1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 - - - - - - - - - - - - -X

4 In the Matter of: :

5 INTERVIEW OF :

6 JAMES SAUM :

7 (CLOSED) :

8 - - - - - - - - - - - - -X

9

10 Heritage Inn

11 11269 Point East Drive

12 Rancho Cordova, California

13

14 Friday, April 2, 1999

15

16

17 The above-entitled matter, came on for interview,

18 pursuant to notice, at 11:00 a.m.

19

20 BEFORE:

21 PHIL JOUKOFF, Investigator

22

23

24

25

B/4

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EXHIBIT 10

1 C O N T E N T S

WITNESS	EXAMINATION
JAMES SAUM	
BY MR. JOUKOFF	3

6 E X H I B I T S

NUMBER	IDENTIFIED
1	11
2	46
3	60
4	85
5	112
6	115
7	116
8	119
9	140

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

2 (11:00 a.m.)

3 MR. JOUKOFF: We're going on the record now.
4 Today's date is April the 2nd, 1999. The time now is
5 approximately 11:00 a.m. This would be a continuation of
6 the interview of James Saum who is an employee of the
7 Sacramento Municipal Utility District and is employed at the
8 Rancho Seco Nuclear Generation Station.

9 Mr. Saum, we're continuing with your interview
10 from last Friday, is that correct?

11 THE INTERVIEWEE: Correct.

12 MR. JOUKOFF: And the testimony you're providing
13 today is voluntary on your part, is that correct?

14 THE INTERVIEWEE: Correct.

15 MR. JOUKOFF: And you understand you are still
16 under oath from your last appearance, is that correct?

17 THE INTERVIEWEE: Yes.

18 Whereupon,

19 JAMES SAUM,

20 the Interviewee, was called for examination and, having been
21 previously duly sworn, was examined and testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. JOUKOFF:

25 Q We talked before we went on the record and you

1 wanted to start your testimony today with some events that
2 occurred in July of 1998?
3 A Yes, I believe that's where we left off last
4 Friday.
5 Q Okay. Where would you like to start?
6 A I may have mentioned it last Friday, but I went to
7 the NRC on July 9th, 1998 trying to bring to the NRC's
8 attention information I had related to the free release of
9 contaminated material incidents that occurred previously,
10 where I had tried to prevent that from happening by memos to
11 warning plant management of a procedural defect, that if
12 they allowed the procedure to be run, it would have resulted
13 in contamination levels that were in excess of the NRC
14 guidelines in the Summers report, 5,000 dpm per hundred
15 centimeters squared fixed contamination limit. So --
16 Q Let me just clarify so everybody's clear. On that
17 July the 9th, 1998, how was it that you went to the NRC?
18 A In confidence and they were at -- NRC was on-site
19 for a regular inspection, but they were looking into the
20 matter of the latest incident where again we had set off the
21 radiation monitor detector at the scrap yard where we had
22 sent what was supposed to be non-radioactive material. It
23 set off their radiation monitor. It was the second
24 incident, and I wanted to provide information that had
25 (inaudible) management, but they had taken inadequate

1 response -- what I thought inadequate response, and moreover
2 -- well, that was the nature of my meeting with the NRC.
3 It was in confidence. It was in an unoccupied
4 room, and again, I had reason to believe that management
5 knew that I had reported the NRC based on two events.
6 Number one, while I was meeting with the NRC RP Secretary,
7 Sue Terry came in to the TSC which is very unusual, she had
8 no reason, she just looked around, looked at us meeting.
9 Q This is Sue Terry?
10 A Terry.
11 Q Thank you. You testified, I recall, to that last
12 week also.
13 A Right.
14 Q And you were meeting with NRC inspectors at the
15 time?
16 A Right. Vince Everett and I think Mr. Dudley.
17 Q Okay.
18 A And later on that afternoon I also was confronted
19 by Richard Manheimer, Licensing Engineer that I work with,
20 and he had mentioned, "You went to the NRC, didn't you?"
21 Q Did Mr. Manheimer allude to you or tell you in any
22 way how he knew that information?
23 A No. I just was trying to blow it off like I just
24 smile like, you know, I didn't want to comment or didn't
25 want to give him any more information to support whatever he

1 thought.

2 Q Is there any possibility that, other than direct
3 observations, what was your gut read? What was your
4 feeling? That he somehow had received knowledge that you
5 were meeting with the NRC? Is that what your gut read was,
6 or your feeling, or your instinct was at that point in time?

7 A My instinct was he knew. I don't know how he
8 knew, but the fact that he said it on the same day is just
9 more than coincidence.

10 Q Okay, thank you.

11 A He may not have known, I don't know, but it sure
12 was coincidence.

13 Q So that's when you started meeting directly with
14 the NRC, is that correct?

15 A That --

16 Q Because I noticed in your write up, page two of
17 Exhibit 1, you have another date here that on 8/20/98 you
18 also met with the NRC?

19 A Right. And I think I even called in sometime in
20 between then and made a call of -- to the NRC that now
21 they're trying to get me to go to a psychiatrist. So I was
22 saying, hey, I went to the NRC and now they're trying --
23 they're meeting with me and trying to get me to go to a
24 psychiatrist, and I think that's a form of retaliation
25 there.

1 Anyway, so then they set up the formal interview
2 on August 20th which I appeared for and made the formal
3 deposition.
4 Q At some point in time I'm going to want to ask you
5 about the psychiatrist and how that came up. Did you want
6 to do that now? That's fine, or I'll ask you later,
7 whichever is good for you.
8 A No, we're going to go right into that right now.
9 Q That's fine.
10 A So another thing that happened prior -- well on
11 July 14th, 1998 I issued a memo to my supervisor where I had
12 complained about backlash for having raised concerns in the
13 past, and I gave examples of how Dennis Gardner had
14 complained -- he's RP supervisor -- when I had written a
15 sensitive PDQ that they weren't calibrating the totalizer
16 out there and other matters.
17 And also two run-ins with where I had asked a
18 purchasing agent to put a term in her contract with a
19 company I was -- a software company we were dealing with, a
20 term and condition to make the contractor responsible for
21 his work, and that resulted in some kind of complaint, and
22 also a mishandling of a benefits change in my life insurance
23 benefit designation that's covered in that memo.
24 And also a response from the calibration
25 technician when I complained that it wasn't -- that his

1 surveillance of the calibration at the Kurz Company wasn't
2 -- wasn't complete and proper and his -- and a meeting, it
3 covers a meeting held with this person, Charley Fallon,
4 where I had a witness, Jan Meyers, a quality assurance,
5 involved at this meeting.
6 And as it turned out, just based on professional
7 criticism, this calibration technician became very defensive
8 and -- and was being unprofessional and even putting his
9 face in the quality assurance person's face and the guy had
10 to take his hand and go like this to stop him.
11 Q The --
12 A Jan Meyers is another witness.
13 Q Okay. Jan Meyers is --
14 A Quality assurance.
15 Q And she works at Rancho Seco?
16 A It's a he.
17 Q I'm sorry. He works at Rancho Seco?
18 A Yes.
19 Q Okay.
20 A Because he can witness that the problems that I
21 have by making a complaint and the adverse reaction I get
22 from a coworker, and my supervisor's response to the
23 coworker that's effected by my criticism. Because Jan
24 Meyers was an independent observer here, and so he saw the
25 effects of criticisms, adverse reaction from a coworker, and

1 he saw the response from my supervisor who claimed that I
2 did something wrong in this somehow.
3 As it turned out, Jan Meyers said I handled myself
4 very professionally and well, and he can testify to that and
5 that counters my supervisor's criticism of me that I did
6 something to make this guy act the way he did when it was
7 strictly a written criticism with no personal interaction
8 whatsoever, and it's just the nature of -- it's the nature
9 -- it's human nature that when you criticize an individual,
10 even when it's not intended -- intended -- my intentions
11 were to see quality assurance and make sure that the test
12 equipment was properly calibrated, because I was involved in
13 very similar matter with some flow meters that I was
14 involved in with the same company, Kurz, where the Kurz
15 Company had a technician that had just falsified records and
16 we were pursuing the PDQ on that and trying to look back at
17 the consequences of equipment, other equipment, that may
18 have been improperly calibrated, so I was reviewing that and
19 that's how I discovered it.
20 So that's the element, the main argument I have,
21 is that I received adverse criticism from my coworkers, not
22 because any personal problems, but because of the nature of
23 the kind of complaints, I mean, the nature of the problem
24 statements that I make tends to -- may effect somebody
25 else's area of responsibility and they become defensive

