, now they are going to remove me
21 also from the nonnuclear side of the house?"

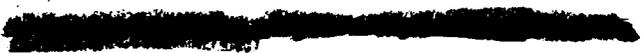
22 He says, "That's correct. They don't want
23 you to work no longer as corporate welding engineer."

24 And I says, "Okay. Whatever." There was
25 nothing that I could say at that point. And so he asked

1 me for my resume to provide to him so they can decide
2 where to find a job for me.

3 And we're talking on and on and he's saying,
4 "I think you got involved with something that's out of
5 your control."

6 Max Bingham is considered -- those project
7 managers are considered Gods, according to MK, and

8  And you have a
9 conflict with them and that's where they are removing
10 you.

11 So, I said, "Okay." So, anyways, we had
12 about a half hour of conversation on this issue. And at
13 the end of the conversation, I was sent back down to my
14 office, which at that point I was no longer corporate
15 welding engineer. So, I think --

16 Q. What did they tell you in the meantime was
17 going to happen for that three-month period?

18 A. It was a toss-up. They didn't know whether
19 they were going to put me on the second floor with
20 engineering or if they were sending me to a site. And I
21 said, "Well, are you cutting me pay?"

22 And they said, "No."

23 I said, "Are you going to put me on a
24 project?" I says, "me concern is that you're going to
25 put me on a project, and this is how MK is going to get

1 rid of me. It's going to be a temporary project, and
2 when the project is done, they are going to lay me
3 off." And I says, "This is not right. This is a
4 technique that I've heard of before of how companies get
5 rid of employees that they are not satisfied with."

6 And so that's what we talked about, things
7 like that throughout the whole half-hour discussion,
8 well maybe or 45 minutes with Drew Edleman. Drew says,
9 "I'm not comfortable with this, Alain. You don't
10 deserve this. You do very good work. You don't deserve
11 this. I'm just a messenger informing you of all this.
12 I'm not comfortable with this." Basically, that's what
13 he said to me.

14 So, after that I was left with nothing. So,
15 I'm back to my office.

16 Q. So, when you concluded, what did he say?
17 "Just remain in your office"?

18 A. Yes.

19 Q. What were your -- did he tell you what your
20 duties were going to be in the interim or anything along
21 those lines?

22 A. He says, "Well, if there's any nonnuclear
23 questions coming up from the chemical plants with
24 DuPont, go ahead and answer them until we find a new
25 person to replace you or whatever happens."

1 So, for about a month I was sitting there,
2 and I got phone calls and I didn't know whether to
3 answer or not because I was moved from me position. So,
4 I was afraid of answering a question that I'm not
5 required to answer.

6 I didn't want to put myself in that
7 predicament where I made a decision and told people what
8 to do when I was removed from me position. Well,
9 legally, you know, there's problems with that. I get
10 involved with very highly technical information, and if
11 people don't follow what I say, catastrophes can
12 happen. And I've had cases where I've saved
13 catastrophes.

14 And I was going and talking to Drew Edleman,
15 you know, the good work I had done. The DuPont clients
16 were satisfied, Boeing was satisfied with my work. I
17 didn't understand why they were doing this and basically
18 regurgitating to him all the successes that I've had;
19 that I don't deserve this, and he agreed with that.

20 I told him how I saved catastrophes for Dow
21 Corning -- this is one of our big clients -- and I have
22 letters to indicate that I had saved the plant, again,
23 trying to tell him I don't deserve this, but there's
24 nothing he could do. It's out of his hands.

25 Q. He said he was just a messenger?

1 A. He was just a messenger.

2 Q. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 [REDACTED]

7 Q. And finally when your position -- when you
8 did get a reassigned position?

9 A. That was February 10th.

10 Q. February 10th?

11 A. Yes, sir.

12 Q. And what was the title of the new position?

13 A. I'm now the area field engineer at the
14 DuPont site in Parkersburg, West Virginia. It's called
15 the Washington Works Project.

16 Q. Now, when you left Drew's office, did you
17 have any conversation with Andy Walcutt with regard to
18 what had just occurred?

19 A. Yes. I told him that I was removed from my
20 position from all activities, and he was totally
21 shocked.

22 Q. On that same morning?

23 A. Yes. He had heard that possibly this would
24 happen. I don't know how. He didn't tell me whether it
25 was from Lou Pardi or what.

1 They had asked him to remove me from me
2 position. Andy Walcutt refused to do that. So, I'm
3 assuming that during that morning they had conversations
4 with Andy, and they asked Andy to remove me from me
5 position and he refused to do it, in which I gave Andy
6 Walcutt credit for doing that.

7 Q. Did you have any other conversations or do
8 you have knowledge of having any other conversations
9 with any other supervisors with regard to your removal
10 and reassignment?

11 A. Other supervisors with MK?

12 Q. Yes.

13 A. Yes. Other project managers, which one of
14 them was Jim Knudson. He was the project manager for
15 Boeing. He knows me.

16 Q. Is he a relative of the Company? He has the
17 same name. Is he --

18 A. No, sir. No. Sorry.

19 Q. No relation to the Company?

20 A. That's correct, no relationship to the
21 ownership or anything like that.

22 And I had told him what happened to me and
23 he, just like many other people, couldn't believe this
24 was happening to me.

25 Q. I mean, did any other individuals come to

1 you that they had knowledge with respect to your -- that
2 you were going to be reassigned and so forth? Not after
3 the fact, but similar to Drew that -- was there anyone
4 else that --

5 A. No.

6 Q. -- had any discussions as far as advising
7 you?

8 A. No, sir.

9 Q. Drew was the only one?

10 A. Drew was the only one who told --

11 Q. And then you went to Andy?

12 A. And then I went to Andy and I called the
13 other friends and told them what had happened to me.
14 And everybody was astonished and couldn't believe that
15 this was happening to me.

16 I would like to add something else that
17 happened related to D.C. Cook reporting.

18 Q. Go ahead.

19 A. When Andy came back from the Point Beach
20 project -- I'm sorry, from the St. Lucie project that he
21 left -- remember, I said he had left the following day
22 to go to the -- the 16th of January to go down do St.
23 Lucie?

24 Q. Yes.

25 A. He came back from St. Lucie on Tuesday, the

1 following week after the Sixteenth. Let me look at the
2 calendar. On the Twenty-first he came back. He was
3 there the Monday, but I had talked to Andy and then I
4 asked Andy, "Why did you throw this D.C. Cook manual in
5 front of me?"

6 And at that point he says, "Well, I wanted
7 you to help me figure out what -- how many revisions we
8 had between Point Beach and D.C. Cook, and that's why I
9 put the D.C. Cook manual in front of you."

10 And I says, "No, that's not why you wanted
11 me to look at this D.C. Cook manual, because I remember
12 specifically you asked me to see if there were any
13 problems with the D.C. Cook manual."

14 And he says, "Oh, no, you misunderstood
15 me."

16 So, at that point I realized that Andy had
17 lied to me about the presentation of the D.C. Cook
18 manual. And also I was informed on the Fifteen that
19 Drew Edleman -- well right, after I got done -- I'm
20 sorry, I'll get into that afterwards.

21 So, I decided to write this memo about what
22 Andy had -- the following day after I had the
23 conversation with Andy, at that point I knew he lied to
24 me, and I didn't know whether he was going to blame me
25 for exposing the D.C. Cook problem.

1 So, I starting writing a memo. So, I came
2 in the morning of -- that would be the 21st of January.
3 Remember, I was removed on the Fifteenth. He came back
4 on the 20th of January. And on the morning of the 21st
5 of January, I wrote this memo. I stayed up the night
6 before at my house writing this memo on my computer that
7 was getting ready to cover my ass.

8 I had written this memo explaining what Andy
9 had done, exposing me to the Quality Assurance Manual --
10 I'm sorry, to the D.C. Cook welding procedures,
11 regurgitating what he had said that he wanted me to
12 review it from a problem standpoint. It didn't say
13 anything in the letter about him lying to me. I was
14 trying to protect his professional integrity at that
15 point.

16 And I told them at the bottom of the letter
17 -- and I can present this memo to you also --
18 indicating that by him doing that, he obligated me as an
19 engineer to disclose the problem at D.C. Cook, which at
20 that point I felt was at 10 CFR 1021 problem.

21 And, basically, I went up to Drew Edleman
22 and took Drew Edleman and walked him down with me to
23 witness I was giving this memo to Andy Walcutt.

24 At that point I had lost my faith in Andy,
25 his trust, and I felt that I needed to have Drew Edleman

1 with me to present this memo to him. Because to me that
2 was a worse scenario than at Point Beach because I was
3 dealing with an -- operating a nuclear power, D.C. Cook,
4 Unit II.

5 So, we gave this memo to Andy. And at that
6 point I was informed that morning that Drew Edleman --
7 Andy Walcutt told Drew Edleman that he never put the
8 D.C. Cook manual on me desk, which, so again, was saying
9 that he had lied not only to me but to the Drew
10 Edleman.

11 And Drew Edleman was confused. He didn't
12 know who to believe at this point. So, this memo was
13 given to them, and that's how this D.C. Cook scenario
14 came up. We had to write the determination checklist
15 for 10 CFR 21's Applicability Form. So, I rewrote that
16 in there.

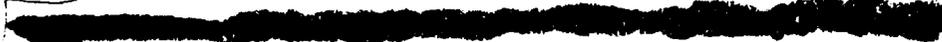
17 Also, on February 9th, which is later after
18 all of this was initiated, this QFR was written -- that
19 this determination letter was written by me on January
20 23rd, referencing that memo, M-QM-97-004, which is the
21 letter that I had presented with Drew Edleman,
22 discussing the D.C. Cook exposure that Andy put me in.

23 Because you can see that QW-404.12 was the
24 right paragraph I referenced, which I've referenced the
25 exact details of what the problem is with the 7018-A-1

1 versus 7018. I'm sure Jerry will probably want to see
2 this afterwards.

3 So, at that point I had went as far as I
4 could in accordance to the Quality Assurance Procedures
5 to follow for writing this Applicability Form for 10 CFR
6 21. And I felt I had done everything I was obligated to
7 do for both nuclear power plants, for both Point Beach
8 and D.C. Cook.

9 So, I felt that I had done everything I was
10 professionally obligated to do and no longer it was in
11 my hands. I followed all of the quality assurance
12 requirements, all of the procedures, as far as getting
13 this done.

14 On February 9th, I have -- don't forget, all
15 of these verbal discussions I had with Lou Pardi, there
16 was no documentation anywhere telling me that I was
17 removed from me position. Everything was verbal other
18 than 

19 

20 Q. That was Drew you were talking about?

21 A. Yes.

22 Q. I thought you said Lou.

23 A. Drew Edleman.

24 Q. I just wanted to be clear.

25 A. During the conversation that I had with Andy

1 Walcutt, [REDACTED]
2 [REDACTED] he had looked
3 at the manual and so on and so forth, for the D.C. Cook
4 welding procedures. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 So, the only documentation that I really had
8 was this Plain Dealer advertisement for corporate
9 welding engineer for Morrison Knudson Corporation. This
10 was issued on February 9th, the Sunday newspaper. And
11 my wife actually found it and showed it to me.

12 So, at that point that was the first
13 documentation that I had showing me that I was removed
14 from me position. During that weekend, I went on the
15 internet --

16 Q. Or at least maybe not that you were removed
17 from your position but at least that the Company was
18 looking for another corporate welder?

19 A. Exactly, yes. Good point. That's correct.

20 Q. I'm sorry to interrupt you. Go ahead.

21 A. So, at that point I felt like either, like
22 you said, maybe they are finding somebody else to work
23 with me, which I doubt because they had told me that I
24 was being removed. And I said, "Here is the
25 documentation." I kept a copy of this.

1 During that weekend, I decided to find an
2 attorney. So, I went to the internet to look for --

3 Q. That's fine. You are ahead of me here, so
4 let me catch up to you.

5 A. Sure.

6 Q. The discussion that you had with Drew was on
7 the Fifteenth; is that correct?

8 A. Yes, sir.

9 Q. And then it wasn't until actually the day
10 after this ad came out on Monday -- February 10th, I
11 believe you said that February 10th was the date that
12 you were told about your new reassignment?

13 A. Yes.

14 Q. Is that correct?

15 A. February 10th, correct, is when I was --

16 Q. And could you give me that title again.

17 A. Area field engineer.

18 Q. Area field engineer. Is that your current
19 title?

20 A. Yes, sir, for what they call the FEP
21 project. Don't ask me what FEP stands for. It's one of
22 those chemical names.

23 Q. And who informed you on the 10th of February
24 about this new position?

25 A. Oh, that was -- he's the vice president of

1 construction, Jim Garret.

2 Q. Could you spell his last name?

3 A. G-a-r-r-e-t. He's the vice president of
4 construction, which is the nonnuclear side of the
5 house.

6 Q. Okay, if you would just go through the
7 details on what led up to you meeting him. Who told you
8 to go meet with him or how did you find out?

9 A. I was aware that they were trying to find me
10 a job, as I indicated, for about a month. On the second
11 floor, they went to the vice president of engineering.
12 Also Drew Edleman back on February 15th asked, "Who do
13 we have in this Company that we could use as a reference
14 so we could figure out what" --

15 Q. January 15th?

16 A. Yes, January 15th. -- "so we could figure
17 out what capabilities you have to figure out where to
18 put you at."

19 So, I gave him the names of the people that
20 I have worked with, engineers on the second floor,
21 because they had talked about putting me on the second
22 floor. So, the vice president took those names and went
23 to talk to one individual. His name is Rick Hart,
24 H-a-r-t. He's one of the piping designers.

25 And Rick Hart also travels with me in the

1 morning. I had a car pool going between John Luf and
2 Rick Hart. [REDACTED] -- I don't know if I want to
3 implicate other people in this.

4 Q. Since you have mentioned it, please go
5 ahead.

6 A. All right. My concern is I've been damaged
7 with this, and I'm afraid of getting other people
8 damaged also. So, [REDACTED]
9 [REDACTED]. I don't know if I mentioned that
10 earlier. He's me friend that I travel with in the car
11 pool.

12 And Rick Hart was one of the names I gave.
13 John Luf was another. Bill Rowell, R-o-w-e-l-l. Many
14 people. So, they went to Rick -- "they" being the vice
15 president of engineering.

16 Q. Jim Garrett?

17 A. No, sir, the vice president of engineering
18 was -- I can't think.

19 Q. Take your time. Is there a document that
20 you have that you can refer to?

21 A. His name is Gene Recher, R-e-c-h-e-r, the
22 vice president of engineering. I knew what his name
23 was, but for some reason I couldn't think of it. Maybe
24 it's because of the conditions I'm under right now.

25 Q. Take your time.

1 A. So, Gene went to talk to Rick Hart and said,
2 "What can we do with Alain? What position could we put
3 him on the engineering floor?"

4 And Rick Hart told him that Alain was very
5 good at what he did. He answered questions that nobody
6 could answer within MK, dealing with 5,000 pressures,
7 psi pressures that they have dealt with me. I was a
8 very credible individual. It was stupid on their part
9 to do what they have done to me and told them, "I
10 wouldn't be surprised if Alain sued you people."

11 And at that point, I think he scared the
12 vice president of engineering. And at that point that
13 gave them hands-off that they didn't want Alain Artayet
14 to work on the second floor because there could be
15 problems.

16 The reason I'm saying that is I think that's
17 why they went to Jim Garret to try to find me a job
18 outside of the Company. So, that's why I'm trying to
19 explain to you how they went from possibly putting me in
20 the corporate office and keeping me there to sending me
21 to a site.

22 Q. That's fine. You can go right ahead and
23 just tell me who called you to meet with Jim Garret?

24 A. I know that Jim Garret was contacted by Drew
25 Edleman to try to find a job for me. So Jim Garret came

1 to me and asked me for my resume, which I gave him, and
2 he passed it on to another individual that works also at
3 the -- he's the director for the Parkersburg Dupont
4 site. I didn't think much of it.

5 And on the Tenth he calls me up -- I'm
6 sorry, it wasn't the Tenth. It was the Friday before
7 the Tenth.

8 Q. The Seventh?

9 A. The Seventh.

10 Q. Okay.

11 A. I believe it was about 4:00, quitting time,
12 I was talking to the project manager on the site for
13 DuPont, he's an MK project manager. And they said they
14 would be more than happy to have me work on that site.

15 Q. Okay, you said --

16 A. Dave Adams is the project manager.

17 Q. Jim Garret called you on the Seventh about
18 4:00?

19 A. Yes, about 4:00, correct.

20 Q. And it was at that time that he told you --

21 A. That there was a job opening for the
22 Parkersburg site.

23 Q. And that was the area field engineer
24 position?

25 A. At the time they were talking about putting

1 me on night shift. And I said, "I don't want to work
2 night shift. I hate working night shift." And I was
3 not comfortable with whatever they were going to offer
4 me down there because I was going to be three hours from
5 my family down South. And I said I was not comfortable
6 with it, but I felt it was the only choice.

7 It took them a month to find this. And I
8 felt that if I didn't take this position, possibly I
9 think they would lay me off or fire me or find a reason
10 to do that. So, at 4:00 at quitting time, they made me
11 this offer with Dave Adams on the phone, Jim Garret
12 present and myself where he made me an offer to go down
13 there. And again they informed me that they were not
14 going to cut my pay nor were they giving me a raise to
15 go down there. This is the MPP project, which is a
16 96-million-dollar project. And they were going to put
17 me on the night shift.

18 Q. Dave Adams, what was his position?

19 A. He's the project manager.

20 Q. For the Parkersburg?

21 A. Parkersburg Washington Works. He was MK's
22 project manager.

23 And Dave said, "Alain, I welcome you to work
24 on this site. I know you're very good at what you do,
25 and I think it would be a benefit for you to work with

1 us. DuPont knows you also and they like you. And it
2 would add credibility to you working for us," and so on
3 and so forth. He's going on and on how he wants me to
4 go and work on the project.

5 So, I made the decision to go ahead and take
6 the job, not knowing what was going to the happen to me
7 if I didn't.

8 Q. Was there any discussion with respect to
9 whether it was a permanent or a temporary position?

10 A. I knew it was temporary project. When the
11 project manager was talking to me, Dave Adams, he said,
12 "What we could do" -- I asked him, I says, "How long is
13 this project for?"

14 He says, "Well, it's supposed to be complete
15 in January of '98."

16 And I says, "What are you going to do with
17 me afterwards?"

18 And he said, "Well, we could look into
19 keeping you on site in some other position."

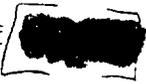
20 And I says, "Okay, that's fine."

21 But I knew that that was -- a lot of things
22 happen in the construction environment where one minute
23 they think one thing and the next minute they think
24 something else. They lay you off for whatever reason.