1 about it and they're human inclination is to cross-complain
2 about me. I need protection so that doesn't happen. It's
3 not fair, and my supervisors are deaf to that.
4 So let me continue. That was the nature of the
5 7/14th memo, just going to the NRC, and July 16th I'm
6 summoned into Mr. Redeker's office and asked to volunteer to
7 participate in EAP consultation. I asked him why, and he
8 said to improve organizational relationships between me and
9 my supervisor.
10 Q You mentioned your supervisor a couple of times.
11 I just want to make sure that's James Field, right?
12 A Correct. And this is well documented, the meeting
13 minutes. What occurred at these meetings is in memo MMTS
14 9863, and so --
15 Q We haven't marked this. You want to start using
16 this document? Shall we mark this as one of our exhibits?
17 A Yes.
18 Q Let me mark this as Exhibit No. 1 to today's
19 testimony, okay?
20 A Okay.
21 Q This is going to be a series of documents that
22 have been tabbed Nos. 1 through 20 on the right hand side,
23 and the cover document is an October 21st, 1998 letter to
24 Jan Shori, S-h-o-r-i, General Manager of SMUD. It's written
25 on the letterhead of the law firm of Carol, Burdick, and

1 McDonough, and it was written by a Joanna L. Brooks, who is
2 the attorney at that time was representing you, correct?
3 A Correct.
4 MR. JOUKOFF: That will be Exhibit No. 1.
5 (Exhibit No. 1 was marked for
6 identification.)
7 BY MR. JOUKOFF:
8 Q Let the record reflect we've marked that exhibit
9 and Mr. Saum has one copy of it and I have the other copy.
10 The memo you're referring us to, is that at one of the tabs?
11 A Yes, tab two.
12 Q Okay, go ahead.
13 A This is a pretty good recap, because I took very
14 good notes during these meetings of Mr. Redeker and Mr.
15 Field, trying to get me to volunteer to go to this
16 consultation, so this memo is a very accurate record of what
17 occurred during these meetings.
18 Q Why don't you tell us what your feelings were
19 about going to this EAP counselor?
20 A Mr. Redeker wouldn't tell me specifically why he
21 was doing that, and I asked him over repeatedly, "What
22 specifically did I do to warrant this extraordinary measure?
23 Why are you singling me out?" Here I'm thinking it's a
24 result of the -- that I went to the NRC that's happening,
25 result of the memo that I just issued to Jim Field on 7/14.

1 Those were the only reasons I could think why they're taking
2 this extraordinary measure against me.
3 So I'm asking specifically what did I do here.
4 "We're not going to tell you," he says, "Just give me a yes
5 or a no answer. We want you to volunteer for under the
6 employee assistance program. We want you to go to a
7 counselor, but we want you to waive your rights to
8 confidentiality." That was very alarming to me. The fact
9 that he won't give me a reason, a good reason, as to why
10 he's doing this and won't allow a conversation as to what
11 the problems are, and he's only focusing the whole
12 discussion on yes or no answer to whether I want to
13 volunteer or not to this consultation.
14 The important thing to put on record is that he's
15 trying to get me to waive my rights to confidentiality. In
16 response to this I asked for information of what the
17 qualifications of the counselor are, what impact it has on
18 my benefits to -- for future employment assistant program
19 usage, and I'm asking him for qualifications, what the
20 release authorization, what I'd have to sign as far as
21 waiving my rights to confidentiality would be.
22 Q Did he explain to you at all why it is that they
23 wanted you to waive your confidentiality rights?
24 A No, just that this was to -- the whole purpose was
25 to improve organizational relationships between me and my

1 supervisors. In fact it was just me and Jim Field, but as
2 it turned out, I asked him, Mr. Redeker, to be involved
3 because it appeared to me that based on what he was -- the
4 nature of the meeting, that I thought he should participate,
5 and he agreed to that. So all three of us were planning to
6 go to this consultation, but he wanted, you know, waive my
7 rights to confidentiality.
8 Q And that wasn't something you weren't prepared to
9 do, is that correct?
10 A Well, I was very alarmed and very suspicious by
11 the whole matter. So there was a 7/16th meeting and there
12 -- again, there was a 7/21/98 meeting. This is all --
13 please read attachment or tab two to Exhibit 1 and what's
14 very important is that on 7/22/98 when I respectfully
15 declined to participate, because I didn't want to waive my
16 rights to confidentiality.
17 Steve Redeker counteroffered to me that -- that if
18 I didn't want to waive my rights to confidentiality, that --
19 he asked me again with a counteroffer that would I be
20 willing to go see this counselor if only the time and date
21 of the meeting was released. So I was still considering
22 that.
23 The important thing on 7/22 is that again I was
24 asking him, "Why are you doing this? Why don't you do this
25 to other -- the others?" And his response to me was, "It's

1 the way I'm taking notes. It's the way I'm holding my
2 fingers." And so the reason why I'm taking notes and being
3 so defensive and taking so much care in documenting things
4 is because I'm defensive because of past unfair criticism
5 that I've received from my supervisors in the past.
6 So I'm trying to get to the truth of the matter
7 and trying to document as accurately as I can exactly what's
8 occurring so that I'm trying to defend myself from the
9 adverse actions. So I'm taking notes and trying to copy
10 almost every statement line for line or at least the
11 important ones.
12 When Mr. Redeker said, "It's the say you're taking
13 notes," and when he saw me writing it down, it's the way I'm
14 taking notes, he was upset and he told me -- he told me --
15 Steve Redeker said, "Here, I want you to write this down,"
16 and started dictating the following. "I am telling Jim Saum
17 that there are other non-voluntary and less confidential and
18 more personally threatening, and less desirable ways to
19 handle this." This is on the third meeting where the stated
20 purpose was -- is to -- this consultation was for the
21 purpose of improving relationships between me and my
22 supervisors, and this was like a facilitation consultation.
23 He's saying because I declined to volunteer to
24 this that he's threatening me with other non-voluntary, less
25 confidential and more personally threatening. I considered

1 that a threat and I asked him to sign it and he refused to
2 sign the dictation he had just given me. This is accurate
3 what happened and my notes, if you want to read them, will
4 bear it out, but this is an accurate description of the
5 events at these meetings.
6 They wouldn't tell us -- tell me why -- what
7 procedure they were operating from. There is no district
8 procedure for requiring an employee to participate in EAP
9 consultation, nor is there a procedure that allows
10 management to refer an employee to psychological evaluation
11 for improving relationships with supervisors.
12 Again, based on what was said at these meetings, I
13 was very suspicious, and now he's telling me that if I don't
14 volunteer, he's going to do something more personally
15 threatening to me, and I now I'm really alarmed. He's still
16 -- he made a statement again at the meeting that I'm
17 inflexible. I haven't met with Mr. Redeker for over three
18 years. He's a plant manager. I deal with my supervisor.
19 Here's a person that I rarely ever see, but he's
20 still carrying on, expressing that I'm being inflexible and
21 have an interpersonal relationship problem, and I hardly
22 ever meet with the man. It's been three years, no bad
23 performance evaluations, everything's calm, but as I said
24 earlier, the reason why it's calm is because I'm not writing
25 PDQs anymore. Instead I'm verbally notifying my supervisor

1 in memo form.

2 Also, on that July 22nd meeting, I asked Steve
3 Redeker if he would consider trying to resolve this by
4 having open communications amongst ourselves in an attempt
5 to identify what the problem is, objectively determine the
6 cause by examining all the evidence, establishing goals and
7 negotiating commonly accepted solutions. Steve Redeker
8 replied, "I'm well aware of that approach. It's in my
9 management textbook. I prefer to do it the way I suggested.
10 I believe the outcome would be more positive."

11 And so again, he's not being communicative. He's
12 saying yes or no, are you going to volunteer or not? He's
13 saying if I don't volunteer he's going to consider more
14 personally threatening things. That's the point I want to
15 make from that meeting.

16 On July 27th, '98 we meet again. Again he's
17 stating -- get an answer to the proposal to see a EAP
18 mediator, and he's going to respond to my proposal about an
19 open process of communication. Who's not communicating
20 here? I'm asking for communications. They're being
21 hard-lined saying yes or no, and I'm trying to resolve it
22 with communications and they're just saying yes or no, are
23 you going to go to our psychologist, yes or no?

24 At this meeting, a very important point here. I
25 asked him how he expects facilitation to occur if he

1 guarantees my confidentiality at this meeting, all three of
2 us -- the plan is it would be one counselor and all three of
3 us are expected to meet with this counselor at separate
4 times, and all three of us are guaranteed confidentiality,
5 but it's very puzzling to me at this point how he can expect
6 facilitation, his expressed reason to improve relationships
7 between me and my coworkers, how that could be -- how could
8 that happen if this counselor could not communicate what --
9 to each other what individually we said to this one
10 counselor. It didn't make sense. He really couldn't answer
11 that.
12 So I asked him for -- here's another important
13 point. I asked him for a release authorization that said
14 that I'd only have to tell the time and date of the meeting.
15 He faxed -- he gave me a release authorization that said any
16 and all information would be released. It was totally
17 contrary to what he had just expressed. The circumstances
18 were very suspicious. He couldn't answer how this could --
19 how going to one counselor would -- would benefit
20 facilitation.
21 So at that point I decided to get an attorney and
22 so I contacted my attorney, and he agreed to have a
23 teleconference with the plant manager, Steve Redeker, to
24 find out what's going on here. On August 13th, 1998 that
25 teleconference with Mr. Redeker, Bruce Notareus, SMUD

1 attorney, and Jim Field, my attorney, Brian Morrison, was
2 held.
3 At this meeting, at this teleconference, my
4 attorney asked what's the purpose of the request to
5 volunteer to go to EAP consultation. The answer was to
6 improve organizational relationships. Mr. Redeker wouldn't
7 expound on that, and so that was the answer there. Then
8 again Brian Morrison asked, "How do you expect facilitation
9 to occur if you guarantee confidentiality and the counselor
10 cannot tell what each of the -- tell each other what each of
11 them had told him?" Mr. Redeker had no answer for that.
12 Very suspicious.
13 He asked other questions, it's in the document
14 right here. At the end of the meeting my attorney advised
15 me strongly. He said, "You better get," -- he was alarmed
16 by the answers that SMUD had provided him, and he said I
17 better get a labor, an expert in labor relations, which I
18 did shortly thereafter.
19 Q And is that Joanna Brooks?
20 A Yes.
21 Q Thank you.
22 A And from that time I let my attorney do all the
23 negotiations. I'm kind of out of the picture now on EAP
24 consultations. It's my attorney who's making telephone
25 conversations and correspondence with SMUD attorney and

1 Bruce Notareus, and she advised me that of the California
2 Confidential Medical Information Act where it allows an
3 employer to, at their written expense -- at their written
4 request and at their expense, if they send an employee to a
5 licensed medical provider, which this social worker
6 qualified for, that even without a release authorization
7 from me, the medical provider can determine -- can describe
8 functional limitations that may prevent one from doing his
9 employment, doing his job.
10 That was very alarming to me again, because it was
11 kind of like maybe it was trickery that they were trying to
12 get me in here for some other purpose. Again it bolstered
13 my suspicions and alarms, but the attorney is negotiating
14 with SMUD, my attorney, Joanna Brooks, to protect my rights,
15 the privacy here.
16 At this point here they're trying to send me to a
17 psychologist or a licensed psychologist to improve
18 relationships between me and my supervisors. That's what --
19 I'm thinking in my mind that they're trying to disqualify me
20 as a witness in the NRC, because I thought they had known I
21 went to the NRC and so that was what I was thinking.
22 Joanna Brooks had supposedly made an agreement
23 with Mr. Redeker in a telephone conversation where he agreed
24 that it would be acceptable for me to go to a counselor of
25 my own choosing and at my own expense, and that meant that

1 if that's what -- and also she offered that I'd have no
2 problem volunteering to go see an unlicensed facilitator
3 such as somebody like Dale Flowers. We had offered that up
4 front and there's a letter from Joanna Brooks to SMUD in
5 this package that describes that.
6 MR. JOUKOFF: Let's go off the record for a short
7 break at 11:34 a.m.
8 (Recess.)
9 MR. JOUKOFF: We'll go back on the record now.
10 It's 11:39 a.m. While we were off the record, Mr. Saum
11 found the document that he was looking for. It's at Exhibit
12 1, tab six to today's interview.
13 BY MR. JOUKOFF:
14 Q Why don't you go ahead and tell us what this
15 letter pertains to?
16 A This was that agreement between Joanna Brooks and
17 Mr. Redeker regarding agreement to voluntarily attend
18 consultation for the purpose of facilitating relationships
19 between me and my supervisors. Her understanding of that
20 agreement was that Mr. Redeker would allow me to go to a
21 counselor at my own expense and choosing, thus in order to
22 protect my rights to privacy because we knew of the
23 Confidential Medical Information Act, and we knew they
24 didn't have a procedure for requiring me to go to a licensed
25 psychologist.

1 So it was this letter -- also in here it's
2 important to note where Mr. Redeker admits to have told me
3 not to get anything -- written confirmation from my
4 coworkers. In fact on different occasions he said, when I'd
5 get something in writing to counter a criticism made by my
6 supervisors regarding my relationships with coworkers, after
7 I got it signed, they would say, "You intimidated them into
8 signing that," as I testified earlier.
9 He even made that statement regarding the
10 signatures I received from the unit superintendent, Tom
11 Tucker, the security supervisor, Esteban Nava, and the RP
12 superintendent, Dennis Gardner, where they all signed and
13 said I was cooperative and worked well with their people.
14 Every time I'd try to get objective evidence to counter
15 those claims, he'd summon me up to the office and order me,
16 "Don't you ever get anything in writing from my coworkers,"
17 and try to justify it with I'm interrupting their --
18 interrupting them or intimidating them.
19 To me it was like just in a very unfair situation
20 of tieing my hands behind my back. Anyway, this is
21 documented, the fact that he did that is documented, in this
22 memo, and Joanna Brooks can testify to that and she can
23 testify to the unfair and hard treatment that I was
24 receiving from Mr. Redeker and Bruce Notareus during this
25 attempt to negotiate some agreement to seeing a counselor to

1 allegedly improve relationships.

2 Again, we also agreed to go to an unlicensed

3 facilitator at this point, such as Dale Flowers.

4 Q Just let me ask you one question. The comments

5 you made about the security director and the RP

6 superintendent and your going to them to get their

7 statements about your being cooperative, is that one of the

8 exhibits that you showed us last week when we were here?

9 A Yes.

10 Q It's signed by the three gentlemen?

11 A Yes.

12 Q Thank you.

13 A Also in here it states -- you had a question about

14 performance evaluations?

15 Q Yes. I noticed when we were off the record and I

16 was flipping through this document that we're referring to

17 at tab six of Exhibit 1 there's a comment made in here about

18 your job performance appraisals and that you had not

19 received one for a number of years. Could you expound a

20 little bit upon that for us?

21 A Right. In 1993 I received an unfair criticism

22 where they said I was inflexible and resistant to change,

23 and for -- and they gave three examples, the QA Class 4,

24 trying to remove highly radioactive material, No. 2, the

25 resisting revision to procedure SB-482, and also resisting

1 considering options for the security system. I thought
2 those three were unfair, and I proved it with supporting
3 documentation that's included in here.
4 I know it was unfair, and anyway, so I received --
5 so based on that and based on the fact that management
6 wouldn't hear my problem with the Catch-22 situation that
7 they were putting me into by criticizing me for the effects
8 of me trying to do my job and report safety concerns, and
9 trying to insure that procedures were complied with,
10 regulations were complied with, and as I testified earlier,
11 I had changed my mode of reporting where I wouldn't write
12 PDQs on my own anymore. Instead I was communicating to my
13 supervisors verbally or in memo, and in some cases prior to
14 '95 he'd instruct me to write PDQs but I still suffered the
15 consequences of adverse reactions from even him telling me
16 to write it.
17 No longer was he so offended by the PDQs he asked
18 me to write, but still others were that were effected. And
19 so even with that new approach, I was still suffering from
20 adverse reactions, so I then asked in '95, I started asking
21 him to get others to write the PDQs so that it would further
22 dissociate me from getting adverse response from my
23 coworkers.
24 So as far as performance evaluations, 1995
25 performance evaluation was pretty good, improved from '93 to

1 '94 to '95. But that was in response -- what I knew is my
2 new approach to reporting problems, and in '95, that was my
3 last one. For the last three years, I have not received a
4 performance evaluation because my supervisor has been
5 satisfied with my performance.
6 In 1996, the year I met all my goals and
7 expectations, and I requested a performance evaluation from
8 my supervisor to document my good performance. He said he
9 would and for several weeks and months I continued to ask
10 him, "What's the status of my performance evaluation?"
11 First he said, "It's working, it's working, it's working,"
12 and then finally I gave up and did not receive a '96
13 performance evaluation.
14 I didn't want to upset my supervisor by continuing
15 to ask him so I just let it go. It's important to note that
16 in order to -- I meet with -- I've met with my supervisor on
17 a weekly basis for the last three years. At those meetings
18 I asked my supervisor four different questions, has he
19 received any complaints from other people? Because that was
20 very sensitive to me in the past because he had unfairly
21 criticized me for complaints from other parties that I knew
22 I did nothing wrong for, and I wanted to see whether he was
23 receiving complaints.
24 We had agreed that he would inform me if anybody
25 complained, and he also -- I had always hoped that he would