25 So, he had indicated to me that they would

1 keep me there. He made some indication that they would
2 keep me there permanently. So, I took the job and then
3 I was ordered to go down there on Monday. And I said,
4 "I can't go Monday because I have an appointment with
5 Steve and Lynn here to meet them and talk to them about
6 what has happened to me."

7 And so I said -- they were trying to insist
8 that I show up on Monday. They wanted me immediately.
9 And I said, "Well, we'll do it on Tuesday. I'll be
10 there Tuesday morning of February 10th."

11 So, I go down there, and then about a week
12 later they gave me some information about indicating
13 that this was a temporary assignment where they told me
14 I was going to get paid per diem and per diem of  7C
15 a day, I was told.

16 And that's when they told me all these
17 things they were doing for me. They put me on day shift
18 working as area field engineer. The guy that was area
19 field engineer decided to -- instead of me going to
20 night shift, he volunteered to go to the night shift
21 because he needed to get away from the heated meetings,
22 the political environment, which is very nasty down
23 there. A lot of people are getting fired, laid off.

24 That site is unpredictable as hell. People
25 refer to it as the project purgatory, meaning it's -- I

1 knew that I was going into a hostile environment because
2 MK is having a hard time keeping DuPont happy on that
3 project.

4 Q. Can you be specific as to your -- and any
5 differences between your former position as corporate
6 welding engineer --

7 A. Yes, sir.

8 Q. -- and this current position as area field
9 engineer?

10 A. Yes, sir. In this current position, I have
11 no welding involvement at all, other than knowing it's
12 going on out there. We have a field rep down there who
13 is the welding representative for MK. His name is Sam
14 Snyder. Sam Snyder and I worked -- I was his support
15 from the corporate office. He's the project welding
16 representative. Snyder is spelled S-n-y-d-e-r.

17 And so I was totally separate from him. I
18 don't even work close to Sam. So, my welding functions
19 were no longer being used. My welding expertise.

20 Q. Was your salary changed at all?

21 A. No, sir. My salary was the same. As a
22 matter of fact, they gave me the annual raise of [REDACTED]
23 [REDACTED] like they did with all the employees. I got
24 that raise also.

25 Q. Was this position considered a demotion in

1 any way?

2 A. In my opinion, yes, sir. In my opinion it
3 is.

4 Q. Could you elaborate?

5 A. Sure. I've worked 20 years to get where I'm
6 at. I'm a degreed welding engineer. All of my life
7 I've worked to get away from construction projects
8 because of the instability of construction projects.
9 Projects, once they are done with them, people get laid
10 off, and you move your family all over the place.

11 Well, I'm sure you guys are familiar with
12 construction projects. And the reason I took the
13 corporate position with MK is because after working so
14 hard for 20 years, working as a pipefitter and traveling
15 as a pipefitter, to getting both of my degrees, I felt
16 that I was going to stabilize my life with my family to
17 work for MK in the corporate office.

18 And I felt by me going to the DuPont site,
19 it was a demotion because it was not at all within the
20 realm of me expertise. I'm in a position right now in
21 which I have no background whatsoever.

22 Q. What are your responsibilities in your new
23 position?

24 A. I'm sort of what they call a craft
25 coordinator between crafts, between the sheet metal

1 workers, the pipefitters, the boiler makers. I get
2 involved with construction. I'm sort of a construction
3 engineer. I got involved with roofing, which I know
4 nothing about. With ductwork, which I know nothing
5 about. I do get involved with structural steel -- I do
6 know the codes of structural steel -- pressure vessels.
7 I get involved with just about everything on the
8 project. I get involved with electrical work, which I
9 have no expertise at all in electrical, other than
10 plugging a welding machine into the electrical outlet to
11 make it work.

12 So, the position I have, I have no expertise
13 for at all.

14 Q. Are all of your responsibilities solely for
15 the Parkersburg, West Virginia, site?

16 A. Yes, sir.

17 Q. Versus your previous position where you were
18 corporate?

19 A. Corporatewide.

20 Q. What, as far as sites? I know D.C. Cook and
21 Point Beach. Could you be more specific?

22 A. On the other sites?

23 Q. Yes.

24 A. Oh, god. Well --

25 Q. All the nuclear plants that MK would have

1 done work at?

2 A. Yes, sir. If there was 20 of them, I would
3 work for all 20 of them. But, of course, I wouldn't do
4 that. But as far as I'm involved, there are only two
5 steam generators that they were working on. That was at
6 Point Beach and St. Lucie. As far as the other
7 projects, there's 15 of them.

8 Q. Fifteen other projects that MK is providing
9 some sort of contracting services to?

10 A. Yes, sir, from clients. Like I said, DuPont
11 earlier. Do you want me to go through all that?

12 Q. About how you would have been involved in
13 all nuclear and nonnuclear projects?

14 A. Yes, as corporate welding engineer, I was
15 involved with everything. Government contracts.

16 Q. Are there any other differences in the
17 working conditions that you can articulate for me?

18 A. Between now? The corporate office?

19 Q. Between your former corporate welding
20 engineer position and your current area field
21 engineering position.

22 A. Well, for one, I don't have my own phone.
23 I'm sharing an office with three other people, the
24 project engineer. This guy also that's working on the
25 night shift, Frank Scarcello, S-c-a-r-c-e-l-l-o. I'm

1 sharing an office with three of them in the chemical
2 plant that smells constantly. I'm working outside in
3 the cold environment.

4 Q. Versus? What were the conditions at your
5 previous position?

6 A. Oh, it was a beautiful office. I had a
7 library all around me.

8 Q. Did you have your own office?

9 A. Yes, sir, my own office. I had my own
10 phone. The secretary was outside the door who also
11 worked with three of us. We were sharing her with
12 everybody else. I do have a secretary also on the
13 project, shared again by all the people. It was a
14 beautiful environment, air conditioned, not working
15 outside. You know, I'm working inside at this point in
16 the corporate office.

17 I couldn't work overtime either at the
18 project because I have to travel and visit my family
19 every weekend. It's three hours away, so I can't see my
20 family during the week. At nights my kids are into
21 soccer and baseball, so I'm going to miss all those
22 activities. I can't -- my kids miss me a lot and my
23 wife misses me a lot.

24 I travel, like I said, on weekends. They
25 just changed Project 2410 working four days a week, ten

1 hours a day where before I worked five days a week,
2 eight hours a day at the corporate office.

3 But when I started the project, it was also
4 five eights, meaning five days, eight hours a day. They
5 changed I think three weeks after I was there, they went
6 to four tens.

7 So, what I'm trying to say is I get to visit
8 my family on the weekends for three days, which I'm
9 lucky I'm doing that.

10 Q. But in your old position, it was five eight
11 hours and your new position is now four ten-hour days?

12 A. Yes. And although there's a lot of overtime
13 to be done, I'm refusing to work overtime because I want
14 to visit my family on weekends because I don't get to
15 see them. So, I'm refusing to the work overtime.

16 Q. Are the office employees at your former
17 location, are they too now allowed to work four tens?

18 A. No, sir, they are working five eights also.
19 The corporate office always works five eights.

20 Q. I was just trying to make a distinction. I
21 didn't know if there was a change companywide or only at
22 Parkersburg.

23 A. Just the project.

24 MR. BELL: How about your living
25 conditions?

1 THE WITNESS: Oh, geez. Right now I don't
2 have a home. Basically, I'm staying with a friend, Jim
3 Jance, J-a-n-c-e. The reason for that is because I'm
4 not sure where this is going. If I find an apartment
5 and get a lease, I may be obligated to pay money for the
6 lease.

7 I've stayed at what they call Executive
8 Suites when I got there, which is a nice place,
9 beautiful apartments for about a month. And after that,
10 they told me that I could not stay there no longer. I
11 was told to find -- because of the [REDACTED] a day per
12 diem, I was told that I would have to find my own place
13 and pay my own food and everything else for [REDACTED] a
14 day, which is not much to pay for an apartment, food,
15 gas to travel to my family, car maintenance and cost and
16 so on and so forth.

17 And there is not much money for me to live
18 on. They told me [REDACTED]

19 [REDACTED] And I'm being very careful with how I'm spending
20 my money because traveling away from me family, I have a
21 very tight budget to begin with.

22 And by the way, most of the money that I'm
23 having to fund for my attorneys are provided by my
24 father. I cannot afford to hire attorneys myself. I
25 have to turn to my father for doing this, which if it

1 weren't for him, I would be in deeper trouble.

2 BY MR. ULIE:

3 Q. Any other differences that you can think of
4 at this point?

5 A. Living conditions. I'm sleeping on a bed
6 that -- because I can't afford to go buy a bed or
7 furniture. So, my friend is letting me stay at his
8 place for [REDACTED] a month. The bed that I'm using is
9 the neighbors threw the bed out in the garbage and me
10 wife got the bed for me, so I'm using it to sleep at me
11 friend's house because he doesn't have -- he's got a
12 waterbed, but he is being also moved right now to the
13 Memphis site for DuPont.

14 And he didn't want to set up his bed. It's
15 a waterbed, you know. That's the only thing he has.
16 So, for awhile I was sleeping on an air mattress, which
17 had a leak in it and I would wake up in the morning on
18 the floor. You kid around about these things.

19 I've been trying to keep a positive attitude
20 towards all of this and, you know, just taking
21 everything lightly; otherwise I would go nuts.

22 I didn't want to quit working for MK. I
23 enjoyed working for MK. I have lost respect, though,
24 for the management. I don't know where this is going to
25 go with them.

1 I felt that not knowing what was going to
2 happen with me, I felt I needed to stay working for MK.
3 All my benefits I've worked all these years for MK. I
4 didn't want to just throw them out of the window.

5 And I figured I would wait until we get done
6 with the Department of Labor to figure on what to do
7 next. I really don't want to stay on that site. I
8 detest working on that site. I don't like chemical
9 environment because they are very hazardous.

10 Like I said earlier, when you started in,
11 there was an incident last Friday -- I'm sorry,
12 yesterday. On the chemical plant where they had to -- a
13 chemical leak and they are very hazardous.

14 I would rather work on a nuclear power plant
15 or a coal burner instead of working on a chemical
16 plant. A chemical plant project is the last place I
17 would want to go work on.

18 I do not want to work on a construction
19 project. I would rather work in a corporate office.
20 So, if I decide to go look for some other work, it would
21 be either in a fab shop on a permanent basis working
22 for -- or a fabrication shop or for another corporate
23 position for another construction company.

24 Although, with me coming to NRC now, if the
25 word gets out -- of course it will -- I'm afraid that

1 professionally I would be damaged in the industry, and
2 it would be hard for me to find work in construction
3 again, not only nuclear but also construction.

4 The reason I say that is because I have read
5 a lot of stories about what's happened to previous
6 whistle blowers who came to the NRC and how they were
7 damaged, their whole lives were damaged for coming to
8 the NRC with problems.

9 So, I would like -- I don't know what my
10 future is like.

11 Q. Are there any other differences that you can
12 think of?

13 A. Other than hating me job, no, sir, none
14 whatsoever.

15 Q. What other plants have used MK as a welding
16 contractor, based on your experience in your previous
17 position as far as nuclear plants go? You have talked
18 about Point Beach and D.C. Cook. Are there other
19 nuclear plants --

20 A. Sure. They did a decommissioning process.

21 Q. And you also mentioned St. Louis.

22 A. St. Lucie. Yes, St. Lucie.

23 Q. Are there other plants that have --

24 A. Yes. In 1995, we had Fort St. Vrain, which
25 what they did there was the nuclear decommissioning. A

1 -- helium fission reactor.

2 Q. Did they utilize the welding procedures of
3 MK?

4 A. Yes, sir. And at the time the welding
5 representative there was Steve Renner.

6 Q. What other plants utilized MK procedures,
7 welding procedures?

8 A. In nuclear?

9 Q. In nuclear, that's correct.

10 A. That's -- since I've been there, that's it.

11 Q. Would Fort St. Vrain and St. Lucie have the
12 same problems with their welding procedures that D.C.
13 Cook and Point Beach have? Did Mr. Gorden have any
14 involvement? It sounds like he was the key.

15 A. No, Mr. Gorden was not involved with the
16 Fort St. Vrain project. The Fort St. Vrain used the
17 corporate welding procedure, which I had prepared, well,
18 that I had as corporate welding procedures. And they
19 did not make project specific procedures. They used my
20 procedures specifically for doing that job.

21 Q. And what about St. Lucie?

22 A. In St. Lucie, they are in the development
23 stage right now with the welding program. I'm sure
24 they're going to do the same thing as Point Beach and
25 generate their own project specific procedures, again,

1 using the corporate welding procedures.

2 Q. So, from the technical side concerns that
3 you have, they would be limited to D.C. Cook and Point
4 Beach?

5 A. Yes, sir.

6 MR. ULIE: All right. Jerry you have --

7 MR. SCHAPKER: Is this Rusty Gorden the
8 project engineer for St. Lucie now?

9 THE WITNESS: I believe so, yes sir.

10 Either that or they call them construction engineering
11 manager. His exact position since I've been removed, I
12 have no idea what's going on any more, so -- but I know
13 he was promoted.

14 MR. BELL: Is there a corporate welding
15 engineer now; do you know?

16 THE WITNESS: Well, I was informed this
17 week that they hired a new welding engineer, corporate
18 welding engineer. I don't know he or she's name. I
19 know it's a welding engineer. I was told that he was
20 going to be there for -- on a trial basis for 90 days.
21 I also heard that they were planning on removing him
22 from that position.

23 And I'm thinking what might happen is they
24 will put him on the St. Lucie project and replaced him
25 in the corporate position with this new individual which

1 is supposedly going to be Mr. Lou Pardi's friend,
2 welding engineer. That's what I've been told.

3 This is all hearsay again. I have no
4 documents to prove that, although the information is
5 coming from several people, as far as them planning on
6 doing that. So, it's obvious they want to put a person
7 that Lou Pardi will get along with for doing this work.

8 MR. ULIE: Jerry, are there any other
9 documents besides the QA manual and the Hartford
10 Insurance Company Audit Report up to this point that you
11 would like to get a copy of?

12 MR. SCHAPKER: The welding procedures he
13 referenced in his Quality Finding Report.

14 THE WITNESS: Yes, sir, I have them all
15 right here. And could I go to the bathroom first before
16 you guys do that?

17 MR. ULIE: We'll go off the record and
18 take a break or a few minutes.

19 (Whereupon, a short recess
20 was taken off the record)

21 MR. ULIE: Back on the record.

22 Okay, we've had a few minutes for a break.
23 Jerry was referencing before we went off break to get a
24 copy of the Welding Procedures Specification Manual that
25 Alain has. So, that would be the third document, Mr.

1 Bell.

2 MR. BELL: No problem.

3 MR. SCHAPKER: For Point Beach project.

4 THE WITNESS: Yes, sir. This is for the
5 Wisconsin Electric Power Company Point Beach, Unit 2,
6 steam generator replacement. Welding Procedure
7 Specification Manual.

8 MR. ULIE: Very good.

9 THE WITNESS: And on that is all the
10 procedures.

11 MR. ULIE: Is there a date; a cover letter
12 that has a date? If not --

13 THE WITNESS: Yes. The latest revision
14 that I have -- yes, the latest revision is the December
15 18, 1996.

16 MR. ULIE: Okay, fine. And Jerry, was
17 there a fourth document?

18 MR. SCHAPKER: Yes, the one he referenced
19 for the D.C. Cook.

20 THE WITNESS: Yes, sir, the same thing. I
21 have all the welding procedures that were used at D.C.
22 Cook.

23 MR. ULIE: Why don't you just identify the
24 number or its title.

25 MR. SCHAPKER: Okay. The particular one

1 that we wanted to review was in your concern addressed
2 on your interoffice correspondence to Andy Walcutt on
3 January 22, 1997. And it referenced WPS Number
4 M-1-1-EA, Revision zero, issue date of 9/16/88, and
5 10-1-1-A-B, Revision 1, issue date of 6/9/88.

6 THE WITNESS: Yes, sir, I have them both.

7 MR. ULIE: Fine. Very good.

8 MR. SCHAPKER: Were those the only ones
9 that you had found problems with in when you did the
10 review? That's the only one you have referenced here of
11 concern.

12 THE WITNESS: I did not do a formal
13 evaluation of all the D.C. Cook welding procedures, but
14 I am aware there are also inconsistencies with the code
15 they used for the D.C. Cook Plant, which I think was
16 later than 1983, or including the 1983 addenda.

17 I do know there are several problems on
18 several procedures, but I have not done a formal
19 evaluation. If you want me to do that, I could do that
20 and submit it to you also.

21 MR. ULIE: You don't have specifics,
22 though, at this point?

23 THE WITNESS: No.

24 MR. ULIE: I leave it up to you, Jerry.

25 MR. SCHAPKER: Well, I guess if you have

1 told he has a degree in industrial management.

2 And so Mr. Pardi, several years ago, I think
3 a year ago, a year and a half ago, which I have a
4 document indicating that also, had informed me that he
5 only wanted engineers to prepare welding procedures.

6 I asked for those procedures to be developed
7 by me. Mr. Max Bingham did not want anything to do with
8 me developing those welding procedures. They did not
9 want me to review those welding procedures either. Like
10 I said earlier, they wanted me to do it as a courtesy,
11 to review the welding procedures.

12 You have to understand on the steam
13 generator projects, they're very scheduled and intense.
14 This is fixed bid contracts, lump sum contracts, meaning
15 we have a certain amount of money to make the steam
16 generators. They have schedule constraints.

17 They informed us that the world record in
18 removing the steam generators at Point Beach. There's a
19 lot of money applied to this. I believe there was
20 between 60 to 80 million dollars for a steam generator
21 replacement.

22 So, they have to control their own destiny.
23 From what I've been told by Max Bingham, they don't like
24 anybody getting involved with their work. They never
25 like the corporate office getting involved with their

1 work. They prefer to handle everything themselves.

2 So, every time I got involved with them,
3 they resented that because it falls outside of their
4 control. So, that's why they developed their own
5 welding procedures. And I do not get to review them.

6 As you will see in front of the sheets,
7 Jerry, none of the cover sheets have my signatures on
8 them. The D.C. Cook ones, of course, were done before I
9 hired on in June of 1988, so I had no idea what was on
10 those records.

11 The ones for Point Beach, which were sent to
12 me as a courtesy as part of a document distribution to
13 Andy Walcutt, being the quality director, they are
14 required to send them to him. And then Mr. Walcutt
15 would pass them on to me.

16 Like I said earlier, I reviewed the first
17 nine and had problems and faxed it to them, but nothing
18 ever developed to that. They ignored me. And that was
19 a concern that Mr. Walcutt had. He was aware that they
20 were ignoring me on site. And we tried to -- in a round
21 about way -- still try to get me involved with the
22 project, but I had very minimal involvement with the
23 project.