1 investigate and find out what the complaint was really about
2 and bring the complainant in and sit down with us to find
3 out what the facts of the matter are because I knew that
4 these complaints were unfair and if it was investigated
5 properly, that -- that it would be found that I did nothing
6 unprofessional and that the complainant may have been in the
7 wrong.
8 Anyway, it's important to note from '95 through
9 current I have not received a performance evaluation because
10 my supervisor had been satisfied. The record -- I have
11 those weekly records, and it will show that I was getting
12 compliments, I was being told that he appreciated my
13 flexibility. In fact on this one about the PDQ where he
14 asked me to write the PDQ because the totalizer wasn't
15 calibrated, because I had struck out some of the sensitive
16 information in there like the -- my finding about how
17 inaccurate the device is, they asked me to strike that from
18 my problem report, Dennis Gardner did.
19 He was very alarmed that I had stated that the
20 totalizer was 8.5 percent, found 8.5 percent inaccurate
21 because he had always assumed there was no inaccuracy with
22 that device. He asked me to scratch it. And Jim Field -- I
23 scratched it, and Jim Field complimented me how flexible I
24 was being. Anyway, what's important to note there is from
25 '95 to current, you can see a relationship between the PDQs,

1 the problem statements that I wrote, and the -- and the
2 complaints that would be incoming from effected parties as a
3 result of my PDQ, writing the PDQ.
4 So getting back to management or supervisor's
5 attempt to get me to volunteer to go to EAP consultation,
6 the point I want to make is I think that is an abuse of
7 their power, that it doesn't make sense to me that Mr.
8 Redeker's real motive was to -- was to get me to go to a
9 licenses social worker for EAP consultation. In fact he
10 only wanted me to go once, all three of us to go one time,
11 and he's making his written expression that it's to improve
12 organizational relationships?
13 Q What do you think the real motivation was that he
14 wanted you to attend this counseling session?
15 A I think he wanted a report from the counselor that
16 would discredit me or find me -- maybe it wasn't -- maybe
17 fitness for duty?
18 Q Was that ever mentioned --
19 A No.
20 Q -- during this time?
21 A Never.
22 Q Fitness for duty?
23 A Never.
24 Q Okay.
25 A And Bruce Notareus later commented, it's in the

1 document in here in a correspondence to my attorney, I
2 believe, where he says that Mr. Redeker was naive in
3 expecting -- in -- that to result, that circumstance of all
4 three of going to one counselor with confidentiality would
5 result in facilitation. He said Mr. Redeker was naive. I
6 don't think -- my attorney wasn't naive, I'm not naive,
7 Bruce Notareus is not naive. The reason that Mr. Redeker
8 could have had such a naive understanding of how that would
9 result in facilitation.
10 Q Let me ask you one question about this series of
11 events that you're telling us about, the meetings in July
12 that you had and you've documented them for us, all of which
13 led up to this desire for SMUD to have you go to a
14 counselor, either alone or with Mr. Redeker and Mr. Field,
15 okay? What can you tell us that would give us evidence that
16 those activities were in some way the result of your going
17 to talking to NRC personnel or that they were the result of
18 your raising concerns about nuclear safety to your managers?
19 Is there anything that links the cause and effect here?
20 A Yes. As it turned out when I didn't volunteer, or
21 after this memo was received by SMUD that Mr. Redeker said,
22 "Don't make an appointment with our counselor, all deals are
23 off. We're considering any and all other options." This
24 was about a couple of days earlier than September 3rd, the
25 day I was suspended.

1 It's very important -- this was like August 27th
2 or so. The thing that links it is the memo I wrote to Mr.
3 Redeker that he received on 8/25/98 where I had complained
4 about that I was in a suppressed environment, and I wasn't
5 free to raise problems, and I was reluctant to write PDQs,
6 that was one of his reasons for suspending me. So that's
7 proof that it was a result of these memos in part for my
8 expressing a reluctance to write PDQs, and the suppressed
9 environment, and the backlash I was receiving.
10 That was one of his stated purposes for suspending
11 me, and nothing except the -- I don't -- never did they
12 express that I had went to the NRC before, but back in, as I
13 testified earlier, in July -- back in the summer of '97 my
14 supervisor had complained had -- somebody else, Bill Wilson,
15 complained that I went to the NRC and he asked me if I had
16 gone to the NRC. So at that point I knew my supervisor was
17 suspicious that I had gone to the NRC way earlier, but I
18 never did in the summer of '97, it was the summer of '98.
19 No, there is no direct link between any mention of
20 me going on the July 9th or the August 8th from either of
21 the supervisors there, but it's definitely a result of me
22 complaining about my suppressed environment that I was in.
23 Q Okay. You just said August the 8th. Did you mean
24 August the 8th, or was it August the 20th?
25 A August the 20th.

1 Q How about that August the 20th meeting? My
2 understanding is that you met with Vince Everett and you
3 also met with Special Agent Boal at that time.
4 A Yes.
5 Q Did anybody at SMUD know that you had that meeting
6 with those two NRC employees, either at the time it occurred
7 or subsequently?
8 A No.
9 Q No? You don't have any indication that they have
10 knowledge of that somehow?
11 A No.
12 Q How about -- okay. My next question was going to
13 be how about any retaliation or harassment that occurred
14 because of that meeting, but if you feel that they don't
15 have any knowledge of the meeting, I'm not sure that there's
16 any linkage there. That where I was going.
17 A The linkage, again, Phil Terry -- Sue Terry and
18 Richard Manheimer and the Bill Wilson complaint in '97 are
19 the indicators that management supervision was aware or
20 suspicious that I went to the NRC. Those are my indicators.
21 But definitely there's definite evidence that they were
22 acting to my concerns about backlash and suppressed
23 environment that are in the -- that have been -- that are in
24 the memos that I had issued right prior to getting
25 suspended.

1 So I think that in itself, for one to suspend
2 somebody because they're expressing their reluctance or the
3 backlash and the Catch-22 situation, is invalid. I think
4 it's insensitive. It's not the way to respond to an
5 employee's plea for remedy of a problem of unfair criticism.
6 Instead -- that's evident on -- there's September 2nd, 1998,
7 the day before suspension when the SMUD attorney and Mr.
8 Redeker are considering any and all options as a result of
9 my attorney simply saying that -- expressing alleged
10 agreement that she and SMUD and Mr. Redeker had that I could
11 go to my own counselor, and also, if they wanted, we could
12 go to an unlicensed facilitator for that purpose.
13 Any and all other options. Please bear in mind,
14 the threat made, if I don't volunteer, he's going to do more
15 personally threatening, less confidential, less desirable
16 means. He said that on July 22nd. It's very important to
17 note that Mr. Redeker was very willing for me to go to an
18 EAP counselor for the purpose, his proposal that last day,
19 that he didn't find me to be violent at that point, he
20 didn't consider me to warrant suspension at that point.
21 Just three days prior to being suspended it was simply the
22 fact that this attorney, my attorney, had offered to go to
23 my own counselor, that he became very dissatisfied and upset
24 and any and all other options.
25 He's working together with the SMUD attorney to

1 somehow deal with this -- me not agreeing to go to the
2 counselor he wanted me to go to. He read my memo that he
3 received on August 25, and he responded to that memo by
4 issuing -- please refer to tab seven, Exhibit 1.
5 Q Okay.
6 A Here's Mr. Redeker's response to that -- to the
7 memo where I expressed reluctance to write PDQs. He's
8 warning me of deliberate misconduct for not writing PDQs and
9 in response to this memo I replied to Mr. Redeker at a
10 meeting. He summoned me into his office on July -- on
11 September 2nd to give me this memo. I read it, responded to
12 is, and I said -- reminded him of the Catch-22 situation
13 that I was placed in where if I wrote a PDQ I'd get adverse
14 response from supervisors or coworkers, and if I didn't now
15 he's threatening me with termination here for deliberate
16 misconduct.
17 The next day I was -- on September 3rd, 1998 I was
18 summoned up to his office and there was a security guard
19 waiting. In fact the security guard -- well -- and they
20 summoned me to the office, and I asked for a witness, and
21 they allowed me to have a witness. I knew something was up.
22 I didn't know I was being suspended at that time. It was
23 very, as you can imagine, having a security guard there,
24 something was up.
25 At the meeting they told me the reason -- I asked

1 for the reasons why what they were doing. They said they
2 were suspending me and they gave me four different reasons
3 why they're suspending me, and one of them was because of my
4 reluctance to write PDQs as expressed in that memo, and also
5 the time it took me to volunteer -- to make a decision on
6 whether to volunteer for this consultation, and --
7 Q Is there some document that they gave you
8 regarding the suspension that documents the reasons?
9 A Not at that time. On September 3rd he just told
10 me them verbally, but later on in documentation in here the
11 general manager, in one of the general manager's letters,
12 she recites those same reasons, the same reasons.
13 Q So it's documented?
14 A Yes, it's documented.
15 Q Okay.
16 A So before I get into the suspension part of it, I
17 just want to make sure it's recapped, that it's understood
18 that Mr. Redeker attempt to get me into EAP consultation is
19 very suspicious, it wasn't straight forward. If his whole
20 purpose was to get me to go to fitness for duty, he should
21 have filed a fitness for duty procedure. He didn't give us
22 any reasons why.
23 Again, for last several weeks I was even out of
24 the picture here. It was all negotiations with my attorney.
25 When my attorney tried -- was protecting me from adverse