24 And basically every time I got involved with
25 them, I found technically things wrong. And they

1 Program?

2 A. Yes, sir, ever since I have worked for the
3 Company.

4 Q. And that Quality Assurance Program met the
5 requirements of the Atomic Energy Act?

6 A. Yes, sir, it did.

7 Q. In November or December of 1996, did you
8 come to the conclusion that MK had violated the terms of
9 its own Quality Assurance Program?

10 A. Yes, sir. I felt by them removing me from
11 the Quality Assurance Program from the nuclear side of
12 the house, that they were at that point violating the
13 Quality Assurance Program because I am on the
14 organizational chart. And I'm aware by them removing
15 someone from that position would violate that org chart,
16 therefore, it's a violation of the Quality Assurance
17 Program.

18 Q. And when you reviewed the Point Beach
19 situation, did you come to the conclusion that with
20 respect to Point Beach, MK had also violated its own QA
21 program?

22 A. Yes, sir, not only their own quality
23 program, but also the industry standards for ASME,
24 Section III.

25 Q. And did you bring to the attention of your

1 superiors at MK your opinion that MK had violated its QA
2 program?

3 A. Yes, sir, I did, to Andy Walcutt. .

4 Q. And did MK take retaliatory action against
5 you after you brought these findings to their
6 attention?

7 A. Yes. I felt that by me writing this report
8 for Point Beach and also informing them about the D.C.
9 Cook problem, that the timing that they did this in,
10 being two hours after it also disclosed the D.C. Cook
11 problem and the day after I had written the report, I
12 felt that the timing indicated that they were
13 retaliating against me writing this report and
14 disclosing also the D.C. Cook problem.

15 What was done behind closed doors, I have no
16 idea, but that's what led to me being removed.

17 Q. Do you believe that the real reason for your
18 discharge as MK's corporate welding engineer was because
19 you had personality conflicts?

20 A. I did not have personality conflicts. I
21 felt that they had personality conflicts with me. I
22 felt that, from my opinion, they had professional
23 conflict with me.

24 Q. Do you feel that the real reason for your
25 removal as MK's corporate welding engineer was the fact

1 that you had brought to management's attention that
2 there had been violations of MK's QA procedures?

3 A. Definitely, yes.

4 Q. Did you meet or exceed the qualifications
5 listed in the Plain Dealer advertisement of February 9th
6 for the corporate welding engineer position?

7 A. Yes, sir, I more than meet those
8 requirements.

9 Q. Are the terms, conditions and privileges of
10 your current employment with MK less favorable to you
11 than the terms, conditions and privileges of your
12 employment on December 1, 1996?

13 A. Yes.

14 MR. BELL: I don't have anything else.

15 MR. ULIE: At this time, Alain, do you
16 have anything further? This would be the time for you
17 to make any statement or put anything else that we may
18 not have asked you and you feel is important to your
19 discrimination complaint.

20 THE WITNESS: Yes. I feel that MK, the
21 nuclear side of the house is performing these practices
22 of being aggressive towards people who disclose
23 information relating to nuclear power plants, problems.
24 I also feel that MK is good at making hostile
25 environments where these things can not happen. They

1 make it hard for people to come to them in disclosing
2 information.

3 And I'm aware that at Fort St. Vrain in
4 1995, NRC was asked to come in to performance an
5 evaluation of an incident there where intimidation was
6 performed on a health physics person, inspector or
7 whatever you want to call him, by one of our
8 superintendents. His name was [REDACTED] And NRC was
9 called in to perform an investigation. And they
10 concluded that MK had created a hostile environment on
11 that site, Fort St. Vrain site.

12 So, I've learned this after the fact. I was
13 not aware of this. And in my opinion, I feel that Max
14 Bingham, particularly Rusty Gorden. I have more respect
15 with Marty Cepkauskas, knowing that he is an engineer or
16 a registered professional engineer. I believe there was
17 a conspiracy going on on the Point Beach project to make
18 me look bad.

19 I have testimony from one of the welding
20 engineers that worked with Eugene Gorden's group that
21 also knew me from a previous project we had worked on.
22 This man is a very experienced individual.

23 And two months after the project was over,
24 he contacted me, informing me that he had a bad feeling
25 inside his stomach. It was something he could not live

1 with, and he wanted to share that with me. He informed
2 me that every time they had a problem on the Point Beach
3 project related to welding, they were looking to blame
4 me for that problem. They spoke bad against me in front
5 of this individual. And he was very uncomfortable with
6 that because he knew me integrity. He knows my
7 background. He's seen me at work in action on a
8 project.

9 I'm a very hard worker and he respected me.
10 Again, this is an individual who I just recently met in
11 the past year and a half. And he also knows Lou Pardi,
12 and he knew that this was going on. They were trying to
13 make me look bad, and they came forward to indicate that
14 to me.

15 So, I believe that Max Bingham and Rusty
16 Gorden are all protecting themselves, and I think there
17 is a problem out there with MK where they have their own
18 little clique. I don't know if you have ever heard that
19 term before. They protect themselves. They do not
20 accept any outsider, which I felt I was an outsider.
21 They resent anybody that comes from outside that may
22 threaten that clique or may possibly jeopardize them
23 making profit for money.

24 If a technical expert would come in and
25 create problems that would cost them money to do this,

1 to address his concerns. They always disagreed with my
2 interpretations, always challenging me on my integrity.
3 And, again, I always referred to them to the code,
4 everything in writing, black and white, this is where
5 I'm coming from.

6 I also called consultants. Again, when Andy
7 left to St. Lucie on January 16th, I called Mike Houle,
8 who is a consultant in the industry and who was also
9 ASME, Section IX's, previous chairman. I called him up
10 to verify my 7018-A-1 versus E-7018 interpretation of
11 the code to double check that what I was interpreting
12 was correct, although I didn't talk to him, that he was
13 from the nuclear side of the house at that time.

14 I did not want to damage MK that we were
15 having nuclear problems. So, I talked to him in terms
16 of a pressure vessel, low temperature application where
17 Scharpy impact testing would be required. Jerry can
18 probably follow me with this.

19 And he answered that my interpretation was
20 correct, the change from E-7018 to E-7018-A-1 was a
21 supplementary essential variable, which would require
22 re-qualification of the procedure.

23 So, at that point that confirmed that I was
24 correct. So, as you can see, every time that I came up
25 with decision, I also double check with consultants or

1 code interpretations.

2 I forwarded this information to the
3 project. I explained to them where I'm coming from so I
4 don't pull things out of my ass. Excuse me for using
5 that. That what I do is I'm very professional. I'm
6 very good at what I do.

7 And I felt that the project management was
8 trying to protect themselves by not getting me involved
9 on that project, so I do not surface any problems. They
10 made [REDACTED] EX4

11 [REDACTED]

12 There is a brochure in the MK indicating the
13 importance of the project to MK. They reported the last
14 quarter of 1996, a profit of [REDACTED] for EX4
15 MK, the entire corporation, which I think that was the
16 money they had made at the Point Beach project.

17 Like I said, they had made a total of [REDACTED] EX4
18 [REDACTED] for that project which was split between
19 D.C. Cook Engineering Services. That they shared the [REDACTED] EX4
20 [REDACTED] between them, [REDACTED] for
21 Duke Engineering Services, and [REDACTED] for EX4
22 MK.

23 So, it's obvious to me that everything they
24 did was to maintain their profit margin to a profitable
25 level. So, it's obvious to me that what they have done

1 is to protect that. It's a money -- what do you call it
2 when people -- their decision is just made on money.
3 They want to protect that. They are very aggressive
4 from that standpoint.

5 And I got stuck in the middle of a political
6 situation from that standpoint. So, in my opinion Max
7 Bingham should not be a project manager. In my
8 professional opinion he should not be a project manager
9 on that nuclear project.

10 And [REDACTED] should not be a welding
11 engineer on a nuclear project. And I mean that
12 sincerely. After all these things that I've gone
13 through, I've had a lot of thoughts in my head and came
14 to those conclusions. In my opinion both of those
15 individuals should not be involved with nuclear work.

16 Andy Walcutt in my opinion being the quality
17 director has a family to feed. He is also concerned
18 about what may happen to him, about his involvement with
19 me. And I feel that he probably feels his job is also
20 threatened because he is in the middle of this. So, I'm
21 afraid that when [REDACTED] it's
22 going to make Andy Walcutt look pretty bad, and it's
23 going to make Mr. Max Bingham look very bad and Mr.
24 Gorden.

25 Like I said, I used to respect those people

1 until I really got their wrath from them. And now I've
2 come to the conclusion of what I've just said. They
3 don't belong to work in the nuclear industry.

4 And it's obvious to me that they understand
5 the rules. I've got documents indicating their
6 training. They've been trained. They understand the
7 intensity of dealing with situations. They understand
8 the nuclear industry. They've been in the business for
9 years and years; ten or 15 years, maybe, possibly even
10 20 years for Max Bingham. They understand the rules and
11 regulations. That's why I don't understand why they
12 have retaliated the way they did. This shocks me.

13 And for people that know these rules, the
14 way I've been trained, they're supposed to welcome
15 somebody coming to them and giving them problems. And
16 then also I volunteered to help them through this. When
17 I volunteered this information, I didn't just throw it
18 in their lap and laugh and walk away. I was very
19 concerned and I wanted to help them in resolving these
20 problems.

21 So, that's why when they removed me from my
22 position, it was a total shock. To this day, it's like
23 they never even talked to me. Nobody talked to me about
24 -- asked my perspective. Max Bingham never called me.
25 Marty Cepkauskas never called me. They never asked,

1 "Why are you doing this?" They just acted on pure
2 emotion instead of professional decision.

3 So, those are my feelings on the whole
4 thing. I felt that it was important for you to know.

5 MR. ULIE: Thank you. I just have three
6 closing questions.

7 THE WITNESS: Yes, sir.

8 BY MR. ULIE:

9 Q. Have I threatened you in any manner or
10 offered you any rewards in return for this statement?

11 A. No, sir.

12 Q. Have you given your statement freely and
13 voluntarily?

14 A. Yes, sir.

15 Q. And you understand that your identity will
16 be disclosed during this NRC investigation?

17 A. Yes, sir, and I have no problem with that.

18 MR. ULIE: Then this interview is
19 concluded. Thank you.

20 THE WITNESS: Thank you.

21 MR. ULIE: We're off the record.
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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: NRC Investigation

Docket Number: (not assigned)

Place of Proceeding: Cleveland, Ohio

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 under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.

Norma J. Carlin
Court Reporter
Neal R. Gross and Co., Inc.

1 the field which resulted in a program of welding
 2 that Morrison Knudsen did not feel was strong
 3 enough or adequate enough.

4 ADMINISTRATIVE LAW JUDGE:

5 Mr. Bell, call your first witness.

6 MR. BELL:

7 I call Mr. Artayet, please.

8 ADMINISTRATIVE LAW JUDGE:

9 Please raise your right hand.

10 ***

11 (Witness sworn)

12 ***

13 ADMINISTRATIVE LAW JUDGE:

14 Please be seated.

15 ***

16 ALAIN ARTAYET,

17 called as a witness, having first been duly sworn according
 18 to the law, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BELL:

21 Q. Could you state your name and spell both your
 22 first and last names for the reporter, please?

23 A. Sure. My name is Alain Artayet. The first
 24 name is spelled A-l-a-i-n, Artayet is spelled A-r-t-a-y-e-
 25 t, and my middle initial is S., for Serge, S-e-r-g-e.

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Q. And you're the complainant in this action?

A. Yes, sir.

Q. Can you tell the Court, please, what your permanent address is?

A. [REDACTED]

Q. And where is [REDACTED]

A. [REDACTED]

Q. Approximately how far from [REDACTED]

A. [REDACTED]

Q. Now, do you live at that address now full-time? ..

A. Yes, sir.

Q. During the week, where do you live?

A. I don't have an address in Parkersburg, West Virginia.

Q. What's your living arrangement in Parkersburg?

A. I've been living with friends down there on a temporary basis.

Q. Okay. And how many days or nights a week do you spend in Parkersburg now?

A. I spend four days down in Parkersburg, and usually about five nights, Sunday night, Monday night, Tuesday night, Wednesday night, and then I drive home Thursday night.

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1 Q. Who are you employed by now?

2 A. Morrison Knudsen Corporation.

3 Q. How long -- if I call them MK, you'll
4 understand who I'm talking about?

5 A. Yes, sir.

6 Q. Okay. How long have you worked for MK?

7 A. Nine years. I started working for them in
8 June, 1988.

9 Q. Prior to June, 1988, what were you doing?

10 A. I was a student at Ohio State University and
11 graduated and got hired for MK, but before that time, I
12 worked in -- I started at 16 years old working in
13 construction as a welder. My father was a pipefitter, and
14 he taught me how to weld, and I started welding as young as
15 16 and worked on -- I was a boilermaker craftsman, I was a
16 pipefitter craftsman. I worked on during a period of about
17 ten years, I worked at the Perry Plant, five -- four
18 different other nuclear plants, five different nuclear
19 power plants. I started working as a pipefitter-welder in
20 1978 in Cincinnati, Ohio, at the Zimmer [ph] Nuclear Power
21 Plant. I worked there for about six weeks, then I decided
22 to relocate myself to Monroe, Michigan, the Fermer II [ph]
23 Nuclear Power Plant and I worked there during construction
24 of the Fermin II [ph] Nuclear Power Plant for two and a
25 half years, working for the Power Process Piping, which is

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1 a company located in Detroit, Michigan. I worked on heavy-
2 wall pipe, which is thick pipe, high-pressure piping system
3 at the nuclear power plant doing what they call hot welds.
4 They're heated to minimize cracking problems. I passed
5 very tough tests as a young welder. My father had friends
6 who had welded for 15 years, ten or 15 years, and I passed
7 tests that they were not able to pass. My father taught me
8 well, and also the UA school that I attended taught me how
9 to weld also very well as a union craftsman. I worked as a
10 union craftsman for about a total of about nine and a half
11 years, short of my ten-year -- I guess where you get
12 retirement from the UA pension fund, and during that time,
13 the last phase of my years as a pipefitter, I worked at the
14 Perry nuclear plant for about four and a half years.
15 There, I attended Lakeland Community College to get an
16 Associates of Applied Science degree in mechanical
17 engineering technology in Mentor, Ohio. I did that for
18 four and a half years, started in 1980, graduated from
19 there in 1985, and at that point, I had an Associate's
20 degree specializing in welding technology. At the last
21 part of my curriculum at Lakeland Community College, I
22 asked a Mr. Jim Wilcox, who at the time was the head
23 welding engineer for the Cleveland Electric Illuminating
24 Company for the power plant for the construction. He was
25 in charge of all welding activities under all the

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1 subcontractors working on the Perry plant at the time. I
2 asked him to teach a class, a design class, and got to know
3 Mr. Wilcox pretty well. Then Mr. Wilcox advised me that it
4 would be smart for me to -- being that I was going to
5 graduate from Lakeland Community College with a degree to
6 continue pursuing a Bachelor of Science degree from Ohio
7 State University. He informed me at the time that it was
8 the only school in the country that has an accredited
9 program from ABET, which is the Accreditation Board of
10 Engineering and Technology, which is the recognized
11 organization that evaluates the curriculum of colleges and
12 determines whether or not those colleges really have
13 engineering curriculums. Ohio State, again, is the only
14 school that has that in the country. I didn't believe Mr.
15 Wilcox, so I went to talk to Mr. Bill Green, the dean of
16 welding engineering, which he advised me to do, and again,
17 Mr. Green informed me of that, and Mr. Green's words were,
18 because of my background as a welder in the nuclear
19 industry and having dealt with standards, drawings, and
20 specifications in the nuclear industry, having trained to
21 work in the nuclear industry, in that sense by having a
22 Bachelor of Science degree, I would basically in his words,
23 would have the world by the ass. In other words, I'd be
24 very competent in what I did and with the theory that I
25 would learn from Ohio State University, I'd be one of the

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1 best welding engineers in the country.

2 Q. Did you then go to Ohio State at some point?

3 A. Yes, sir. I attended the first summer, June
4 of [redacted] when I first started, and I graduated from Lakeland EX7C
5 in June of [redacted] moved my entire family to Columbus, and I EX7C
6 had [redacted] at the time. I quit working, lived off my EX7C
7 savings for three years, full-time at Ohio State University
8 where I graduated in June, [redacted] The entire process cost me EX7C
9 [redacted] I cleared out my bank account doing that. EX7C

10 Q. What kind of degree did you get from Ohio
11 State?

12 A. I got a Bachelor of Science in welding
13 engineering.

14 Q. Okay. And during the end of your period of
15 time at Ohio State, did you have resumes out?

16 A. Yes, sir. I sent resumes to several
17 companies, construction companies, research companies,
18 manufacturing companies.

19 Q. Okay. And were you eventually hired by
20 Morrison Knudsen Corporation?

21 A. Yes.

22 Q. Okay. When did you start to work for MK?

23 A. June of 1988.

24 Q. Okay. And your job title was what?

25 A. Corporate welding engineer.

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1 Q. Okay. Had there been a corporate welding
2 engineer at MK before you?

3 A. Yes, sir.

4 Q. All right. Within the organizational
5 structure of MK, where is the corporate welding engineer
6 position?

7 A. It's in the quality assurance department which
8 is now called the quality management department.

9 Q. All right. This is Exhibit 52, section 1.0.
10 Mr. Artayet, I'm showing you an organizational chart for
11 the Morrison Knudsen Corporation which is in the materials
12 previously provided as Exhibit 52. Do you recognize this
13 organizational chart?

14 A. Yes, I do.

15 Q. Okay. Now, at the top here, this says quality
16 assurance program, 10 C.F.R. 50. What does that mean?

17 A. That's the regulations from Code of Federal
18 Regulations from the government which requires that a
19 company such as Morrison Knudsen to perform activities in
20 the nuclear industry must have a quality assurance program
21 consisting of, I believe, 18 criteria.

22 Q. And how many different quality assurance
23 programs does MK have?

24 A. Well, there's the 10 C.F.R. 50, appendix B,
25 NQA-1 which are combined. They used to be separate;

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1 they've combined them, and also the ASME Section 3 quality
2 assurance program.

3 Q. Okay. Let's walk through this 10 C.F.R. part
4 50 organizational chart, if we can. At the top, who is the
5 president?