1 reactions from my supervisors in this matter and trying to
2 protect my rights to privacy, any and all other options, the
3 threat made on September 22nd by Mr. Redeker, it all fits
4 into -- you've got to ask yourself what was really going on
5 here. I don't think Mr. Redeker's stated purpose makes any
6 sense.
7 Q And your position of what really was going on here
8 was again what?
9 A That he was trying to get me to go to a licensed
10 psychologist so that -- I thought it was at that point in
11 time to disqualify me if he could. If that psychologist
12 said that there was something wrong with me, that that would
13 disqualify me from testifying further with the NRC.
14 Q So you definitely felt that there was some linkage
15 between his actions and your protected activities of raising
16 concerns to the NRC, raising concerns to management about
17 nuclear areas?
18 A Right.
19 Q Okay.
20 A And if I had been deemed unfit, I don't think I
21 would be here right now.
22 Q Thank you. Regarding the September the 3rd
23 suspension, was that something that was done with pay or
24 without pay?
25 A It was with pay.

1 Q Okay.

2 A But before we go into the actual suspension, I
3 want to again recap and point you to -- let's see, where is
4 it? In my discrimination complaint. Exhibit 1, page seven.

5 Q Exhibit 1, page seven from your last interview on
6 March 26, '99. Go ahead.

7 A And look at the bullets. If Mr. Redeker and Mr.
8 Field thought that my behavior was aberrant, which is the
9 only valid -- a valid reason for suspending a person under
10 -- for security reasons, why didn't they -- let's see. If
11 Mr. Redeker and Mr. Field thought that my behavior was
12 aberrant prior to August 27th, 1998 warranting suspension of
13 my site access pending psychological exam, then why did they
14 not do so until September 3rd, 1998, and instead insist on
15 an EAP social worker consultation to improve relations?

16 There was nothing between August 27th, '98 and
17 September 3rd that I did that was aberrant. In fact I was
18 out of the picture. The only meeting I had with my
19 supervisors in that interim was on the meeting about the
20 PDQs, the memo that we just reviewed where he's responding
21 to my statement that I'm in a suppressed environment
22 reluctant to write PDQs.

23 Another point I want to make is if an employee --
24 discussed in my memo -- okay, one of the stated reasons is
25 that -- for being suspended was that I was a threat to my

1 coworkers. If an employee discussed -- if there was a
2 threat by a coworker, then why did they wait months to
3 report it and just days after Mr. Redeker and Bruce Notareus
4 said they would consider any and all other options?
5 Q You're saying -- I think you just said if there
6 was a threat by an employee. I think -- are you meaning to
7 say to an employee, is that what you mean to testify?
8 A Yes.
9 Q So there was some situation that occurred where an
10 allegation was made that you had threatened another SMUD
11 employee, is that what you're saying?
12 A Right. I know there was no -- no such possible
13 situation, and especially between the time between August
14 27th and the date they suspended me on September 3rd, so if
15 what they said was true, I'm just saying if what they said
16 was true, then why didn't they do it, suspend me, earlier?
17 I know it couldn't have happened between August 27 and
18 September 3rd.
19 Q Were you ever told who the alleged other employee
20 was who reported being threatened?
21 A Mr. Redeker at the department mentioned several
22 times that he thought -- in fact he said he thought I was
23 threatening him. That at a meeting somebody came up to him
24 and said that I was out to get him. He also mentioned that
25 earlier -- in fact he had mentioned an incident a year

1 earlier where I had expressed my views with another coworker
2 where I -- there was no threat that I made to this -- I was
3 just open and said that Mr. Redeker should be held
4 accountable for certain things, and I was being critical
5 about Mr. Redeker to another coworker a year earlier, but
6 there were no threats made. He used that as an example.
7 When I asked him --
8 Q Could you tell us who that employee was that you
9 made those comments to?
10 A It was Bob Jones.
11 Q And what's his position at the plant?
12 A Licensing engineer.
13 Q Thank you.
14 A But that was a year earlier.
15 Q Okay.
16 A And there was no action taken with regard to that.
17 I was only -- admittedly I was being critical, but there was
18 no threats.
19 Q So what you're saying, let me make sure I
20 understand your testimony correctly, you're telling me that
21 you were critical of Mr. Redeker in that conversation in a
22 professional sense?
23 A Right.
24 Q And what you're telling me is is that you think
25 that somebody interpreted your criticism of him to be more

1 than a professional sense, that it was like a threat to his
2 personal well being potentially? Is that what they told you
3 it was interpreted as?
4 A Yes. As far as they told me it was considered
5 threatening at that point.
6 Q Threatening in --
7 A I don't know.
8 Q Threatening in what sense?
9 A That's what I --
10 Q You don't know yourself? Okay.
11 A Next point I want to make, if I had agreed to go
12 to EAP consultation that Mr. Redeker intended, would they
13 have taken the drastic and damaging action of suspending my
14 employment and site access? Certainly not. If I had on
15 August 27th, if this memo said yes, we agree to go to your
16 counselor, there would have never been a suspension, I'm
17 certain of that. It was my attorney's letter that made him
18 make the statement, don't go to your counselor, we're
19 considering any and all other options.
20 The next point I want to make is did Mr. Field and
21 Mr. Redeker abuse their authority under Rancho Seco
22 Administrative Procedure 1003 to revoke my site access by
23 abusing the continual behavior observation program to
24 justify sending me for psychological evaluation? Was this
25 what Mr. Redeker meant when he had threatened me on

1 September 27th with the statement, "I'm telling Jim Saum
2 that there are other non-voluntary, less confidential, more
3 personally threatening, less desirable ways to handle this?"
4 There's a good clue to what Mr. Redeker's mind set
5 was way up earlier, and none of the -- none of this made
6 sense to me, and that's -- didn't make sense to my
7 attorneys, and for him to suspend me for trying to protect
8 my rights to privacy, that's why it took so long because
9 nothing was making sense, no procedures, they were singling
10 me out. The attorney was telling me the law regarding
11 privacy, and she was only trying to protect my rights to
12 privacy, that's why it took so long.
13 For him to get all frustrated about it and make up
14 a charge at the end that I'm violent and the other part, to
15 say that because I'm reluctant to write PDQs, what he didn't
16 know was that I'd always been reporting problems verbally.
17 He didn't ask me that, but I'd always in some form -- I
18 always knew my obligation to report problems, and so I'd
19 report them to my supervisor. I knew that either a
20 supervisor or the NRC, and I'd always done that either
21 verbally, or in memo, or write an official PDQ, or reporting
22 verbally, orally, to the NRC or in writing. I always did
23 that.
24 For him to suspend me for that purpose wasn't
25 right and I think just the circumstantial evidence here will

1 show that something, from my point of view -- imagine
2 yourself to be me under those circumstance, that any
3 reasonable person would have been very suspicious under the
4 circumstances, and that that's why it took so long for me to
5 make an agreement or not agree to go to this consultation.
6 The point being here that I want the NRC to
7 investigate, and I'd sure like to see the security records.
8 I'm sure they did a security review. I know I never
9 threatened anybody. I maybe threatened them with attorneys
10 or holding them accountable. They may have been threatened
11 that way, but I've held a security clearance for 21 years.
12 No criminal records, no disciplinary action, no evidence in
13 the past of any kind of problem. Of course you can see from
14 the meeting minutes that the events that led up were very
15 suspicious. They wouldn't let me communicate, they didn't
16 want to discuss the problems, yes or no answers only,
17 hardball approach.
18 The conclusion I come to, and I hope NRC comes to,
19 is if he thought he had a valid reason for -- if he thought
20 I was a security threat, which is a valid reason, why didn't
21 he tell me so and just -- why was he devious and not being
22 straight forward and tell me the real reason? Why was he
23 using this as an excuse? The circumstantial -- the facts of
24 the matter don't add up and I just hope that it's seen that
25 that was improper action on behalf of the plant manager or

1 my supervisor. I think both of them reviewed it.
2 Q It being what?
3 A I mean the continual behavior. They both declared
4 me aberrant.
5 Q How do you know that they declared you aberrant?
6 A Talking -- because that's the procedure. RSAP
7 1003 says a supervisor may suspend your site access if he
8 considers you to be aberrant. That's the only valid reason
9 for -- well, other people can do -- security people can do
10 it, but the supervisor did it in this case, and I was told
11 that was the case.
12 Q When -- how were you told that you were aberrant?
13 I think what you're telling me is that they invoked this
14 Rancho Seco Administrative Procedure under the security plan
15 in order to suspend you, is that what your idea is? My
16 understanding is in order to do that they have to find you
17 aberrant under the security plan.
18 A Right.
19 Q Is that what transpired here, do you know?
20 A I wasn't told at that point. But let me just
21 continue with the story, because later on I -- several weeks
22 after I was suspended after one aborted attempt to send me
23 to another psychologist, that's when I find out that they
24 were really invoking the security plan reasons. Up until
25 this point I'm still thinking that they're suspending me

1 because I didn't volunteer to go in to a -- volunteer to the
2 consultation to facilitate relationships.
3 At this point I still don't know whether it's a
4 security reason, they haven't told me. All along we're
5 asking them, "What procedure are you using?" Not told. So
6 when I was suspended, I'm still thinking they didn't have --
7 I didn't know what reason why, whether it was a security
8 plan reason yet. I still thought they were still using
9 management authority to just put me on administrative leave
10 pending psychological evaluation for the purpose of, again,
11 facilitating -- facilitating relationships.
12 We're asking all along, "What procedure are you
13 doing this by?" And they're not answering it. It will be
14 clear in the records here. Over and over we're asking SMUD
15 attorneys. Look at my correspondence from my attorney to
16 SMUD attorney. We're asking them, "What procedure are you
17 doing this by?" They're not answering us.
18 So they tried to send me to the first
19 psychologist, Rusty Otto, and my attorney goes down to the
20 -- to his office right prior to me -- my scheduled
21 appointment to see this psychologist, and she discusses the
22 release authorization and the California law about what he's
23 allowed to report to my supervisor or to the district.
24 Again I'm thinking that -- like originally, he
25 wanted a release of a report from this -- from EAP

1 counselor, a report from him to "improve organizational
2 relationships." I'm still under that impression at this
3 point with Rusty Otto that he wants a report from Rusty Otto
4 in relationship to how well I can relate to my supervisors
5 or something like that.
6 Q Is this the psychological evaluation that was
7 scheduled for October 8, 1998, this Rusty Otto situation?
8 A Yes. I think that's the first one. Let me -- let
9 me -- September 8th, 1998. The chronology of events, this
10 Exhibit 1 is very clear. It has a nice chronology of
11 events, and if you refer to Exhibit 1, page nine, you'll see
12 the appointment with Rusty Otto.
13 Q Okay, I've got it. So that was on September the
14 8th, 1998?
15 A Right.
16 Q Okay.
17 A And she showed up and had a discussion with Dr.
18 Otto and found out that SMUD was requesting more information
19 than was legally allowed. At that point he refused to
20 interview me, evaluate me. This is what Joanna Brooks tells
21 me. And so that our first attempt was aborted. He
22 mentioned that it wasn't ethical for him to go forward with
23 the evaluation. At this time again we're not -- we think
24 it's for the purpose of facilitating relationships.
25 Shortly after that, I think -- let's see, when did

1 they give me the real reason? On September 17th they --
2 shortly after, I think on the 17th, is the first time SMUD
3 produced the real reason why the suspended me. That was
4 they provided to my attorney a copy of Rancho Seco
5 Administrative Procedure 1003, which is the site access
6 procedure.
7 So based on that, I read that procedure, and now I
8 realized that they were, even though I disputed the basis of
9 it, if they did -- I realized that now they were -- they had
10 -- if they had a valid reason for suspending me if I dispute
11 that I was aberrant and the reasons why, but at least they
12 had a procedure as to why they were suspending me.
13 I read it and it said that under the procedure for
14 having a psychological evaluation, the first part would be
15 the written MMPI test, and if you passed that, if the
16 results were normal and conclusive, that would be the end of
17 the psychological evaluation. Most employees at Rancho
18 Seco, when I first came, was employed with the district,
19 that's the only evaluation I took was a written MMPI. I
20 passed that no problem.
21 So even though I disputed that I was aberrant, I
22 agreed to take the MMPI and follow this procedure. I
23 submitted to an MMPI test and SMUD -- and fortunately I got
24 a copy of the raw data. It's a computerized one of those
25 where you take a pencil and you mark A, B, C, D.

1 Q I know what you're talking about. Filling out the
2 ovals --
3 A Yes.
4 Q -- in a No. 2 lead pencil?
5 A Right.
6 Q I can't remember what it's called, but I
7 understand what you're telling me.
8 A So I took that and then SMUD refuses to provide
9 the results of that and instead insist that I go forward
10 with a psychological evaluation. It's important to note
11 that my attorney and SMUD attorney agreed that if it was
12 necessary, that if I didn't pass the MMPI test for whatever
13 reason and it became necessary for me to go see a follow up
14 clinical evaluation, that prior to that that SMUD and my
15 attorney would get together and mutually draft a release
16 authorization and scope of evaluation so that it was
17 consistent with the state law and the federal law for
18 requiring me to go get a psychological evaluation.
19 Q By the federal law, you mean the NRC's fitness for
20 duty rules?
21 A Right. So that didn't happen. Instead they
22 rescheduled me to another -- Dr. Otto wouldn't evaluate me
23 based on his ethics and SMUD trying to get more information
24 than was legally required. They set me up for another --
25 after I took the MMPI, they set me up for another

1 appointment for Carol Burda.

2 Q You did take the MMPI in this time frame? Yes.

3 It says here on 9/24/98 Mr. Saum took the MMPI.

4 A Right.

5 Q So you did take one in September?

6 A Right. And then on 9/30 Estaban Nova, Security

7 Supervisor, tells me that I'm required to go see a clinical

8 follow up. Esteban Nova said he'd had no knowledge of the

9 results, they're not giving us the results.

10 Q Okay.

11 A On 10/1 you can see they're not giving us the

12 results, according to my attorney. And so they're not

13 giving it to us so we're seeking it from the Behavior Data,

14 and Behavior Data is not giving us the results.

15 Q They were the company that administered the MMPI,

16 is that correct?

17 A Graded it.

18 Q Graded it, okay.

19 A And then on 10/6 I'm given a notice to go see

20 Carole Kirschnit, Dr. Carole Kirschnit, and there's no

21 explanation under MMPI results. Let's see, what else is

22 important? So at this point we're trying to insure that --

23 my attorney's trying to protect my rights to privacy and if

24 I passed the MMPI test, according to their procedure, that

25 was enough. We're trying enforce that and SMUD's just going

1 forward and setting us up, not telling us. And then --
2 Q Did you ever get the results of the MMPI?
3 A I had, after failed attempts to get it from
4 Behavior Data, I took the raw data and had my own
5 psychologist grade it. That's Dr. Allray. The results are
6 in attachment what?
7 Q I think this is it right here. We didn't use this
8 last week. Is this the --
9 A That's the one.
10 MR. JOUKOFF: Okay. Let's mark this as Exhibit
11 No. 2 to today's testimony. This is a letter dated October
12 21st, 1998 to Jim Saum from Gordon L. Allray, PhD.
13 (Exhibit No. 2 was marked for
14 identification.)
15 BY MR. JOUKOFF:
16 Q And so you -- how did you take the raw data?
17 Explain to me what you did by taking the raw data and giving
18 it to Mr. Allray. Is that what you did?
19 A Right.
20 Q Okay. That's not kept by SMUD? They gave you a
21 copy of it or allowed you to have a copy of it?
22 A Yes.
23 Q Okay. So you took the actually MMPI that you took
24 at Rancho Seco and you gave it to Mr. Allray and asked him
25 to evaluate it?