6 A. For the quality assurance program, that would
7 be Mr. Tom Zarges.

8 Q. Okay. And this division executive which is
9 down on the right below the president?

10 A. Is Mr. Lou Pardi.

11 Q. P-a-r-d-i?

12 A. Yes, sir.

13 Q. Okay. And also directly below the president
14 is someone called the group quality director. Who is that?

15 A. That's my boss, Mr. Andy Walcutt.

16 Q. Okay. And you're shown, group welding
17 engineer...

18 A. Yes, sir.

19 Q. ...just to the side of -- I'm sorry, just
20 below Mr. Walcutt, is that right?

21 A. That's correct.

22 Q. Okay. Now, there's a dashed line that bisects
23 the organizational chart from top to bottom. What is that
24 dashed line?

25 A. That's to separate the group for the corporate

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1 office and the project site personnel.

2 Q. Okay. So everybody above this line is in
3 Cleveland, is that right?

4 A. That's correct.

5 Q. And the people below the line are wherever the
6 project happens to be, is that right?

7 A. Wherever it may be. That's correct.

8 Q. Okay. And since we're going to be talking
9 about it later, let's talk about Point Beach. At the Point
10 Beach project, everyone below this line would be where the
11 Point Beach plant is, is that correct?

12 A. That's correct.

13 Q. All right. There's a dashed line that goes
14 from group welding engineer down to project welding
15 engineer. Do you see that?

16 A. Yes, sir.

17 Q. Okay. Now, with respect to the Point Beach
18 project, who was the project welding engineer?

19 A. That would be Mr. Eugene -- Rusty Gorden, he
20 likes to called Rusty.

21 ***

22 ADMINISTRATIVE LAW JUDGE:

23 Excuse me for a moment. I was looking for the
24 exhibit, but I wasn't able to locate it, because I
25 have trouble seeing that from here. Could you just

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1 over briefly what you initially asked him about the
 2 organizational structure?

3 MR. BELL:

4 Sure.

5 ***

6 BY MR. BELL:

7 Q. The president is Mr. Zarges?

8 A. Yes, sir.

9 Q. Is that right?

10 A. Uh-huh.

11 Q. Division executive is Mr. Pardi?

12 A. That's correct.

13 Q. And the group quality director is Mr. Walcutt?

14 A. That's correct.

15 Q. And you're the group welding engineer
 16 reporting to Mr. Walcutt, correct?

17 A. That's correct.

18 Q. Okay. And everything above this line is in
 19 Cleveland, and what's below the line is at the job site,
 20 correct?

21 A. That's correct.

22 Q. Okay. Now, there's a dashed line going from
 23 the group welding engineer to the project welding engineer.
 24 The legend at the top says communications/oversight,
 25 administration and technical support. Do you see that?

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1 A. Yes, sir.

2 Q. What did that dashed line on the Point Beach
3 project mean to you?

4 A. That meant that for Mr. Gorden and I to
5 communicate and to be able to resolve any questions related
6 to welding on the project.

7 Q. Okay. Now, is there another quality assurance
8 program that relates to the Point Beach project?

9 A. Yes.

10 Q. And let me show you -- this is Exhibit 53,
11 section 1.0. Let me show you another organizational chart.
12 Section 1.0. Describe for the Court, please, what section
13 1.0 of Exhibit 53 is.

14 A. Sure. That's the steam generator team,
15 quality assurance program, of 10 C.F.R. part 50, appendix
16 B, which is pretty close to the original, where this came
17 from, the corporate 10 C.F.R. part 50, appendix B for
18 Morrison Knudsen.

19 Q. Okay. Now, this is a quality assurance
20 program for SGT?

21 A. That's correct.

22 Q. What is SGT?

23 A. It's stands for steam generator team,
24 consisting of Duke Engineering Services and Morrison
25 Knudsen Corporation.

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1 Q. All right. And the little symbols up here to
 2 the left and right of SGT? This is a logo for Duke
 3 Engineering, and this is a logo for MK?

4 A. Yes. The one on the left is for MK.

5 Q. Okay. Now, let's go through -- again, we've
 6 got a dashed line that bisects top from bottom. Now, is
 7 that the same thing, these are executives and these are
 8 people in the field?

9 A. That's the corporate people and the project
 10 personnel, correct.

11 Q. Let's go through this organizational chart.
 12 Who is the president as shown on this organizational chart?

13 A. According to the steam generator team, that is
 14 Mr. Martin Cepkauskas.

15 Q. Okay. How do you spell Mr. Cepkauskas' last
 16 name?

17 A. C-e-p-k-a-u-s-k-a-s.

18 Q. All right. And who is the group quality
 19 director as depicted in this organizational chart?

20 A. That would be Mr. Andy Walcutt.

21 Q. And this would be you, the group welding
 22 engineer here?

23 A. That's correct, again. Yes.

24 Q. And again, with a dashed line coming down to
 25 Mr. Gorden who was on the site, is that right?

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1 A. That's correct, consistent with the initial
2 corporate program.

3 Q. Okay. Where is Mr. Pardi and Mr. Zarges and
4 those folks on this chart?

5 A. Nowhere.

6 Q. Why is that?

7 A. They must have made some agreements with Mr.
8 Walcutt to do that.

9 Q. Okay. But they're not depicted anywhere on
10 this organizational chart for the Point Beach project, is
11 that right?

12 A. No, sir, not at all.

13 Q. Okay. I wonder if you could turn in the black
14 notebooks in front of you to Exhibit 49.

15 A. Yes. I got it.

16 Q. Could you tell the Court, please, what Exhibit
17 49 is?

18 A. That is the quality assurance program for
19 Morrison Knudsen corporation, from the 10 C.F.R. part 50,
20 appendix B.

21 Q. And when you say quality assurance, you're
22 talking about quality assurance?

23 A. Yes, sir, quality assurance. Yes.

24 Q. Now, this quality assurance program, Exhibit
25 49, did that also have application to any aspect of Point

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1 Beach?

2 A. Yes, sir, it did.

3 Q. Okay. Am I correct, then that there are three
4 quality assurance manuals that had something to do with the
5 Point Beach program?

6 A. That's correct.

7 Q. You were familiar with the contents of all
8 three of those QA manuals?

9 A. That's correct.

10 Q. What role did you, as group welding engineer,
11 have in making sure that there was compliance with the
12 quality assurance programs?

13 A. Basically oversight of activities for the
14 project welding engineers and also for qualifying welding
15 procedures.

16 Q. All right. And were those always the duties
17 of the group welding engineer?

18 A. Yes.

19 Q. Was there a period of time before MK got
20 involved in the Point Beach program that there wasn't much
21 nuclear work being done?

22 A. That's correct. There was not much work going
23 on before Point Beach.

24 Q. Okay. And when did Point Beach -- when did
25 you begin to get involved in the Point Beach project?

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1 A. Before that, there was the St. Lucie project,
2 but that sort of died, but 1995, they had both the St.
3 Lucie and Point Beach start-ups basically going on.

4 Q. Okay.

5 A. Start-up from the standpoint of starting to
6 initiate the development of the programs.

7 Q. All right. Did you get to meet Max Bingham?

8 A. Yes.

9 Q. When did you first meet Mr. Bingham?

10 A. During the development of the St. Lucie
11 procedures in early 1995.

12 Q. Does Mr. Bingham work for MK?

13 A. Yes, he does, I believe.

14 Q. When did you first meet Mr. Cepkauskas?

15 A. Back in 1989 when we first had discussions.

16 Q. Did you travel to France with Mr. Cepkauskas
17 in 1992...

18 A. Yes, I did.

19 Q. ...I believe?

20 A. Yes, I did, in 1992.

21 Q. Was that on a nuclear project?

22 A. That was related to the St. Lucie project at
23 the time, which is located in Johnson Beach, Florida.

24 Q. And you're fluent in French, is that right?

25 A. That's correct.

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1 Q. You were the translator for the group and also
2 a technical consultant?

3 A. That's correct.

4 Q. Did you get along okay with Mr. Cepkauskas?

5 A. Yes, sir.

6 Q. Did you get along okay with Mr. Bingham?

7 A. Mr. Bingham was not involved with that trip.

8 Q. Prior to the summer of 1996, what was your
9 working relationship with Max Bingham?

10 A. Zero, none.

11 Q. You never had any problems with him?

12 A. No, sir. Personally, I respected the man. He
13 had quite a reputation and still does.

14 Q. Okay. Can you very briefly describe for the
15 Court what was being done at Point Beach, what SGT was
16 doing there?

17 A. They were trying -- in France, you mean?

18 Q. No, at Point Beach.

19 A. Oh, at Point Beach, what they were doing
20 there, they were trying to replace the steam generator, two
21 steam generators for the Point Beach unit two project.

22 Q. Okay. What's a steam generator?

23 A. A steam generator is sort of -- if you want to
24 compare it to a car, the simplest way to describe it, it's
25 sort of the radiator for the reactor.

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1 Q. Okay. And is this a big project, the
2 replacement of a steam generator?

3 A. Yes, sir.

4 Q. Okay. And approximately how many people were
5 involved in the field doing this kind of work?

6 A. Probably between 80 and 100 people.

7 Q. Okay. And there's a separate quality
8 assurance program that SGT has...

9 A. That's correct.

10 Q. ...for doing that kind of work?

11 A. Yes, sir.

12 Q. And is that Exhibit 53 in the materials in
13 front of you?

14 A. Yes, that is Exhibit 53.

15 Q. All right. Was there going to be a lot of
16 welding that needed to be done at the Point Beach project?

17 A. Yes. Welding is usually a very intensive part
18 of the steam generator replacement program.

19 Q. Okay. At some point, were you asked to get
20 involved in looking at welding procedures to be used there?

21 A. Yes.

22 Q. Okay. And can you briefly describe for the
23 Court, please, what a welding procedure is?

24 A. Sure. A welding procedure stands -- the
25 abbreviation is WPS, which stands for welding procedure

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1 specifications recognized by ASME. It provides guidance or
2 direction for the welders to follow in order to make a weld
3 under ASME requirements.

4 Q. Okay. This is a written document?

5 A. Yes, sir, a written document that I develop to
6 assist welders in understanding the details of it, and for
7 training, of course.

8 Q. Now, can a particular welding technique be
9 used in a chemical plant as well as a nuclear plant as well
10 as on a bridge or whatever?

11 A. Yes, to minimize the paperwork at the
12 corporate office, being by myself, I developed a welding
13 procedure that could be used both in nuclear and non-
14 nuclear applications.

15 Q. Okay. And at some point, were you asked to
16 assist in developing welding procedures that were going to
17 be used at the Point Beach project?

18 A. Yes.

19 Q. Who contacted you and asked you to do that?

20 A. Max Bingham.

21 Q. Okay. And do you recall approximately when
22 that was?

23 A. That was during the Louisville, Kentucky, trip
24 that I had for ASME code committee meetings.

25 Q. And approximately when?

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1 A. About May of '96.

2 Q. Okay. And did you tell Mr. Bingham you'd be
3 happy to help?

4 A. Yes, sir.

5 Q. Okay. What happened after that meeting in
6 terms of developing welding procedures for Point Beach?

7 A. Basically, they wanted me to at that point
8 delegate Mr. Gorden in doing that.

9 Q. Okay. Now, delegate to Mr. Gorden doing what?

10 A. Just the qualification, which would mean
11 collecting data during the welding procedure process work.
12 What you do is you take a test coupon consisting of maybe
13 two separate plates and welding them together in a groove
14 specified just for welding those thicknesses, and during
15 that time, a welder welds it, and you have to have a data
16 collector, which is usually myself doing it. Occasionally,
17 I've done in the past where I've done procedure
18 qualifications myself where I've welded and had the quality
19 assurance department people collect the data, but in this
20 case...

21 Q. And you then send the test coupon out for
22 testing?

23 A. Yes, we send it out for testing, and after
24 it's all completed, of course, and after the data is
25 collected, we send it to a test lab, and the tests,

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1 according to ASME section three are tested for four nuclear
 2 requirements depending on the thicknesses, the
 3 applications, and if you want, they do what they call
 4 stress relieving. They would be tested for tensile
 5 bending, side bends, or face bends, and also for notch
 6 toughness requirements.

7 Q. All right. And it was that work that Mr.
 8 Bingham wanted you to delegate to Rusty Gorden, is that
 9 right?

10 A. Yeah, which would entail collection of data
 11 and supervising the welding activity with the welder at the
 12 time they're welding the test coupon.

13 Q. Okay. And did you tell Max Bingham you
 14 weren't going to do that?

15 A. I told him I was going to do that.

16 Q. I'm sorry, what did you say to Mr. Bingham
 17 when he said will you please delegate that to Rusty Gorden?

18 A. I said that I would not do that, because I
 19 don't know Mr. Gorden. I never worked with him before. I
 20 didn't know what his technical capabilities were, and on my
 21 judgment, I decided not to have him do it, although I
 22 invited him to work with me.

23 Q. You invited who to work with you?

24 A. Mr. Gorden to work with me so I'd get to learn
 25 what he is like, and help me, of course, qualify the

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1 welding procedure in my presence so I could get to know
2 him.

3 Q. And what was Mr. Bingham's reaction when you
4 said you weren't going to delegate to Rusty Gorden?

5 A. He was upset. He wanted Gorden to do it, did
6 not want me to get involved in doing it.

7 Q. Did he say why he didn't want you involved?

8 A. He felt Mr. Gorden was qualified in doing it.

9 Q. Did he say that you weren't qualified?

10 A. No.

11 Q. Did he say that you didn't have the skills to
12 do the work?

13 A. No.

14 Q. Okay. Is this something that you had done a
15 number of times in the past?

16 A. Yes.

17 Q. How many times?

18 A. Maybe a dozen times.

19 Q. Okay. And was Mr. Walcutt, your boss, present
20 when Mr. Bingham asked for this delegation?

21 A. Yes. We were in a hotel. He was in a bedroom
22 with me. I was in his bedroom at the time.

23 Q. You and Mr. Walcutt and Mr. Bingham were
24 having this conversation?

25 A. Yes, but Mr. Bingham was on the phone.

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1 Q. Okay. Did Mr. Walcutt later say, geez, Andy,
2 you shouldn't have made that decision?

3 A. No, he agreed with my decision.

4 Q. Did Mr. Walcutt tell you that you had made the
5 right decision in not delegating?

6 A. Yes, he did.

7 Q. Okay. Did you then undertake the work in the
8 field of qualifying the new welding procedures?

9 A. Yes. There was a time constraint and they
10 wanted to get things done quickly, so I asked Max Bingham,
11 for instance, part of the discussion was deciding whether
12 or not they should do procedure qualification. I asked Mr.
13 Bingham if they had a staff to do that, the welding power
14 sources, the welding machines to do the welding, and Mr.
15 Bingham at the time said no, they did not have the
16 craftsmen nor did they have the welding machines. I told
17 him that what we could do is use the Dupont, Memphis site
18 over there where we had welding machines available and the
19 craft personnel to support the time constraint schedule
20 that they put me under to qualify 11 procedures.

21 Q. Okay. And you went to Memphis sometime in
22 1996?

23 A. Yes.

24 Q. Approximately when?

25 A. I believe it was May or June.

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1 Q. Okay. And you were there to qualify the welds
2 to be used at Point Beach?

3 A. Yes.

4 Q. Did Mr. Gorden take you up on your invitation
5 to come join you?

6 A. No, sir.

7 Q. Did Mr. Bingham come to the site?

8 A. No, sir.

9 Q. Anybody else from the project come and observe
10 what you were doing?

11 A. No. Actually, Mr. Zarges -- I'm sorry, Mr.
12 Bingham had agreed that it would be okay to go ahead and
13 weld on the Memphis site.

14 Q. Okay. At the end of the qualification
15 process, did you get all the welds qualified?

16 A. No. Some of them were not completed.

17 Q. Okay. Did you then have a discussion with Mr.
18 Bingham about who was going to qualify those welds?

19 A. Yes, in July.

20 Q. Okay. And did Mr. Bingham ask again that a
21 delegation be made?

22 A. Yes.

23 Q. To Mr. Gorden?

24 A. Yes.

25 Q. And what was your response this time?

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1 A. Again, the same thing. I hadn't had a chance
 2 to work with him. He didn't come down to work with me in
 3 Memphis, and I was not for it. I was against him doing
 4 that again.

5 Q. Okay. Was Mr. Bingham angry?

6 A. Yes.

7 Q. Okay. Did you...

8 A. He wasn't, you know, he didn't get aggressive
 9 with me. He just showed me that he was unhappy with it,
 10 uncomfortable with it.

11 Q. Did you sense that your relationship with Mr.
 12 Bingham was under strain?

13 A. I believed it was deteriorating, yes.

14 Q. Okay. What steps did you take to try to patch
 15 it up?

16 A. I've always tried minimizing creating
 17 uncomfortable situations with management and always tried
 18 to work with them, and Mr. Bingham was one of them. At the
 19 time, at the end of the meeting, he wanted to talk to me
 20 and asked at the end of the meeting, there -- what's his
 21 name, Rusty Gorden was there, Mike Hendricks, and Andy
 22 Walcutt, and at the end of the meeting, Mr. Bingham asked
 23 that everybody leave except me and Andy Walcutt, and at
 24 that time, he started discussing with me the problems that
 25 he had with me in terms of not delegating to Mr. Rusty

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1 Gorden, and all other personal problems that he had with
2 me.

3 Q. He basically laid it all out on the table for
4 you?

5 A. Yes, sir, which at the time, I was sort of
6 aware this would be happening, but that was the first time
7 I had a discussion with Max Bingham, and everything else
8 was hearsay, but that was the first time that I truly heard
9 it from the horse's mouth, Mr. Bingham, and I mean that
10 nicely.

11 Q. How long did you and Mr. Walcutt meet with Mr.
12 Bingham privately?

13 A. How long we were talking together?

14 Q. Yeah.

15 A. About 45 minutes.

16 Q. How did the meeting end?

17 A. I shook hands with Max Bingham and the whole
18 process was very polite, no name calling, and everything
19 went pretty well.

20 Q. How did you feel that your relationship with
21 Mr. Bingham would be from that point forward?

22 A. I thought that any problems we had in the past
23 would be in a sense behind us and we could move forward,
24 and I advised Mr. Bingham that if he had any problems or he
25 heard anybody say anything against me or he thought that I

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1 was creating problems to please give me a call, and I would
2 do likewise, of course, also, and again, to prevent a
3 recurrence of things not getting along very well between me
4 and Max. I thought we had a good relationship there, and I
5 didn't want to ruin that.

6 Q. Okay. Now, soon after that meeting, did you
7 delegate to Rusty Gorden to qualify the remaining welding
8 procedures?

9 A. Yes, as we agreed during the discussion with
10 Max Bingham, he convinced me that they were going to do
11 some additional testing, and he knew that being the
12 corporate welding engineer, I'd be too busy to continue
13 what I was doing. He was not happy, because some of the
14 tests did not pass, and I indicated to him at the time that
15 a lot of it was not my fault but the requirements that the
16 client imposed, Wisconsin Electric, the design -- the
17 technical design specifications required that we use high
18 tensile materials, tensile strength materials. Let me
19 explain what that is. The steam generator itself had 90
20 KSI -- 90,000 per square inch tensile properties, and so to
21 deal with those kind of properties, it demands a lot on the
22 welding in order to pass the requirements of section three.
23 At the time, we were dealing with trying to decide whether
24 to use 100 KSI material or 110 KSI material for welding
25 electrodes in order to weld these joints. I explained to

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1 Max Bingham that some of the complications that occurred
2 was not of my cause. A lot of it was the uncertainty of
3 what was needed by Mr. Rusty Gorden and part of it, also
4 Westinghouse demanding stringent requirements, more so than
5 was needed. At the time, Max said that he was not happy
6 still because we failed, I believe, two tests out of eight
7 that we had performed, and I assured him that we could redo
8 those tests with minimal effort and cost and still be able
9 to be code-compliant and be able to pass those tests. He
10 agreed that we'd concentrate on just making those welds
11 that we had problems with and finishing the test coupons
12 that were there before they would do any additional
13 welding.

14 Q. Okay. Now, Mr. Gorden had undertook to
15 qualify those additional welds, is that right?

16 A. Yeah.

17 Q. And he did that at a site in Chicago?

18 A. He did it right there, I believe, on the Point
19 Beach project, and the test lab used was in Chicago.

20 Q. And you and Mr. Walcutt went out and made sure
21 that the test lab was okay?

22 A. That's correct. We went to perform an audit
23 on them and look at their capabilities and determined that
24 they were acceptable to be on our what they call approved
25 suppliers list.

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1 Q. Okay. Who was responsible for developing the
 2 specific welding procedures that were going to be used on
 3 the Point Beach project?

4 A. That would be Rusty Gorden, the project
 5 welding engineer.

6 Q. Were you responsible for developing those?

7 A. No, sir.

8 Q. Why not?

9 A. Quality assurance requirements, paragraph
 10 9.2.4 indicates that the development in writing of -- I
 11 believe, not the writing the words, but the development is
 12 Mr. Rusty Gorden, as the project welding engineer, using
 13 the corporate procedures that I submitted to them.

14 Q. Okay. The process is that you submitted the
 15 sort of generic welding procedures to Mr. Gorden, and he
 16 tailored them to what needed to be done at Point Beach, is
 17 that correct?

18 A. That's correct, and that's permissible to be
 19 used.

20 Q. Well, it's permissible under some
 21 circumstances, isn't it?

22 A. Yes, correct.

23 Q. Under what conditions is it permissible for
 24 Mr. Gorden to tailor specifically your general welding
 25 procedure?

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1 A. Well, it's permitted for him to do it provided
2 that I review the welding procedures and I asked for Mr.
3 Gorden to send them to me for review prior to having
4 Hartford Steam Boiler, our insurance company that
5 represents us and assures that we follow the quality
6 assurance program before Westinghouse would look at the
7 welding procedures, which they provided the steam
8 generators, their design, and before Wisconsin Electric
9 would get to look at them, it was important for me to
10 review them to make sure that everything was okay and
11 acceptable to the codes, and that's what I meant by being
12 okay, and to make sure that the project quality assurance
13 program personnel, which is indicated on the chart there,
14 the project quality manager is also required to review
15 those procedures and before any of those people read those
16 procedures, I asked Mr. Gorden to please send them to me
17 for me to review and assess their acceptability.

18 Q. Okay. Now, did Mr. Gorden do that?

19 A. No, sir, and his words at the time when I told
20 him that was that he would do it as courtesy. He is not
21 required to send them to me.

22 Q. Okay. And in fact, he didn't send them to
23 you, is that right?

24 A. That's correct.

25 Q. Was there anything you could do to make him

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1 send them to you?

2 A. Other than pleading with him, what I did is I
3 indicated to him that QAI-11.2, and 11.1 indicate in there
4 that it's a requirement of the quality assurance department
5 that those welding procedures be sent to me for review, and
6 he never did send them to me, but I did receive them as a
7 distribution process of the quality assurance program.

8 Q. When was the first time you saw the site-
9 specific welding procedures that Mr. Gorden had written?

10 A. At the end of October of '96.

11 Q. Okay. Did you review them?

12 A. Yes, sir, immediately. I was traveling at the
13 time.

14 Q. Traveling where?

15 A. Florida.

16 Q. On what job?

17 A. For the Dupont project for the Singapore
18 Adipure [ph] project which is one of our contracts.

19 Q. And you reviewed Mr. Gorden's welding
20 procedures and what did you find on reviewing them?

21 A. At the time, I believe I received about a
22 dozen procedures and found five of them to be not
23 acceptable.

24 Q. What did you do?

25 A. I called Rusty Gorden and faxed the

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1 information to him immediately. When I was in Parkersburg,
2 West Virginia, at the time, I was in Parkersburg, West
3 Virginia, fulfilling responsibilities and control of the
4 project for Mr. Sam Snyder who was absent on that site.

5 Q. Let me show you what is in the black notebook
6 as Exhibit 6. Do you recognize that document?

7 A. Yes, sir.

8 Q. What is it, please?

9 A. That's the first page of a fax copy from the
10 standard page sent from the Washington Works project.

11 Q. Okay. It's a fax you sent to Rusty Gorden?

12 A. Yes, sir.

13 Q. What's the date?

14 A. November 6, 1996.

15 Q. And are there attachments to that fax cover
16 sheet?

17 A. Yeah, following the cover sheet, there's a
18 total of six pages.

19 Q. And what are the remaining five pages after
20 the fax cover sheet?

21 A. Five separate welding procedures which I
22 identified to Mr. Gorden as being not full-compliant.

23 Q. Okay. And there's handwriting on those five
24 attached pages. Is that your handwriting?

25 A. Yes, sir, it is.

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1 Q. And your handwriting is calling to Mr.
2 Gorden's attention problems that you found with the welding
3 procedures?

4 A. Yes, sir, and I'm referencing what paragraphs
5 in the code for him to review in order to see where I'm
6 coming from.

7 Q. Okay. Did you send that fax?

8 A. Yes, sir. Oh, no. No, the person that sent
9 it was Nancy Hines [ph], who was the secretary for Ed Jance
10 who I was working under at the time.

11 Q. Did you have concerns about whether Mr. Gorden
12 got the fax?

13 A. Oh, yes, I did. I wanted...

14 Q. What did you do to make sure he got the fax?

15 A. I called him up to verify that he did receive
16 it.

17 Q. When?

18 A. Right after -- probably an hour afterwards, an
19 hour and a half afterwards.

20 Q. Did he tell you that he'd gotten it?

21 A. Yes, sir.

22 Q. What did he tell you he was going to do about
23 your comments?

24 A. Well, first, I told him when I called him up,
25 right after the fax, I told him, you know, go ahead and

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1 review the code, and I'll call you back in a couple days
2 and we'll discuss how you're going to correct this.

3 Q. When you talk about the code, is this the sort
4 of thing we're talking about? It's not an exhibit, but
5 this is the...

6 A. Yeah, that's the ASME codes and standards.

7 Q. And ASME is what?

8 A. American Society of Mechanical Engineers.

9 Q. Okay. And what role does the American Society
10 of Mechanical Engineers play in what you're doing?

11 A. What they do is, they establish the standards
12 in the industry for nuclear power plants, or for this one
13 here, section 11, for repairs and replacement of nuclear
14 components such as steam generators.

15 Q. And is it fair to say that everybody in the
16 industry follows the ASME standards?

17 A. Yes.

18 Q. Okay. So the notations that you made on the
19 five welding procedures that you faxed to Rusty Gorden are
20 calling to his attention certain paragraphs in the ASME
21 code, is that correct?

22 A. Yeah, it's related to the type of welds he's
23 getting ready to do. Correct. \

24 Q. Okay. Now, did Mr. Gorden tell you he was
25 going to fix the problems?

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1 A. Yes, he did.

2 Q. Okay. What did you do to follow up to see how
3 he was doing on that?

4 A. I just called him and the second time I called
5 him, I says to him, which was like two days later, I said,
6 Rusty, are you planning on including my comments into those
7 procedures and revising them, and he said yes, he was
8 planning on revising several procedures which was coming up
9 shortly. I believe he meant within two weeks or four
10 weeks, and at the time, he said he was going to take care
11 of it.

12 Q. Okay. Now, there may be some confusion, and I
13 want to make sure there isn't. The delegation letter that
14 you signed after your meeting with Mr. Bingham where you
15 delegated certain functions to Mr. Gorden, does that have
16 anything to do with Mr. Gorden's preparation of the site-
17 specific welding procedures?

18 A. None whatsoever.

19 Q. You couldn't delegate that job to Mr. Gorden,
20 because that wasn't your job to begin with, is that right?

21 A. That's correct.

22 Q. Okay. So the delegation that you signed only
23 deals with qualification of welding procedures, is that
24 right?

25 A. That's correct.

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1 Q. Not the preparation of the site-specific
2 welding procedures?

3 A. That's correct.

4 Q. Okay. Did Mr. Gorden make the changes that
5 you had suggested in October or November?

6 A. In November, no. He totally ignored my
7 comments.

8 Q. When's the first time you learned that Mr.
9 Gorden was not going to make the changes that you had
10 suggested?

11 A. When I finally got back in the corporate
12 office, you know, I traveled between the Parkersburg site
13 for Washington Works, and then we went -- Andy and I went
14 to ASME code committees again in Colorado Springs, and came
15 back from that trip, and that's when I first saw the stack
16 of welding procedures that were there.

17 Q. Okay.

18 A. From the Point Beach project.

19 Q. And those had come in while you were
20 traveling?

21 A. That's correct.

22 Q. Okay. Now, had Mr. Gorden sent those to you
23 for you to review or had those been finalized?

24 A. Those were finalized and they were submitted
25 to Mr. Walcutt and I as part of the distribution process

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1 required by the quality assurance program.

2 Q. And when we talk about the welding procedure
3 being finalized, does that mean that people sign off on it?

4 A. Yeah.

5 Q. Okay. I'm not sure which exhibit this is. It
6 is an exhibit. These are the welding procedures for the
7 Point Beach project?

8 A. Yes.

9 Q. And this is a typical cover page, which I have
10 just picked at random?

11 A. Uh-huh.

12 ***

13 MR. ASHMUS:

14 What are we looking at? Is there an exhibit
15 number?

16 MR. BELL:

17 We'll find the exhibit number.

18 ***

19 BY MR. BELL:

20 Q. Let's just use as an example Exhibit 8.

21 A. Right here, Exhibit 51.

22 Q. This notebook is Exhibit 51. Let's look at
23 Exhibit 8. Is Exhibit 8 one of the site-specific welding
24 procedures that had been generated by Mr. Gorden?

25 A. Yes.

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1 Q. And the first page of Exhibit 8 is a cover
2 sheet?

3 A. That's correct.

4 Q. And what are the signatures -- what's PWE?

5 A. That's the project welding engineer.

6 Q. Okay. And that was Mr. Gorden?

7 A. Rusty Gorden.

8 Q. And in fact, this particular one, Exhibit 8,
9 is signed Paul R. Evans for Eugene C. or G. Gorden?

10 A. E.C.G. Gorden, yeah.

11 Q. And PQM, who's that?

12 A. That would be Mr. Mike Hendricks, and we have
13 a Mr. G. A. Call [ph], I believe. I don't know who that
14 is, for Mr. Hendricks.

15 Q. Okay. And Mr. Hendricks was the project
16 quality manager; is that what PQM means?

17 A. That's correct.

18 Q. Okay. And then ANI, that's the authorized
19 nuclear inspector?

20 A. That's correct.

21 Q. Is that an employee of MK?

22 A. No, sir.

23 Q. Is that an employee of SGT?

24 A. No, sir.

25 Q. Who is the authorized nuclear inspector?

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1 A. That's probably Hartford Steam Boiler.

2 Q. Okay. And the last signature is WE. Is that
3 Westinghouse, the client?

4 A. Yes, sir.

5 Q. Okay. There's no line on there for the
6 signature showing the approval of the group welding
7 engineer, is there?

8 A. No.

9 Q. Why is that?

10 A. Because it's not the group welding engineer's
11 responsibility.

12 Q. Other than you sending down the generic
13 corporate welding procedures to Mr. Gorden, did you have
14 anything to do with the preparation of any of the welding
15 procedures that are in Exhibit 51?

16 A. None whatsoever.

17 Q. Is that because you shrugged your shoulders
18 and said I don't want to be involved, or is that because
19 it's not your job?

20 A. It's not my job.

21 Q. Okay.

22 A. They had a staff of four or five people on the
23 steam generator job at Point Beach to help Mr. Gorden
24 assemble these procedures.

25 Q. Okay. And when Morrison Knudsen Corporation

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1 in these proceedings says that it's your fault that these
2 welding procedures were incorrect, what's your reaction to
3 that?

4 A. It appears to me that they don't understand
5 the quality assurance program.

6 Q. Okay. And in what respect don't they
7 understand the quality assurance program?

8 A. That apparently, they don't understand that my
9 only responsibility is for qualification of welding
10 procedures, and none for development of welding procedures
11 on site.

12 Q. Let me show you part of the 10 C.F.R. part 50
13 quality assurance program. This is Exhibit 52, section
14 9.0. This is a couple of pages from the quality assurance
15 program, is that right?

16 A. That's correct.

17 Q. And who does it say is responsible for doing
18 the work on developing site-specific welding procedures?

19 A. The construction engineering manager.

20 Q. And the construction engineering manager on
21 the Point Beach project is somebody who's on the site, is
22 that correct?

23 A. That's correct.

24 Q. That's right here?

25 A. Uh-huh.

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1 Q. And he's got a solid line to the project
2 welding engineer plus to yours, is that right?

3 A. That's correct.

4 Q. That means he's his direct supervisor, is that
5 right?

6 A. That's correct.

7 Q. And under MK's 10 C.F.R. part 50 quality
8 assurance program, it's Mike Hendricks, the construction
9 engineering manager who's responsible for making sure those
10 welding procedures are correct, isn't it?

11 A. That's correct. The construction engineering
12 manager for Point Beach was Chris McDonald [ph].

13 Q. Let's look at the SGT QA manual. That's
14 Exhibit 49, section 0.5, and it's the blue page in section
15 0.5. This again shows the relationship of the project--
16 the construction manager and the welding engineer on site,
17 is that right?

18 A. Yes, the construction engineer and manager and
19 the project welding engineer. Correct.

20 Q. Did Mr. Gorden ever ask you for help in
21 developing the site-specific welding procedures?

22 A. No.

23 Q. If he had called you, would you have helped
24 him?

25 A. Of course.

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1 Q. And I take it that during the time that Mr.
2 Gorden was developing these, you had other duties to
3 perform on behalf of MK?

4 A. Yes, sir.

5 Q. You indicated earlier that you were in
6 Parkersburg, West Virginia, during part of this project?

7 A. Yes.

8 Q. Were you aware that until this morning that
9 you were in Parkersburg on a trial run because the company
10 was planning on firing you?

11 A. No, sir.

12 ***

13 MR. ASHMUS:

14 Objection.

15 ADMINISTRATIVE LAW JUDGE:

16 On what grounds, Mr. Ashmus?

17 MR. ASHMUS:

18 There's no foundation for the question.

19 ADMINISTRATIVE LAW JUDGE:

20 Sustained.

21 ***

22 BY MR. BELL:

23 Q. What were you doing in Parkersburg?

24 A. I was replacing Mr. Sam Snyder. Ed Jance
25 requested me to replace him. Sam Snyder had to go take a

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1 test to become an API-510 inspector, which required a
2 couple weeks of training.

3 Q. If Mr. Gorden had a question about welding
4 procedures while you were in Parkersburg, could you have
5 contacted you there?

6 A. He knew my phone number. I told him I was
7 going down there, and before I went down there, I made him
8 aware that -- I gave him my phone number and he could
9 contact me at any time he needed me.

10 Q. Okay. Mr. Bingham or Mr. Cepkauskas or
11 anybody else could have called you there?

12 A. Through Mr. Gorden, yes.

13 Q. Okay. Now, after you saw that Mr. Gorden had
14 gone ahead and approved and had issued the welding
15 procedures, what did you do?

16 A. After he went ahead and actually approved
17 them?

18 Q. After you got back from Colorado Springs, I
19 think you said?

20 A. Yeah.

21 Q. And you saw that he had actually issued the
22 welding procedures.

23 A. Yes.

24 Q. What did you do?

25 A. I told Andy Walcutt that he had not taken care

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1 of my concerns and did not include them, that my
2 observations and comments were not included in the what
3 appeared to be the last distribution of the welding
4 procedures.

5 Q. Okay. Now, when you're having this
6 conversation with Mr. Walcutt, are you performing a quality
7 assurance function?

8 A. Yes.

9 Q. Okay. And what did Mr. Walcutt say to you?

10 A. He said that we were getting close to the
11 audit that was coming up December 30 and 31, and we were
12 just a couple weeks away, and I told him, I says, you know,
13 we need to work on these and fix them, because the auditor
14 obviously is going to find mistakes in them, because I know
15 the auditor. Lou Dykstra [ph] was going to show up who's
16 the Hartford Steam Boiler authorized nuclear inspector
17 supervisor, or Walt Zimmerman. Sometimes, both of them
18 show up and they're very good in welding. I'd worked with
19 them for a long time, seven years or so.

20 Q. And did Mr. Walcutt say go ahead and fix them?

21 A. No, he said the opposite. He says let's not
22 do anything, and it's too close, we don't have time to fix
23 the welding procedures.

24 Q. And Mr. Walcutt was your boss?

25 A. Yes, sir.

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1 Q. You suggested to Mr. Walcutt that it may be
2 possible to fix the welding procedures?

3 A. Yeah, I said what I could do is I could go on
4 the staff at the Point Beach project and work with Mr.
5 Rusty Gorden and knowing they had personality problems with
6 me over there as the way it was explained to me from Mr.
7 Lou Pardi, I told him I would put all personalities aside
8 and stick to the technical issues and make sure that these
9 procedures would be corrected using Mr. Gorden's staff.

10 Q. All right. And Mr. Walcutt instructed you not
11 to do that?

12 A. That's correct.

13 Q. Okay. Now, at about this same time, did you
14 have an invitation to go to Mr. Pardi's office?

15 A. Yes.

16 Q. Okay. And is Mr. Pardi your boss?

17 A. No.

18 Q. Is Mr. Pardi Andy Walcutt's boss?

19 A. No.

20 Q. How many times had you had meetings with Mr.
21 Pardi before this one in mid-December?

22 A. Zero.

23 Q. What did Mr. Pardi tell you during this
24 meeting in December? Do you remember the date?

25 A. It was about the week just before Christmas,

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1 December 16th week. I'm not sure what day it was.