1 A Right.
2 Q And the results are shown in Exhibit 2, right?
3 A Right.
4 Q Testify what it says.
5 A Ready? Are we on record?
6 THE COURT REPORTER: Yes, we are.
7 THE INTERVIEWEE: Okay. It says Dr. Allray
8 concludes that the MMPI results, "Indicate no evaluation of
9 any clinical scales and a valid test result." So that -- so
10 it was a -- I passed the test. But I didn't receive this
11 until way late. Already when I was given notice for
12 termination. The date on it, August 21, a couple of days
13 prior to --
14 BY MR. JOUKOFF:
15 Q You mean October 21?
16 A October 21. A couple of days earlier before my
17 Skelley hearing, because I was -- I'm jumping forward here.
18 Okay, so let's move back.
19 Q Okay.
20 A I'm scheduled for a psychological evaluation with
21 Dr. Kirschnit. There's an agreement that if I ever had to
22 go to Dr. Kirschnit as a follow up that my attorney and SMUD
23 attorney would jointly draft a release authorization and
24 scope of evaluation. That was not done.
25 Mr. -- look at 10/7/98. Mr. Notareus faxed a

1 letter indicating that he was changing his position. It was
2 now SMUD's position that the results of the MMPI were not
3 controlling whatsoever, relying on different provisions.
4 Accordingly, Mr. Saum would not receive any written
5 confirmation on MMPI and warned that if I don't appear, we
6 face termination. However, that fax was not received by my
7 attorney until after I was recommended for termination.
8 Q Just so it's clear to the readers of the
9 testimony, this testimony, we're reading from Exhibit 1 of
10 today's transcript. In the very first document, which was
11 written by Joanna Brooks and the chronology area, we're now
12 at approximately page 12 of the October 21st, 1998 letter
13 that Joanna Brooks wrote to Jan Shori, the general manager
14 of SMUD. You want to take a break now or do you want to
15 keep going?
16 A No, keep going.
17 Q You want to keep going, okay.
18 A Yes. And so on 10/8 my attorney advised me not to
19 attend this psychological evaluation because she had told me
20 that she was trying to protect my rights of privacy, and so
21 I followed her advise, didn't attend, and called up my
22 supervisor and told him that I was not attending the
23 psychological evaluation based on the reason that I was
24 following my attorney's advise, I was trying to protect my
25 rights to privacy, that I was not refusing to submit to a

1 psychological evaluation, it was only to -- at some later
2 date if it turned out it was necessary and my attorney
3 advised me, I would submit.
4 So my supervisor was informed of those reasons,
5 but in spite of that, Mr. Redeker issued a recommendation to
6 the general manager on August 8th, '98 that I be terminated
7 for insubordination for not appearing to the appointment.
8 And then on 10/13 I received notice of termination and a
9 Skelley hearing was scheduled.
10 The general manager -- I'd like to have the
11 readers look at page 14 of --
12 Q Exhibit 1?
13 A -- Exhibit 1 where my attorney's making some good
14 points here. Imagine yourself in Mr. Saum's shoes. As soon
15 as he raises safety concerns, supervisors begin questioning
16 his sanity and reliability. Shortly after voicing
17 complaints to the NRC, he has told he must submit to
18 psychiatric counseling. Although Mr. Saum agrees to the
19 counseling, when he attempts to question the procedures and
20 the scope of the release of information, SMUD rejects his
21 agreements to submit to counseling. Mr. Saum's supervisor,
22 Steve Redeker then decides to humiliate him in front of the
23 coworkers by having him removed from his post by armed
24 security guards, stripping him of unescorted status pending
25 full psychological evaluation. Mr. Saum never has even gave

1 Mr. Saum the common courtesy of written notification or
2 objective reasons to support such a dramatic measure.
3 Q I think you misread that, it's Mr. Redeker never
4 gave Mr. Saum the common courtesy. You said Mr. Saum never
5 gave Mr. Saum.
6 A Oh.
7 Q That's okay, I just want to make sure it's clear.
8 A Mr. Saum attempts to protect his privacy rights by
9 informing the psychologist that he is obligated to comply
10 with state law regarding disclosure, non-disclosure of
11 confidential information. Mr. Saum learns that his employer
12 is seeking much more than that. Saum contends that state
13 law does not --
14 Q SMUD contends.
15 A SMUD contends that state law does not apply, but
16 never produces any federal law indicating the extent of
17 disclosure allowed. When SMUD is required to produce what
18 they are relying upon to obtain additional information, Mr.
19 Saum learns that the procedures they claim they are relying
20 on have not been followed. Mr. Redeker had not authority to
21 send Mr. Saum for a full evaluation through the Workers
22 Compensation carrier, which is the -- which is Dr. Otto,
23 prior to them producing the real reason, the real procedure.
24 They were doing it under Workmans Comp and EAP and other
25 methods.

1 The security office is responsible for handling
2 referral to psychological evaluation, insuring that
3 procedures are followed to safeguard the privacy rights of
4 the employee. Just when Mr. Saum thinks he has finally
5 reached an understanding with SMUD regarding taking the
6 MMPI, he is told that he has to do the full interview
7 regardless of the MMPI.
8 Mr. Saum merely asked for written confirmation
9 from SMUD that he did not pass the test and/or that a
10 psychologist requested the interview before submitting to
11 the follow up. They're not telling us. That's why we're
12 not going along with it, because they're not providing us
13 the information.
14 Given the prior understanding with SMUD that they
15 would follow this procedure, he had no reason to believe nor
16 adequate notice that he would be terminated for simply
17 demanding SMUD to honor it's own promises and policies.
18 Q Okay.
19 A So at the -- so I went to see the general manager.
20 Q I think I've got it as being on October 23rd, 1998
21 is when your letter you wrote to Russ Wise.
22 A That sounds right. In which I --
23 Q As long as we're on that letter to Russ Wise, I
24 just want to confirm with you. I think some of your dates
25 are wrong here. I just want to get it straight for the

1 record. I'm looking at the February 8th, 1999 letter you
2 wrote to Russ Wise, and on the first page it says, "On 9/3
3 my supervisors retaliated against me by revoking my site
4 access." Then the next bullet is on October 8th you
5 commuted to your -- communicated to your supervisor you
6 would not attend the scheduled psychological evaluation.
7 That's not October. Isn't that September the 8th, according
8 to your other time line?
9 A No, that's the refusal -- that's the Dr. Kirshnit.
10 That's the second psychologist. I don't even mention the
11 first psychologist.
12 Q Okay, so you're not mentioning the first one in
13 here?
14 A Right.
15 Q All right, that's fine. As long as it's clear.
16 When I was looking at your attorney's chronology versus
17 these dates, I got confused. Okay.
18 A The important thing is they --
19 Q You were at the Skelley hearing. I'm sorry I
20 through you off your track. You were going back to when the
21 Skelley hearing was going to be.
22 A Right. And we submitted this document to the
23 general manager. This is my attorney's written response to
24 the notice of termination that we provided to her, and we
25 discussed this at the Skelley hearing, and I provided a memo

1 to the general manager, and we -- and she later -- at that
2 Skelley hearing I made it very clear to her I knew of the
3 district's responsibilities to insure that I'm not a safety
4 or a security hazard, but I wanted her to know that there
5 was a balance of interest question here, that I was totally
6 for approving that I was not a threat to the plant and that
7 I was trustworthy and reliable for site escort.
8 I wanted her to understand that my point of view,
9 that I had a right to certain privacy and that I -- the only
10 thing I thought that should be disclosed based on this
11 evaluation was whether I was fit or unfit. That they had no
12 other need for more information than that. Fit or unfit.
13 And they wanted more and they wouldn't agree to it. I said
14 that I'd agree to submit to this psychological evaluation if
15 they could only allow my attorney to guarantee my rights to
16 privacy.
17 I made it clear to her, and my attorney even
18 testified, that -- that she advised me not to go. Based on
19 those two factors, the general manager rescinded her
20 decision to terminate me, and then under -- she established
21 conditions for continued employment. That's a very
22 important document. It's general manager letter 98352 is
23 the conditions of employment where based on because Mr.
24 Redeker had recommended termination for what I consider an
25 invalid reason, now in order to continue my employment I had

1 agreed to all these conditions.

2 One of the conditions was I'd agree to six months

3 probation period, that I'd agree to -- to facilitation to

4 improve relationships, that I'd agree to go into the

5 psychological evaluation but pending that my attorney and

6 SMUD attorneys would jointly draft the memos, I mean the

7 release authorizations and scope, so it's important to get

8 that letter established in the record, wherever it is.

9 MR. JOUKOFF: Let me go off the record for a short

10 break at 12:46 while Mr. Saum looks for that letter.

11 (Recess.)

12 MR. JOUKOFF: We're back on the record now. It's

13 approximately 12:50 p.m. Mr. Saum has found the document he

14 was looking for, and it's contained in Exhibit 2 at page

15 seven from his March 26, 1999 interview with the NRC.

16 BY MR. JOUKOFF:

17 Q This is the letter that you received from the

18 general manager at SMUD reinstating your employment, is that

19 correct?

20 A Correct.

21 Q And putting some conditions on your employment, is

22 that correct?

23 A Correct.

24 Q What did you want to highlight in this document?

25 A The conditions themselves, and also here you asked

1 me before whether there was an official statement of why I
2 was suspended, and it's also included here on page two as to
3 the four reasons that I was suspended originally for.
4 District was concerned that threats were made to other
5 employees. District was concerned about your ability to
6 work with your supervisors and coworkers. District was
7 concerned that you failed to prepare potential deviation
8 from quality reports and failed to participate in the
9 employment system program to address concerns regarding
10 organizational relationships. We'll get back to this
11 document because -- later on. I just want to put that on
12 record now.
13 Q Mr. Saum just read from Exhibit 2, page eight from
14 his testimony on 3/26/99.
15 A So that brings us up through the attempt to get me
16 to go to EAP when they were unsatisfied with my attorney's
17 response, telling us any procedures, I'm suspended, still
18 suspended. They want to send me to this social worker.
19 They're going to force this, the social worker, on me for
20 facilitating this improved relationship. I'm told these
21 four reasons but not that it was per the site access
22 procedure. Not until after an aborted attempted with Dr.
23 Otto did they produce the procedure. Once we start
24 following the procedure they don't follow the procedure. No
25 information.