2 Q. Okay. What did Mr. Pardi tell you during this
3 meeting?

4 A. Basically, he was removing me from the nuclear
5 responsibilities in relationship only to the steam
6 generator replacement team activities, and he said that if
7 we had another Fort St. Marine [ph] project, which is a
8 nuclear decommissioning project, I was going to continue
9 doing welding -- corporate group welding engineer on those
10 sites, and he also did not have any problems with me doing
11 activities like say, on coal burners, on other power
12 contracts that would come up. He just removed me from the
13 nuclear steam generator work.

14 Q. And the only one that was going on at that
15 time was Point Beach, is that right?

16 A. Point Beach, and St. Lucie was coming shortly
17 after that.

18 Q. Okay. How long did you meet with Mr. Pardi?

19 A. For about two and a half hours, two hours.

20 Q. Did Mr. Pardi tell you why he was removing you
21 from the Point Beach...

22 A. Yes.

23 Q. ...and Point St. Lucie project?

24 A. Yes, sir, he did. Sorry for interrupting.

25 Yes. He told me that he was removing me from the steam

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1 generator team work because I had personality conflicts
2 with Marty Cepkauskas and Max Bingham.

3 Q. Prior to this December 15, 16, whatever
4 meeting with Mr. Pardi, when was the last time before that
5 you talked to Mr. Bingham?

6 A. July.

7 Q. When you'd had the meeting with him to clear
8 the air?

9 A. That's correct.

10 Q. When was the last time prior to that that you
11 talked to Mr. Cepkauskas?

12 A. Probably a year ago.

13 Q. Okay.

14 A. Early '95.

15 Q. Were you aware of any lingering problems with
16 either Mr. Cepkauskas or Mr. Bingham?

17 A. Well, because of the July discussions with Mr.
18 Bingham, I was aware of Mr. Bingham's problems, but that
19 was the first that I heard that Mr. Cepkauskas had problems
20 with me.

21 Q. And were those problems ones related to your
22 review of welding procedures at the Point Beach plant?

23 A. I believe so, yes.

24 Q. Did Mr. Pardi tell you that?

25 A. Yeah.

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1

2

ADMINISTRATIVE LAW JUDGE:

3

Off the record for a minute.

4

5

(Off the record)

6

(On the record)

7

8

ADMINISTRATIVE LAW JUDGE:

9

Back on the record.

10

11

BY MR. BELL:

12

13

14

Q. After the meeting with Mr. Pardi on the 15th or 16th of December, immediately upon leaving his office, what did you do?

15

16

17

18

19

20

A. Well, it wasn't immediately, but about a week later, I told Mr. Drew Edleman that I was removed from the nuclear -- I believe Mr. Drew Edleman was on business out of town, and when he came back, I informed Mr. Drew Edleman that I had a discussion with Lou Pardi, and Lou Pardi had removed me from the nuclear steam generator team.

21

22

Q. What did Mr. Edleman say when you told him that?

23

24

25

A. He was surprised.

Q. Did he indicate that he was unaware that that had happened?

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1 Q. Now, was Mr. Walcutt aware of the fact that
2 you'd had this meeting with Mr. Pardi?

3 A. Yes.

4 Q. Was he aware before the meeting that you were
5 going to have it or was he aware after the meeting that you
6 had had it?

7 A. After the meeting because I told Mr. Walcutt
8 what happened also, and he was shocked also.

9 Q. So Mr. Pardi didn't talk to your direct boss
10 and he didn't talk to Andy Walcutt's boss before he called
11 you in for this two-hour meeting, is that right?

12 A. As far as I could tell, that's correct.

13 Q. Did you tell Mr. Walcutt that you had been
14 removed from nuclear responsibilities as the group welding
15 engineer?

16 A. Nuclear, from the standpoint of steam
17 generator work, yes.

18 Q. Did Mr. Walcutt ask you to nonetheless assist
19 in preparing for the Hartford Steam Boiler audit?

20 A. That was coming up on December 30 and 31, yes.

21 Q. Okay. What did Mr. Walcutt ask you to do to
22 get ready for the Hartford Steam Boiler audit?

23 A. Basically update all my records on file in the
24 value and prepare for the audit, just making sure that
25 everything was up to date.

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1 Q. Did you discuss with Mr. Walcutt that there
2 may be a problem with the audit?

3 A. Yes, I did.

4 Q. And what problem did you tell Mr. Walcutt you
5 may have during the audit?

6 A. I told him again that what we discussed after
7 the Colorado Springs, I told him again that I anticipate
8 findings by the auditor on these welding procedures, and
9 advised him that it probably would happen.

10 Q. The Rusty Gorden welding procedures?

11 A. Yes, sir.

12 Q. During your two-hour meeting with Lou Pardi,
13 had you discussed with Lou Pardi that there might be
14 problems in the audit?

15 A. Oh, yes. I told Lou Pardi the complication I
16 found with the welding procedures. I told him that Rusty
17 Gorden ignored me and all this information. He was very
18 well informed.

19 Q. All right. When did the audit take place?

20 A. The audit took place December 30 and 31.

21 Q. Were you present for the audit?

22 A. Yes.

23 Q. Okay. And who actually performed the audit?

24 A. That would be Mr. Walt Zimmerman of Hartford
25 Steam Boiler.

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1 Q. Is this audit a part of the 10 C.F.R. part 50
2 quality assurance program?

3 A. It includes that one, plus the quality
4 assurance program under ASME.

5 Q. Did you go out of your way to tell Mr.
6 Zimmerman what welding procedures to look for so he could
7 spot problems?

8 A. No, sir.

9 Q. Did you mention to him at all that there were
10 problems that he should look at?

11 A. No, sir.

12 Q. How did Mr. Bingham find the problems with the
13 Rusty Gorden...

14 A. You mean Mr. Zimmerman?

15 Q. I'm sorry. How did Mr. Zimmerman find the
16 problems with the Rusty Gorden welding procedures?

17 A. He just randomly, as auditors do, they just
18 randomly look at paperwork, and he asked for a welding
19 procedure from Point Beach, and I took the binder in my
20 office, unsnapped the binder and gave him a procedure at
21 random.

22 Q. Okay. And after reviewing that, what did he
23 say to you?

24 A. He saw there were problems with the procedure
25 and he wanted to see more.

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1 Q. Okay. The problem that he identified was the
2 same one that you had told Mr. Gorden about back in
3 November?

4 A. Yeah, but associated with different procedures
5 that we had talked about, other procedures, because there
6 were more than just those first five afterwards.

7 Q. By the way, prior to -- let me ask you this.
8 These organizational charts, we've looked at a lot of them,
9 are those charts a part of the quality assurance program
10 themselves?

11 A. Oh, yes.

12 Q. Okay. And in fact, this is not an exhibit,
13 but it's a blow-up of a page from 10 C.F.R. part 50,
14 appendix B, which talks about the organizational chart is
15 in fact a part of the quality assurance program, is that
16 right?

17 A. That's correct.

18 Q. And it was part of MK's quality assurance
19 program that there would be a group welding engineer
20 performing work on nuclear projects, is that right?

21 A. That's correct.

22 Q. And at the time Mr. Zimmerman came in for the
23 audit, that was no longer true, was it?

24 A. I was aware that was now no longer true,
25 correct.

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1 Q. Did you discuss with Mr. Walcutt how to handle
2 that issue?

3 A. Yes, sir. I told Mr. Walcutt that I was
4 uncomfortable participating in a nuclear audit, that I was
5 removed from the nuclear side of the house, and I was
6 uncomfortable with participating in that audit, and at that
7 point, he started getting excited because he was
8 uncomfortable knowing that I would not be involved in the
9 nuclear audit although Mr. Walcutt could probably handle
10 most of it except for the technical issues on welding. He
11 advised me to not volunteer the information to Mr. Walt
12 Zimmerman, basically to not do anything. I said, well, if
13 Mr. Zimmerman asks me, you know, whether I was removed or
14 still was group welding engineer, I would not lie to an
15 authorized nuclear inspector and I told Mr. Walcutt that I
16 would tell him the truth and I was not going to lie to a
17 nuclear inspector.

18 Q. Okay. Now, did Hartford Steam Boiler and Mr.
19 Zimmerman eventually issue a report?

20 A. Yes, he did.

21 Q. Okay. And that contained what are called
22 findings?

23 A. Yes.

24 Q. And are findings deviations from what he would
25 expect to find?

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1 A. Yes, those are violations of the quality
2 assurance program.

3 Q. Okay. And that came in early January, is that
4 right?

5 A. That came, I believe it was January 6.

6 Q. Okay. What did Mr. Walcutt ask you to do with
7 respect to those findings that Mr. Zimmerman had made?

8 A. He told me to start reviewing all the welding
9 procedures for Point Beach. That was his responsibility to
10 give me those orders to do that.

11 Q. And you did that?

12 A. Yes, sir.

13 Q. How long did that take?

14 A. That took about a week and a half.

15 Q. And at the end of your review of all of the
16 Point Beach welding procedures, what did you do?

17 A. I wrote an eight-page report that Mr. Walcutt
18 said he was going to attach to the quality finding report.

19 Q. You discussed that eight-page memorandum with
20 Mr. Walcutt?

21 A. Yes, and Mr. Bruce Kovacs also, who is the
22 quality staff engineer under qual assurance.

23 Q. And when was that memorandum finalized?

24 A. It was finalized on January 14 at about 10:00.
25 Mr. Walcutt had a deadline that he wanted to take the

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1 report up to Mr. Pardi. Mr. Pardi requested that we be
2 done with it by 10:00 on January 14, '97.

3 Q. Did you get it done on schedule?

4 A. I got it done at 9:30.

5 Q. What did you do with it?

6 A. I gave it to Mr. Walcutt.

7 Q. And what did Mr. Walcutt do with it?

8 A. He took it up to -- well, there was a delay in
9 the meeting. It was supposed to be at 10:00, but Mr. Pardi
10 delayed it for an hour and Mr. Walcutt, about 11:00, took
11 it up -- just before lunch to Mr. Lou Pardi.

12 Q. Do you know whether he also faxed a copy to
13 Mr. Bingham?

14 A. Yes. Mr. Walcutt faxed a copy to Mr. Bingham
15 on that same morning.

16 Q. Okay. And I've put in front of you, I believe
17 it's Exhibit...

18 A. 12?

19 Q. Exhibit 12. Is that Mr. Bingham's memo that
20 he faxed...

21 A. Yes, sir.

22 Q. ...with a copy of your memorandum?

23 A. Yes, it's a copy of my report and a cover
24 letter that Mr. Walcutt attached that he gave me, letting
25 me know that he faxed the information to Mr. Bingham.

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1 Q. Okay. During the afternoon of the 14th of
2 January, were you aware of tension in the air?

3 A. Mr. Walcutt came back from the meeting with
4 Mr. Pardi and we were at lunch. Bruce Kovacs and I, we had
5 lunch, all three of us, on a regular basis, and Andy came
6 back from Mr. Pardi's meeting, and I said, was Mr. Pardi
7 happy with the report, did he have any questions, and Mr.
8 Walcutt replied that Mr. Pardi was a very unhappy person,
9 in his words.

10 Q. All right. Did you go home that night and
11 tell your wife what was going on?

12 A. Yes, I did.

13 Q. What did you tell her?

14 A. Well...

15 ***

16 MR. ASHMUS:

17 Objection.

18 ADMINISTRATIVE LAW JUDGE:

19 Overruled.

20 THE WITNESS:

21 I told my wife that Mr. Pardi...

22 ***

23 BY MR. BELL:

24 Q. No, what did you tell her?

25 A. I told her that I was going to be fired for

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1 actions I took earlier that day.

2 Q. And those actions were preparing the
3 memorandum concerning problems with the Point Beach welding
4 procedures, is that right?

5 A. That's correct.

6 Q. And that memo is a part of your duties under
7 the 10 C.F.R. part 50, appendix B, QA process, is that
8 right?

9 A. Yes, sir.

10 Q. All right. The next day, January 15, what
11 happened?

12 A. Well, before I get to that point, I'd like to
13 make a point -- no? Okay.

14 Q. January 15, what happened?

15 A. January 15, at about 8:00, 8:30 in the
16 morning, Mr. Walcutt was not in his office most of that
17 morning, so I knew something was up based on activities the
18 day before, and Mr. Walcutt came into my office about 8:30
19 and put what appeared to me to be the D.C. Cook field
20 welding procedures on my desk.

21 Q. Who had drafted those D.C. Cook field welding
22 procedures?

23 A. That would be Mr. Gorden, the same one at
24 Point Beach.

25 Q. Okay. What did he ask you to do about the

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1 D.C. Cook welding procedures?

2 A. He wanted me to review the D.C. Cook welding
3 procedures to see if there was any problems with those
4 procedures.

5 Q. What did you tell him?

6 A. I said, why are you doing this, why do you
7 want me to review this, and he replied, I'm doing my job,
8 and he wants me to review those procedures to verify
9 there's no problem, because he was aware that Rusty Gorden
10 had made those procedures at D.C. Cook, and since we found
11 these problems at Point Beach, he wanted to reassure to
12 himself whether or not there was a problem with the D.C.
13 Cook procedures.

14 Q. All the work was long done at D.C. Cook, is
15 that right?

16 A. Yes, sir. That was done in 1988.

17 Q. Okay. What happened next on the 15th?

18 A. He asked me to -- he insisted that I review
19 the welding procedures, so he came around my desk and
20 opened up the binder, and went through the welding
21 procedures that he wanted me to review, and just randomly
22 started looking through it, and it said -- they were the
23 same problems with the Point Beach procedures that were
24 apparent also in the D.C. Cook procedures, and he said,
25 what else is in there. I said, well -- I continued

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1 looking through and I ran into a PQR that had E7018-A1,
2 which is a welding electrode used for welding half
3 molybdenum alloys on carbon steel -- sorry for getting
4 technical, which is a carbon steel used on steam
5 generators.

6 Q. Okay. You saw a specific welding procedure...

7 A. Yes.

8 Q. ...and you discussed it with Mr. Walcutt?

9 A. Yes.

10 Q. And was there a problem with that welding
11 procedure?

12 A. Yes. I saw that the welding procedure,
13 welding rod that was written on the front of the welding
14 procedure was not consistent with the procedure
15 qualification record that they used.

16 Q. Okay. And that's a problem under the 10
17 C.F.R. part 50 quality assurance program?

18 A. Yes, it is, and also a violation of ASME
19 section 9, QW-4.10.12, I believe is the number.

20 Q. Okay. After this conversation with Mr.
21 Walcutt about problems at the D.C. Cook plant, what
22 happened next?

23 A. I said, you know, obviously, there's a code
24 violation there, and I said they used a rod that they
25 didn't have qualification for, which I told him immediately

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1 that was a huge problem and needs to be taken care of, and
2 Mr. Walcutt said that we were too busy addressing the Point
3 Beach procedures, that he would get back on it later to fix
4 it.

5 Q. Okay. Did you eventually have a meeting with
6 Drew Edleman on the 15th?

7 A. On the 15th, yes, I did.

8 Q. What happened during the meeting with Mr.
9 Edleman?

10 A. That was at 10:00. I was summoned up to go to
11 Mr. Drew Edleman's office.

12 Q. And he's your boss' boss? He's Andy's boss?

13 A. Yeah, from an administrative standpoint, from
14 a cost standpoint with the schedule -- I mean, with the
15 costs of the department.

16 Q. Okay. What did he tell you?

17 A. He told me that I was being removed from all
18 corporate welding engineer responsibilities including
19 nuclear and non-nuclear.

20 Q. Okay. Did he tell you why?

21 A. Because I had personality conflicts with Marty
22 Cepkauskas and Max Bingham.

23 Q. The same thing...

24 A. They had -- I'm sorry, they had personality
25 conflicts with me.

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1 Q. Did he tell you that you had caused the
2 problems that Walt Zimmerman had identified?

3 A. No.

4 Q. Did he tell you that the company didn't feel
5 that you were qualified to support the group welding
6 engineer position?

7 A. No.

8 Q. Did he tell you that they had any kind of
9 performance problems with you at all?

10 A. No. He was very uncomfortable with removing
11 me from my position, because he knows my capabilities.

12 Q. So the only thing he said to you as
13 justification was these personality problems with Max
14 Bingham and Marty Cepkauskas?

15 A. That's correct, and at the time, I told him I
16 did not have any personality conflicts with Mr. Cepkauskas
17 or Mr. Bingham.

18 Q. Okay. Did you come down and discuss that with
19 Mr. Walcutt after it happened?

20 A. Yes.

21 Q. Okay. Did you continue after Mr. Edleman
22 removed you from all group welding engineer positions to do
23 work on either Point Beach or the D.C. Cook problem?

24 A. No, well, other than continuing what was
25 discussed about the D.C. Cook.

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1 Q. Okay. When were you asked to vacate the
2 premises, so to speak?

3 A. February 7, a Friday.

4 Q. Okay. And what were you told about where you
5 would be working the next week?

6 A. I was told I was going to be working at the
7 Parkersburg, West Virginia, site as area field engineer on
8 night shift.

9 Q. Okay. Can you briefly describe for the Court,
10 please, how your life is different now that you're working
11 down there than it was while you were working in Cleveland
12 as the group welding engineer?

13 A. From the standpoint that I'm away from my
14 family and kids and I've missed a lot of activities. I'm a
15 very good, strong family man, and my kids have had a lot of
16 school activities, plays that my daughter had. My son also
17 plays cello in the concert. He's a cello player. I missed
18 that. They all play sports, and of course, I missed all
19 those activities. When I lived down in Parkersburg, West
20 Virginia, I lived with Ed Jance's brother for about a month
21 and a half, splitting the cost with him for renting a house
22 and then I lived off a bed that we took out of my
23 neighbor's garbage, because I didn't have the resources,
24 knowing that I was going to have high attorney's fees, I
25 put all my effort to be able to save money to pay for my

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1 attorney fees and slept on this bed that was picked up from
2 my neighbor's garbage.

3 Q. And you have in fact incurred attorney fees in
4 connection with this proceeding?

5 A. Yes, sir, I have.

6 Q. Approximately how much?

7 A. Probably now in the \$10,000 range.

8 Q. Okay. And you've also incurred expenses in
9 preparing for this hearing today?

10 A. Oh, yes.

11 Q. Okay. You attempted yesterday to get a copy
12 of your personnel file?

13 A. Yes.

14 Q. Were you unable to do that?

15 A. That's correct.

16 Q. Were you at least given the opportunity to
17 read through your personnel file yesterday?

18 A. Yes.

19 Q. Did you see anything in your personnel file
20 anywhere in the entire time that you worked with MK that
21 talked about you having a personality conflict with
22 anybody?

23 A. None whatsoever.

24 Q. How many different performance rankings can
25 you get at MK?

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1 A. They have outstanding, excellent, effective,
2 and I don't know what the other ones are.

3 Q. And typically, what was your evaluation during
4 all the years that you worked at MK?

5 A. I had [REDACTED]
6 [REDACTED]

7 Q. Okay. Were there any comments in there about
8 your inability to function as part of a team?

9 A. No, sir. Totally opposite. I saw documents
10 indicating I was a good team player.

11 Q. Okay. One last line of questioning. You had
12 the occasion to see now an affidavit that Mr. Pardi has
13 submitted in these proceedings, is that right?

14 A. Yes.

15 Q. And this is, I believe, respondent's Exhibit
16 I? You hadn't seen this prior to this week, had you?

17 A. That's correct.

18 Q. Mr. Pardi says in the third sentence, "Our
19 ASME QA Program places the responsibility for assuring that
20 all of our welding procedures are properly qualified,
21 written, and implemented on our Group Welding Engineer."
22 Do you see that sentence there?

23 A. Yes, sir, I do.

24 Q. Is that statement correct or incorrect?

25 A. Incorrect.

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1 Q. How is it incorrect?

2 A. I only do qualification and only write the
3 procedures for corporate procedures, and I do not assure
4 implementation on the project.

5 Q. And with respect to the Point Beach program,
6 the responsibility for writing and implementing the welding
7 procedures, whose responsibility was that?

8 A. That's the project welding engineer.

9 Q. And his name was?

10 A. Eugene Rusty Gorden.

11 Q. Okay. The next sentence beginning this audit,
12 is he referring to the Hartford Steam Boiler audit?

13 A. Yes.

14 Q. "This audit clearly showed some deficiencies
15 in our welding program." Agree or disagree?

16 A. I looked at that as our welding program being
17 the corporate program, and I believe that's what he meant
18 by what's written there, and to me, the deficiencies were
19 at the project welding program, which would have been a
20 better use of words for him to use.

21 Q. Knowing everything that you know now, do you
22 feel that you were responsible for any of the problems with
23 the Point Beach welding procedures?

24 A. No, sir, none whatsoever.

25 Q. So you would disagree with Mr. Pardi's

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1 conclusion that you were responsible?

2 A. That's correct.

3 Q. Okay. Did anybody ever tell you that the
4 group welding engineer position, your position, needed to
5 be strengthened?

6 A. No. Well, I informed them that it needed to
7 be -- I needed to have a staff.

8 Q. Did anybody, Mr. Edleman or Mr. Pardi, ever
9 tell you that the reason you were being removed from your
10 duties is because they wanted to strengthen the group
11 welding engineer position?

12 A. No, sir, they never told me that.

13 Q. And in fact, when they ran a newspaper
14 advertisement, which is one of the exhibits, soliciting
15 your replacement, did that newspaper advertisement have any
16 different qualifications in it than all the ones you had?

17 A. No.

18 Q. Did the person who eventually replaced you,
19 although it may only be on a temporary basis, have stronger
20 or weaker credentials than you have?

21 A. I believe weaker.

22 Q. You've seen his resume?

23 A. Yes, sir.

24 Q. Is that one of the exhibits as well?

25 A. Yes, sir.

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1 Q. Okay. How are his credentials weaker than
2 yours?

3 A. He does not have any hands-on experience as a
4 welder, does not know how to qualify welding procedure,
5 which is the most important responsibility of the corporate
6 welding engineer. Although it appears that he has nuclear
7 experience, I'm not sure in what facets or involvement on
8 his part.

9 Q. Have you talked to other people...

10 A. And I'd like to add, sir, that he has no
11 chemical experience whatsoever, because the corporate
12 welding engineer is also responsible for all projects,
13 including chemical plants, pharmaceutical plants. This
14 person has no other experience either.

15 Q. Have you talked to other people at MK about
16 their experiences with your replacement?

17 A. Pardon me?

18 Q. Have you talked to other people at MK about
19 what their experiences are with...

20 A. Yes.

21 Q. Is it Mr. Anzalone [ph]?

22 A. Mr. -- I'm not sure what his name is.

23 Q. Your replacement.

24 A. Yes.

25 Q. Do they think he's an improvement over you?

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1
2 MR. ASHMUS:

3 Objection.

4 THE WITNESS:

5 No.

6 ADMINISTRATIVE LAW JUDGE:

7 Overruled.

8 THE WITNESS:

9 No, they said -- I've had comments, people tell me
10 that he didn't know what the hell he was doing.

11 MR. BELL:

12 I have no further questions, Your Honor.

13 ADMINISTRATIVE LAW JUDGE:

14 We'll take a brief recess.

15
16 (Off the record)

17 (On the record)

18
19 ADMINISTRATIVE LAW JUDGE:

20 We're back on the record. Mr. Ashmus, you may
21 cross examine.

22
23 CROSS EXAMINATION

24 BY MR. ASHMUS:

25 Q. Mr. Artayet, there's been discussion about the

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1 delegation that you made to Rusty Gorden, and I would ask
 2 if you could turn to the last page, Item C, in our set of
 3 exhibits there.

4 A. Uh-huh.

5 Q. Could you take a look at that, please? That
 6 appears to be a document headed M-QM-96-065.

7 A. Yes, sir.

8 Q. And that has a date of August 1, 1996?

9 A. That's correct.

10 Q. Is that a document that you recognize?

11 A. Yes.

12 Q. And is this a copy of the delegation of
 13 authority to Mr. Gorden?

14 A. Yes.

15 Q. Is there any other delegation of authority to
 16 Mr. Gorden of which you're aware besides this document?

17 A. No.

18 ***

19 ADMINISTRATIVE LAW JUDGE:

20 Did you say C?

21 MR. ASHMUS:

22 I said C, yes, respondent's C, the last page.

23 ADMINISTRATIVE LAW JUDGE:

24 I don't -- unless mine is different. Could you
 25 identify that? It starts with D, unless there's

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1 something missing. Wait a minute, is this it? I'm
2 sorry. Okay. This will go -- I see A and B. I
3 think these also came apart. All right.

4 ***

5 BY MR. ASHMUS:

6 Q. When did your involvement with the Point Beach
7 project begin?

8 A. Early '96.

9 Q. Are you sure it was not in late 1995?

10 A. Possibly. I meant early, maybe January or
11 February, but possibly some in December.

12 Q. And did you have any occasion to visit the
13 Point Beach project?

14 A. Yes, twice.

15 Q. And when did you go the first time?

16 A. Can I use reference material for that? The
17 first time was, I believe in May, and the second time was
18 in July.

19 Q. And did you submit for reimbursement of travel
20 expenses on each of those trips?

21 A. Yes. Can I verify with my documents on those
22 exact dates?

23 Q. No.

24 A. Okay.

25 Q. What was the purpose of your visit to Point

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1 Beach in May?

2 A. To basically meet Mr. Gorden for the first
3 time.

4 Q. Did anyone else accompany you on that visit?

5 A. Mr. Walcutt did.

6 Q. Did you in fact meet with Mr. Gorden?

7 A. Yes, sir, for a couple hours.

8 Q. Was anyone present besides you, Mr. Gorden,
9 and Mr. Walcutt in that meeting?

10 A. Yeah, Ed Jance was involved with some of the
11 discussions.

12 Q. And what position did Mr. Jance have?

13 A. I think he worked for Mr. Gorden.

14 Q. Anyone else present?

15 A. No.

16 Q. Were there any decisions or resolutions or
17 conclusions that came out of that meeting that you can
18 recall?

19 A. From me? Conclusions?

20 Q. From you or anyone else.

21 A. Not really, nothing final.

22 Q. Were there tentative decisions, resolutions,
23 conclusions that came out of that meeting?

24 A. Yes.

25 Q. And were those tentative conclusions followed

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1 through on?

2 A. Yes.

3 Q. What were the conclusions that came out of
4 that meeting that you can recall?

5 A. Mr. Gorden was going to revise basically
6 everything -- all the forms, all the welding procedure
7 formats, the weld data cards, using the computer program.

8 Q. Did you agree to that at the meeting?

9 A. Yes, I did.

10 Q. Did you later change your mind about that?

11 A. About in terms of exactly the contents that
12 occurred, yes.

13 Q. And how long after the meeting was it that you
14 changed your mind?

15 A. That night, after talking to Mr. Walcutt. I
16 was there only for one day.

17 Q. And did Mr. Walcutt tell you that it was not a
18 good idea to change your mind?

19 A. No.

20 Q. Did anyone express to you displeasure about
21 the fact that you changed your mind?

22 A. When?

23 Q. At any time.

24 A. Yes.

25 Q. And who?

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1 A. Mr. Rusty Gorden.

2 Q. And when did he express displeasure with you
3 for changing your mind?

4 A. The following day when I called him back. It
5 was the morning of the following day.

6 Q. You indicated that you felt that it was
7 appropriate for you to do the qualifications and the
8 welding procedures, correct?

9 A. Uh-huh. Yes.

10 Q. And would it be correct to say that your
11 concern about whether Mr. Gorden was qualified to do the
12 qualification process had to do with whether the process of
13 qualifying would accurately reveal whether those welding
14 procedures were in fact adequate for the job, correct?

15 A. Come back again?

16 Q. The reason that you were concerned about
17 whether Mr. Gorden could do that is that you wanted to make
18 sure that what you were doing in the qualification process
19 accurately measured whether the welding procedures were
20 adequate to do the job.

21 A. Part of it, yes.

22 Q. For example, you want to measure whether it's
23 the procedures, the materials used that are defective or
24 inappropriate rather than the fact that you just had a bad
25 welder or a bad weld?

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1 A. Usually a combination of everything, all
2 those, including the welder and everything, also the
3 application.

4 Q. And what specifically about Mr. Gorden made
5 you feel that he could not appropriately take a look at the
6 procedures and make sure that the qualification process was
7 appropriate?

8 A. What do you mean by those procedures?

9 Q. The qualification procedures. You thought he
10 was not qualified. What about him -- what did you feel
11 that he could not do properly in the qualification process?

12 A. Basically, I did not know what his knowledge
13 was of the code, which includes preparation for the
14 qualification procedures. That's basically the biggest
15 concern I had after discussions with him on that day.

16 Q. Did you have any hesitation about his ability
17 to keep accurate track of what was going on while the
18 welding process was happening?

19 A. No.

20 Q. Did you have any reservations about his
21 ability to supervise what the welder was doing?

22 A. Yes, because I don't know what his knowledge
23 was as far as making a weld, what a welder does.

24 Q. And you felt that because of your knowledge of
25 actually doing welding as a welder yourself, that you were

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1 better able to ensure that the welder was acting properly
2 while he was welding?

3 A. Yes, sir.

4 Q. You indicated earlier, I think, that this
5 project was on a fast track as far as qualification of the
6 welding procedures?

7 A. Uh-huh. Yes.

8 Q. And that you were given the assignment to do
9 the qualification of the procedures in May?

10 A. Yes. Some time was spent before that in
11 preparation for it, working with the staff on the Point
12 Beach project.

13 Q. So even before May, you knew that you were
14 going to be involved in qualifying procedures for the Point
15 Beach project?

16 A. Yeah.

17 Q. Did you do any preparation prior to May for
18 actually doing the qualification?

19 A. No, I was just waiting for Mr. Gorden to call
20 me.

21 Q. And when was it that you actually did the test
22 welds?

23 A. I think June and early July.

24 Q. And how long did it take for the information
25 to come back to you that some of the welds had failed?

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1 A. From the test lab?

2 Q. After you did the tests, how long after that
3 did you get information that the welds had failed?

4 A. That would be from the test lab, usually a
5 matter of a week to a week and a half.

6 Q. And after that first set, did you do any
7 further test welds or further submissions on your own of
8 welding procedures for qualification?

9 A. Of what test welds?

10 Q. Of any test welds relating to Point Beach.

11 A. There were several of them that we were
12 welding all at one time.

13 Q. Well, you said you did the test welds in June
14 or early July.

15 A. Several of them, yes, simultaneously.

16 Q. All right. And then you submitted all or--
17 did you submit all of them?

18 A. As I was doing it, I was communicating with
19 Rusty Gorden during that time what was going on and sending
20 him various information as to what failed and what didn't
21 fail or delays they were creating at the time.

22 Q. My question is, did you go to Memphis, is that
23 correct?

24 A. Yes, sir. Yeah.

25 Q. On more than one occasion to do test welds?

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1 A. Just once.

2 Q. And the one time that you went was in June or
3 early July?

4 A. Yeah, somewhere in that time frame.

5 Q. And you did a number of test welds at that
6 time?

7 A. Yes, sir. Yes, sir.

8 Q. And you sent some of them but not all of them
9 to a testing lab, is that correct?

10 A. That's correct.

11 Q. And you got results on those a week or a week
12 and a half later?

13 A. Yes.

14 Q. Now, did you thereafter submit other test
15 welds of the group that you had welded in Memphis to a
16 testing lab?

17 A. No.

18 Q. So after that first set of results, any
19 further submissions of actual test welds for testing came
20 from the project itself under...

21 A. That's correct.

22 Q. ...the direction of Mr. Gorden?

23 A. That's correct.

24 Q. And you didn't delegate to Mr. Gorden until
25 August 1, correct?

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1 A. That's correct.

2 Q. So he would not have done any test welding
3 procedures until after August 1?

4 A. That's correct.

5 Q. Is it correct that at least some of the test
6 welds that were performed under your supervision in Memphis
7 failed because of lack of fusion?

8 A. Yes, that's correct, one in particular.

9 Q. Not two?

10 A. Two -- with lack of fusion?

11 Q. Yes.

12 A. No, just one for lack of fusion.

13 Q. Do you know whether any of the test welds
14 performed under the direction of Mr. Gorden failed for lack
15 of fusion?

16 A. None.

17 Q. Also, I didn't stop you, but this is a
18 slightly different subject. There was one of the documents
19 that had a set of approvals on it, and it had WE on it in
20 front of a signature. Do you recall that document?

21 A. Yeah, a welding procedure.

22 Q. And you indicated that WE was Westinghouse
23 Electric, was that...

24 A. No, Wisconsin Electric.

25 Q. It should have been Wisconsin?

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1 A. Yeah.

2 Q. And that's the utility company, not...

3 A. That's correct.

4 Q. ...Westinghouse?

5 A. I meant Wisconsin Electric. I must have
6 confused myself with Westinghouse at the point.

7 Q. Now, the project at Point Beach was to be
8 performed in large part while the facility was taken off
9 line, correct?

10 A. Yes, sir.

11 Q. And do you know what the schedule was for
12 taking it off-line?

13 A. I don't know for a fact, no, the exact dates.

14 Q. Do you recall roughly that it was in the fall
15 of 1996?

16 A. Yes.

17 Q. October?

18 A. Yes, October, and I believe into November.

19 Q. Do you recall that the welding on the project
20 was substantially complete by Christmastime of 1996?

21 A. I believe it was, yes.

22 Q. Now, you testified that you saw the -- they're
23 called WPS, welding procedure specifications? Is that the
24 right...

25 A. Yes, sir.

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1 Q. So if I say WPS...

2 A. I understand what that means, yes, sir.

3 Q. You saw the set of 12 WPSs that were submitted
4 by Mr. Gorden in November or October of 1996 for the first
5 time?

6 A. Yeah, late October.

7 Q. And you then took them with you to Parkersburg
8 on your assignment substituting for this other engineer?

9 A. Yes, sir.

10 Q. And you reviewed those and found five of them
11 had deficiencies?

12 A. Yes, sir.

13 Q. And we have the document, I think, where you
14 faxed that down to Mr. Gorden, correct?

15 A. Yes, sir.

16 Q. And you had some telephone conversations after
17 that with Mr. Gorden?

18 A. Uh-huh. Yes.

19 Q. And you believed as a result of those
20 conversations that Mr. Gorden was taking care of the
21 problem?

22 A. Yes, sir.

23 Q. Did you see any documentation to the effect
24 that he had taken care of the problem?

25 A. When?

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1 Q. After November 6 of 1996?

2 A. Yes, I did.

3 Q. And what was the documentation that you saw
4 that indicated that he had taken care of the problem?

5 A. A distribution of -- I believe it was a final
6 distribution of the welding procedures that was sent to
7 Cleveland.

8 Q. And you saw that?

9 A. Yeah.

10 Q. And when did you see that?

11 A. After I came back from the Colorado Springs
12 trip, December 14, 15, 16, somewhere in that time frame.

13 Q. And that indicated to you that he had in fact
14 taken care of the problem?

15 A. That he had what?

16 Q. That he had taken care of the problem.

17 A. He had not taken care of the problem.

18 Q. Well, my question was -- maybe you didn't
19 understand. I asked you, after you spoke verbally with Mr.
20 Gorden in November in those several days after November 6,
21 he said he was taking care of the problem.

22 A. Uh-huh.

23 Q. Whether you had seen anything in writing to
24 indicate to you that he had in fact taken care of the
25 problem?

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1 A. Yes. That's correct.

2 Q. Did you see anything to indicate to you that
3 he had taken care of the problem?

4 A. Oh, no.

5 Q. When you saw those final procedures when you
6 returned from Colorado...

7 A. Yes, sir.

8 Q. ...you indicated that you said something to
9 Mr. Walcutt at that time, is that correct?

10 A. Yes, sir.

11 Q. Did you contact Mr. Gorden at that time?

12 A. No.

13 Q. Did you contact Mr. Bingham at that time?

14 A. No.

15 Q. Mr. Cepkauskas at that time?

16 A. Mr. Cepkauskas?

17 Q. Mr. Cepkauskas, I'm sorry.

18 A. No. I thought...

19 Q. Excuse me?

20 A. I thought Mr. Walcutt was going to do that.

21 Q. So from the time you spoke to Mr. Gorden and
22 he said, okay, I'm going to take care of this which was in
23 early November, correct?

24 A. Uh-huh.

25 Q. You had no further contact with anybody at

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1 Point Beach about those WPS deficiencies until -- well,
2 until you spoke to Mr. Pardi, at least, correct?

3 A. Well, I talked -- like I said, I talked to Mr.
4 Rusty Gorden after 11/6, but after that time, no.

5 Q. Well, you talked to Mr. Gorden and he said I
6 got it, and you talked to him again and you went over code
7 issues, and then you talked to him perhaps again, and he
8 said fine, I'll take care of it...

9 A. That's correct.

10 Q. ...and that was in early November still?

11 A. Yes, sir.

12 Q. And from that time until the time that you had
13 this conversation you remember with Mr. Pardi in December,
14 you didn't talk to anybody at Point Beach about those
15 deficiencies in the WPSs?

16 A. That's correct.

17 Q. You testified, I think, in your direct
18 examination that you were hired as the corporate welding
19 engineer?

20 A. Uh-huh. Yes, sir.

21 Q. In fact, your official title is construction
22 engineer?

23 A. No, sir. My classification is construction
24 engineer and my title was corporate welding engineer.

25 Q. And have you also been known as group welding

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1 engineer?

2 A. Yes, sir.

3 Q. So if someone referred to a group welding
4 engineer, that would be you?

5 A. Yes, sir.

6 Q. If someone referred to a corporate welding
7 engineer, that would have been you?

8 A. For the Cleveland office, yes.

9 Q. And your job classification was construction
10 engineer?

11 A. Yes, sir. I think I was staff construction
12 engineer and then went to senior construction engineer.

13 Q. Do you know how many construction engineers MK
14 has?

15 A. No.

16 Q. Do you know how many construction engineers
17 are assigned specifically to the Cleveland office?

18 A. No.

19 Q. When you were at Parkersburg in November, that
20 was roughly a month, correct?

21 A. Was it that long? I would -- more like three
22 weeks, if I'm right.

23 Q. If I suggest to you that your travel vouchers
24 indicate that it was for four weeks, would that be a
25 surprise to you?

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1 A. No, sir.

2 Q. And during that time that you were at
3 Parkersburg -- what kind of job is that, by the way, at
4 Parkersburg?

5 A. It's the Dupont project.

6 Q. What is it?

7 A. It's a chemical plant.

8 Q. And what is the work that's performed by MK
9 there?

10 A. We do project construction and maintenance
11 contracts also.

12 Q. So are there a variety of activities that go
13 on there?

14 A. Yeah.

15 Q. And is welding one of those activities?

16 A. Yes.

17 Q. While you were there in November, was your
18 activity there strictly related to welding?

19 A. Yes. In November, you're talking about?

20 Q. Yes.

21 A. Yes, it was.

22 Q. So the person that you were replacing, was
23 that a person who was strictly working in welding?

24 A. Yes.

25 Q. And is the Dupont chemical plant job one of

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1 the jobs that's within the power side of the operation?

2 A. No.

3 Q. What side is it in?

4 A. Industrial and process division.

5 Q. As far as the power side goes, what are the
6 types of projects included within that?

7 A. The what?

8 Q. As far as the power side goes, what types of
9 projects are included within that?

10 A. You mean...

11 Q. In general.

12 A. In general, coal burners, nuclear power
13 plants, flue gas units. We have a power plant also at the
14 chemical plant that I worked at and some of the quality
15 control manual functions that are in there also applied to
16 that plant in Parkersburg, just so I don't confuse you.

17 Q. Now, in connection with the power group work,
18 you've indicated that prior to late 1995, there had not
19 been a lot of nuclear construction-type work, is that
20 correct?

21 A. No, there had been some. St. Lucie as far as
22 preparing welding procedures, the Port St. Lucie project.

23 Q. And when did the St. Lucie project start?

24 A. When did it start? This year, I believe,
25 officially.

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1 Q. But I'm talking about prior to the St. Lucie
2 and Point Beach projects.

3 A. Yes, sir.

4 Q. As far as nuclear construction or
5 reconstruction projects, what projects had there been at MK
6 power group?

7 A. Just D.C. Cook back in 1988 and Vermont Yankee
8 before that.

9 Q. And were you employed by MK during the time
10 that the Vermont Yankee project was actually going on?

11 A. June of '88, yes. They had D.C. Cook going on
12 at the time, yes.

13 Q. Was Vermont Yankee going on at the time?

14 A. No.

15 Q. Okay. And D.C. Cook, how close to being
16 finished was that project when you started?

17 A. I think they were in the middle of it or
18 getting ready to start, somewhere in there.

19 Q. And when was that project completed?

20 A. I think it was the last month of December of
21 '88 or October of '88 time frame.

22 Q. And you started with MK when?

23 A. June, '88.

24 Q. So from December of 1988 on until the Point
25 Beach and St. Lucie projects began, you did not actually

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1 act as a nuclear welding engineer or a welding engineer on
2 nuclear projects, is that correct?

3 A. That's correct.

4 Q. And is it correct that the welding code that
5 applies to nuclear projects is contained in a supplementary
6 or different title of the ASME code than non-nuclear
7 projects?

8 A. Come back again?

9 Q. Isn't it true that there's a specific chapter
10 of the welding code that applies to nuclear projects?

11 A. Yes, sir. It's a particular section, section
12 3 and Section 11.

13 Q. What was the purpose of your second visit to
14 Point Beach?

15 A. That was to do a pre-survey assessment, pre-
16 ASME NR survey assessment, nuclear repair.

17 Q. And was that the occasion on which at the
18 conclusion of the main purpose of your visit, you had this
19 discussion with Mr. Bingham?

20 A. Yes, sir.

21 Q. And what period of time in July was this
22 meeting?

23 A. Late July.

24 Q. And by this time, had you received any results
25 from the qualification process?

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1 A. Yes. You mean the ones that I was
2 controlling?

3 Q. Well, you wouldn't have had any...

4 A. The ones in Memphis?

5 Q. You wouldn't have had any from anybody else,
6 because you hadn't delegated it to them, correct?

7 A. That's correct. That's correct.

8 Q. So had you received results by the time of
9 that meeting from the tests that you had done in Memphis?

10 A. Yes, sir.

11 Q. And how many of the -- how many weld
12 procedures were you trying to qualify?

13 A. All together, that we had planned out? We had
14 planned...

15 Q. That you went to Memphis planning to qualify.

16 A. Yes.

17 Q. How many of those were there?

18 A. We had planned for 11 to do.

19 Q. And as of this meeting in July, how many of
20 those had been qualified?

21 A. I think six or seven.

22 Q. This is by the meeting in July, and your
23 testimony is that six or seven of those 11 procedures that
24 you had tested for were qualified?

25 A. Yeah, they were still working on them, too,

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1 when I went up there, so probably about six or seven,
2 somewhere in that time frame, five, six, seven, somewhere.

3 Q. Did you receive from Mr. Bingham any statement
4 that he was unhappy with the pace of the qualification
5 process?

6 A. Yes, sir.

7 Q. Now, would it be correct that you yourself had
8 not rejected any of those samples? This was the test lab
9 that had done their tests and found that the samples hadn't
10 stood up properly?

11 A. Well, I rejected one of them, because we X-
12 rayed them before we sent it to the test lab, and the X-ray
13 results indicated that it was not acceptable, so I rejected
14 one coupon, test coupon.

15 Q. That would be rejected because it's simply a
16 bad weld as opposed...

17 A. That's correct.

18 Q. And did Mr. Bingham indicate to you that he
19 was unhappy because of that particular sample not being
20 submitted?

21 A. No.

22 Q. And all the rest of them were rejected by the
23 lab, correct?

24 A. How many?

25 Q. The rest of those that had not been qualified,

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1 the reason they hadn't been qualified was that the lab had
2 not passed the coupons, is that correct?

3 A. On some of them.

4 Q. Now, was there anything else that Mr. Bingham
5 told you he was unhappy about in that July meeting?

6 A. Yes, sir.

7 Q. What was that?

8 A. My attitude, he didn't like my attitude. He
9 didn't like the way I do code interpretations, and he
10 thought I should check with other people before I interpret
11 code requirements, which I replied to him that I do. I
12 don't pull this stuff out of my ass. I told him that I do
13 research before I get interpretations, and it's a thick
14 manual and I'm not perfect. I do miss it on occasion, and
15 I do the best I can to do that, and let's see what else he
16 talked about. He was not happy that we had missed two of
17 the tests or three of the tests, that we had not passed
18 them, and I explained to him that's because the
19 requirements they were testing under were very stringent
20 and the chances of passing those tests was pretty tough
21 under the conditions that we were required to do it on the
22 standpoint of design requirements.

23 Q. And that's because the owner or contractor put
24 constraints on the materials or the processing that made it
25 difficult for the welds to stand up to the testing,

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1 correct?

2 A. In particular, the Charpy [ph] impact test
3 temperature being at plus-ten degrees Fahrenheit.

4 ***

5 ADMINISTRATIVE LAW JUDGE:

6 Off the record.

7 ***

8 (Off the record)

9 (On the record)

10 ***

11 ADMINISTRATIVE LAW JUDGE:

12 Let's go back on the record. Mr. Artayet, you're
13 still under oath.

14 THE WITNESS:

15 Okay.

16 ***

17 BY MR. ASHMUS:

18 Q. I think you talked about a couple of tests
19 that were missed, and those were the Charpy tests?

20 A. Yes, sir.

21 Q. And those tests or designs measure what?

22 A. The toughness of the material.

23 Q. And it was your response to Mr. Bingham that
24 the reason that those samples failed was because of the
25 specifications placed upon the procedures by the owner?

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1 A. The design specifications, correct, the
2 technical specifications which I had told him about.

3 Q. And did you then participate in any way in
4 having those design specifications changed?

5 A. Yes, I did.

6 Q. Did the revised specifications make it easier
7 for the welding procedures to pass and become qualified?

8 A. Yes.

9 Q. And is it correct that you did not in any way
10 take the position that those new specifications created any
11 risk of harm or lack of safety in the process?

12 A. That's correct. With the welding process, you
13 mean?

14 Q. Right.

15 A. Yes, that's correct.

16 Q. Now, your experience with nuclear projects
17 prior to coming to work at MK was as an actual welder, is
18 that correct?

19 A. Yes, sir.

20 Q. A member of a collective bargaining unit...

21 A. Yes, sir.

22 Q. ...by a union and so forth?

23 A. That's correct.

24 Q. And you were certified to do nuclear welding,
25 correct?

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1 A. Yes, sir.

2 Q. The positions that you held as a union welder
3 were not engineering positions, correct?

4 A. That's correct.

5 Q. After graduating from Ohio State, did you have
6 any nuclear plant engineering functions other than what
7 you've already talked about in connection with your
8 employment at MK?

9 A. None whatsoever.

10 Q. You didn't work for anybody else, any nuclear
11 plant?

12 A. No, other than at the time D.C. Cook was
13 nearing the end when I first hired on.

14 Q. Now, with regard to D.C. Cook, did you do any
15 of the qualification of the welding specifications?

16 A. No, sir.

17 Q. Had you performed the function of qualifying
18 welding procedures as a project engineer at any of the
19 other nuclear facilities that you worked on prior to coming
20 to work at MK?

21 A. None.

22 Q. Did you do welding qualifications for the St.
23 Lucie job?

24 A. Yes.

25 Q. And when did you do those?

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1 A. I think it was 1995, late 1995.

2 Q. And were the procedures that you had qualified
3 for St. Lucie actually used in welding on that project?

4 A. On the St. Lucie project?

5 Q. The St. Lucie project, yes.

6 A. No, sir, we had not started the St. Lucie
7 project yet. In actuality, the welding procedure at the
8 time was not for qualification. What they had requested is
9 that we see if we could meet the nuclear requirements using
10 this new technology that we just got from Framitol [ph].
11 It was not considered per se procedure qualification.

12 Q. So for the St. Lucie work, had there been a
13 need to do welding procedure qualification? You would have
14 still had to do that? This was just basically feasibility
15 testing that you did, correct?

16 A. Yes, sir, feasibility study, correct.

17 Q. So would it be correct that prior to your
18 going to Memphis to do -- to supervise the welding of the
19 tests and the qualification procedures for the Point Beach
20 project, you had never before done nuclear welding
21 qualification?

22 A. For procedures, correct.

23 Q. Did you know whether Rusty Gorden had done
24 qualification and procedures before the Point Beach
25 project?

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1 A. No.

2 Q. Did you look in any records relating to D.C.
3 Cook to see whether there had been a delegation to him of
4 the ability to qualify welding procedures on that job?

5 A. When?

6 Q. At any time before May of 1996.

7 A. I think maybe Don Huffstadt [ph] delegated him
8 that, at the time, the corporate welding engineer was Don
9 Huffstadt before me.

10 Q. So you had information that he had been
11 delegated that authority on D.C. Cook, but you didn't know
12 whether he had actually engaged in the qualification
13 process?

14 A. That's correct.

15 Q. Did you ask anybody whether...

16 A. No, sir.

17 Q. ...he had been engaged in the qualification
18 process before?

19 A. No.

20 Q. Do you know who Jim Garrett is?

21 A. Yes.

22 Q. And does he have any function with regard to
23 the Parkersburg work?

24 A. Yes, he does.

25 Q. What is that function?

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1 A. I think he's the VP of construction under the
2 industrial and process division.

3 Q. And would that mean that the Dupont work at
4 Parkersburg is under his general authority?

5 A. Yes, sir.

6 Q. Prior to the time when you were assigned your
7 current status at Parkersburg, did you have any occasion to
8 speak with Mr. Garrett about the Parkersburg work?

9 A. Let me think. Prior to what time again?

10 Q. Prior to when you were assigned to Parkersburg
11 in your current assignment.

12 A. Yes, I did talk to him.

13 Q. When was that?

14 A. The day before.

15 Q. Would that be a Thursday?

16 A. Yeah, somewhere in that time frame, Thursday
17 or Wednesday, in that time frame, very shortly before that.

18 Q. Did he come to you or did you go to him?

19 A. I think I went to him after Mr. John Legate
20 talked to me.

21 Q. And who is Mr. Legate?

22 A. He's, I believe, the director of the project,
23 of the Washington Works project.

24 Q. And that's the Parkersburg project, is that
25 correct?

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1 A. Yes.

2 Q. And Mr. Legate talked to you about going to
3 work at that project?

4 A. He just told me -- he wanted to know what had
5 happened to me, and I filled him in, and he said he was
6 going to find out if there was a position or not, because I
7 was advised by my boss to do that, talk to people and find
8 out if there was anything out there.

9 Q. When you talked to Mr. Legate, did you tell
10 him that you didn't want to do anything soon or that you
11 wanted to delay or that you didn't want to go to
12 Parkersburg?

13 A. Yeah. I resented the fact that I was going to
14 be removed from the corporate office. I was always
15 uncomfortable with that.

16 Q. But did you tell him that you were not
17 interested in moving to Parkersburg if he had an opening,
18 whenever that opening arose?

19 A. No, sir, I did not.

20 Q. Did you say something like that to Mr.
21 Garrett?

22 A. Other than if there was nothing else available
23 and it was my last option, I would go, although I told him
24 I didn't like to go, but that would mean getting away from
25 my family.

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1 Q. Now, there are a number of other jobs in the
2 field that Morrison Knudsen has, correct?

3 A. Yeah.

4 Q. And they are in a variety of locations all
5 over the United States, correct?

6 A. All over the world.

7 Q. All over the world. And among those, if
8 you're not going to be in Cleveland and you're going to be
9 outside the Cleveland area at a job, isn't Parkersburg one
10 of the closest places you can be?

11 A. No.

12 Q. It's not?

13 A. No.

14 Q. How many are closer?

15 A. The Federal Reserve Bank was one of them that
16 I knew we had a contract at.

17 Q. And what else?

18 A. We're doing work also on the east side of
19 Cleveland.

20 Q. So there's two projects that are closer, and
21 how many are farther away than Parkersburg?

22 A. Away...

23 Q. How many are farther away from Cleveland than
24 Parkersburg out of projects that Morrison Knudsen has?

25 A. Probably hundreds.

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1 Q. That's about what, 240 miles from Cleveland or
2 thereabouts to Parkersburg?

3 A. Yeah.

4 Q. For construction engineers, is it not the case
5 that almost all of them spend their time in the field with
6 a variety of projects?

7 A. You mean a majority of them?

8 Q. More than a majority.

9 A. Yeah.

10 Q. And while you yourself, while you were working
11 in the corporate office as the welding engineer had not had
12 to move, isn't it a fact that for almost every employee at
13 MK, in fact, reflected in its handbook is the fact that
14 relocation and moving is a way of life at Morrison Knudsen?

15 A. For a construction site, yes.

16 Q. Now, you did indicate, did you not, in at
17 least one of your career development plans that one of your
18 goals was to go into project management?

19 A. Yes. I've had many goals.

20 Q. And isn't it also not a fact that to be in
21 project management, it is important, if perhaps not
22 essential, to have field experience?

23 A. No.

24 Q. Do you know of any project managers at MK who
25 did not have any field experience prior to becoming a

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1 project manager?

2 A. Let me think. No.

3 Q. Has anyone from Morrison Knudsen told you that
4 you lack competence as a welding engineer?

5 A. Within MK?

6 Q. Right.

7 A. No, sir, never.

8 Q. And has anybody told you that you lack
9 competence as a construction engineer?

10 A. No.

11 Q. Has anyone from MK told you that your career
12 opportunities at MK are adversely affected by the fact that
13 you're on-site at Parkersburg as opposed to being corporate
14 welding engineer?

15 A. No.

16 Q. Since you've been at Parkersburg, has anybody
17 told you that they do not feel that you're qualified for
18 the work down there?

19 A. No.

20 Q. Has anybody told you in connection with your
21 work at Parkersburg that you're not doing a good job?

22 A. No.

23 ***

24 MR. ASHMUS:

25 May I have a moment, Your Honor?

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1 ADMINISTRATIVE LAW JUDGE:

2 Yes. Do you want to go off the record?

3 MR. ASHMUS:

4 Yes.

5 ***

6 (Off the record)

7 (On the record)

8 ***

9 ADMINISTRATIVE LAW JUDGE:

10 We're on the record.

11 ***

12 BY MR. ASHMUS:

13 Q. I wanted to just make sure about something.
14 Will you look at your Exhibit 49?

15 A. Yes.

16 Q. This is a quality assurance manual, correct?

17 A. Yes, sir.

18 Q. And this applies to Morrison Knudsen?

19 A. Yes, sir.

20 Q. And does this also apply to SGT?

21 A. Steam generators? Yes.

22 Q. And this is one of those several documents
23 that apply to quality at Point Beach?

24 A. Yes, sir.

25 Q. One other thing. You indicated that you were

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1 staying with friends or someplace other than a hotel,
2 motel, or apartment while you're in Parkersburg?

3 A. Yeah, my brother also.

4 Q. And it is the case, is it not, that Morrison
5 Knudsen provides per diem allowance and lodging allowance
6 for you when you're assigned outside of the headquarters on
7 a job less than a year?

8 A. Yeah, on a temporary basis, [REDACTED]

9 Q. So this is -- you indicated that there's
10 something to do with your legal fees that caused you to do
11 that, so that you would be saving the [REDACTED] in staying
12 with your brother, is that correct?

13 A. Yes, I want to minimize my costs down there.
14 It's only [REDACTED]

15 Q. And is that what you received in November when
16 you were assigned to Parkersburg?

17 A. No.

18 Q. [REDACTED]

19 A. No.

20 Q. What did you receive then?

21 A. STDY. That means they pay for your meals and
22 hotel. You submit all your receipts.

23 ***

24 MR. ASHMUS:

25 I think that's all I have.

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