1 Just following my attorney's advice and trying to
2 protect my rights to privacy, and also trying to -- I'm
3 willing to compromise even though I know I have the MMPI
4 results. I only got them -- I had already prepared for my
5 Skelley hearing, and I got that MMPI results a couple of
6 days earlier so I agreed to go to the counseling anyway,
7 just to prove it, but alls I wanted all along was fairness
8 in the process.
9 Based on everything that occurred prior, my
10 attorney telling me that they wanted more information than
11 legally obliged, very suspicious circumstances regarding the
12 EAP consultation, volunteering. Them giving me a release
13 authorization for any and all information instead of the
14 promised only the date and time. The very suspicious
15 circumstances related to how that could -- going to an EAP
16 counselor one time with the -- with the guarantee that I was
17 given confidentiality, how that could result in facilitation
18 process was very suspicious. We all knew it was wrong.
19 Finally I get the Rancho Seco procedure produced.
20 I submit to the MMPI. Not told the results of the MMPI.
21 Attorney advises me not to go to the counselor until they
22 produce the MMPI. I'm terminated for it, or recommended for
23 terminated for it. Go to the general manager and have to
24 submit to conditions of employment in order to get
25 reinstated. So that's a recap of that.

1 The point I wanted to make is that it was an abuse
2 of authority for Jim Field and Mr. Redeker to suspend me,
3 that -- that if they felt there was valid security reasons
4 for RSAP 1003, they should have suspended me way up front up
5 when they first -- on July 16th, the day they wanted me to
6 volunteer. That wasn't the reason.
7 That I was only -- they knew that I was only
8 following my attorney's advice trying to protect my rights
9 to privacy. That's why I didn't go to the EAP in the first
10 place. That's why we were taking so long. That whether
11 management, or Mr. Redeker, indeed knew I went to the NRC on
12 July 9th, '98 or did not know, I had reason to believe that
13 he did. I was operating under that assumption.
14 In any event, he was -- there's evidence that he
15 was acting on my memo where I stated reluctance to write
16 PDQs, and for him to suspend me for that reason isn't
17 justified, it wasn't proper. If you go to a manager and you
18 -- over and over again you plead with him for some kind of
19 correction of your circumstance where if I write a PDQ I'm
20 going to get in trouble, if I don't write a PDQ, in trouble.
21 As a plant manager, I feel he was responsible to
22 correct that situation and -- rather than suspend me for
23 that purpose, he should have said go to the NRC or go
24 somewhere else, but you report your problems. Instead he
25 took hardball action and suspended me for that purpose when

1 I'm certain he wasn't up front with the EAP and his motives
2 -- well -- all combine together. And considering the six
3 years of prior experience, that whole event from the EAP
4 consultation all the way through the suspension, through the
5 recommended termination, is very adverse to me.
6 Maybe I didn't lose my pay, maybe I wasn't
7 demoted, but I sure was put under a lot of stress and undue
8 -- it was definitely adverse action and it was unfair, and
9 it was a result of a long experience of me -- a conflict of
10 reporting safety concerns in '93 and conflict of this
11 Catch-22 situation that I kept on communicating to my
12 supervisors, and it was, I think, all along they were trying
13 to get me in line so I'd be like the other coworkers and
14 stop making such a -- raising and challenging -- raising
15 sensitive issues.
16 That's the different that I'll get into explaining
17 in the next couple of minutes. I plan to testify about why
18 I'm different than my coworkers and why -- because I don't
19 think -- I'm sure my coworkers don't raise the type of
20 concerns that I do, such as falsification of plant
21 documents, misconduct by my supervisor, they don't take the
22 same view I do about verbatim procedure compliance, they
23 don't rigorously try to follow procedures or regulations.
24 It's more of a -- they -- I'll elaborate more about the
25 differences later.

1 So that wraps up the EAP and the suspension
2 activities, and now on -- my next part of my testimony will
3 be my return to work. So I'd like to take a break.
4 MR. JOUKOFF: Let's go off the record at 1:00 for
5 a short break.
6 (Recess.)
7 MR. JOUKOFF: We're back on the record at 1:30
8 p.m. continuing with Mr. Saum's interview.
9 BY MR. JOUKOFF:
10 Q Let me just ask you one question before you get
11 back to your return to work status. My understanding is
12 that on December 11th, 1998 a psychological evaluation was
13 completed, is that true?
14 A Yes.
15 Q And that it concluded no aberrant behavior, is
16 that also true?
17 A Correct.
18 Q And is that report something that we have here
19 with us today?
20 A Yes. It was prepared as an exhibit. I had it
21 attached to my letter to the NRC, but I think -- should we
22 make that an exhibit?
23 Q Certainly.
24 A It was included in the Department of Labor. It
25 must be the last one of your -- here it is.

1 Q Okay. Let's mark this as our next exhibit. This
2 is going to be Exhibit 3 to today's testimony. And this is
3 a letter to Arlen Orchard, Assistant General Manager of
4 SMUD, dated December 14th, 1998, from a George T. Mannen,
5 PhD. This is the result of the December 11th, 1998
6 psychological evaluation, is that correct?
7 A Yes.
8 (Exhibit 3 was marked for
9 identification.)
10 BY MR. JOUKOFF:
11 Q And the conclusion of this is, if you could just
12 read that into the record what the conclusion is?
13 A "As a result of my December 11th, 1998
14 psychological evaluation of Mr. James Saum, I have
15 determined that there is no dependable evidence of emotional
16 instability or aberrant behaviors which would raise doubts
17 about Mr. Saum's ability to discharge his duties as a senior
18 electrical engineer at a nuclear power plant in a
19 responsible and trustworthy manner. I do not believe that
20 Mr. Saum represents a security hazard, nor is a physical
21 threat to other district personnel. Currently he is
22 psychologically suitable for unescorted access at a nuclear
23 facility. George T. Mannen, PhD."
24 Q Thank you. So following this, you returned to
25 work, is that correct?

1 A Correct. On January 11th, 1999 I returned to work
2 at Rancho Seco. I'd like to refer to Exhibit 1.
3 Q This is Exhibit 1 from your last interview, right?
4 Exhibit 1 from last week's interview, from the 3/26/99
5 interview, is that correct?
6 A No.
7 Q You want to go to --
8 A Yes, that's it.
9 Q It's Exhibit 2 to your March 26, 1999 interview.
10 Okay, go ahead.
11 A Okay. This Exhibit clearly describes the events
12 that occurred from -- the discriminatory acts that occurred
13 since returning to work. On -- as a condition of my
14 employment I had to agree to six month probationary period
15 and agree to facilitated meetings that SMUD had contracted
16 for Dale Flowers to be a facilitator for that purpose.
17 On January 13th, 1999 we had a facilitated meeting
18 with Mr. Redeker, Dale Flowers and Jim Field. The first
19 part of that day, this is not in this record, but it's
20 important to note that Mr. Redeker came into the meeting
21 with Dale Flowers and they asked me about a rumor that was
22 going on that I was out to get Mr. Redeker.
23 Here it is again that they're basing my threats on
24 some kind of rumor instead of objective evidence, and it
25 points to the -- how there might have been an abuse of power

1 earlier where Mr. Redeker accused me of threatening him
2 personally.
3 Q Did they clarify to you what it meant that you
4 were trying to, "get Redeker?"
5 A No, but they asked me to clarify. So I said,
6 well, you know, I told various coworkers that I had filed a
7 complaint of discrimination with the Department of Labor and
8 was pursuing that, and was pursuing complaints with the NRC
9 related to discrimination, and I told them if that's what
10 they think -- if that's what you meant -- if that's what
11 they mean I'm out to get you, then that's true.
12 Q Why don't you tell us for the record what your
13 intent was at that time? Did you have an intent to go out
14 and do some physical harm to Mr. Redeker?
15 A Absolutely not.
16 Q And you didn't have an intent to damage his
17 property or --
18 A Absolutely not.
19 Q -- in any way --
20 A I'm a man that believes in the process as
21 evidenced by what I'm doing. I'm pursuing a process here of
22 trying to resolve a problem by going through legal and
23 procedural remedies.
24 Q Did you -- do you recall ever saying to any of
25 your coworkers that you were out to get Mr. Redeker?

1 A No. Never said that in those words.
2 Q So what was it again that you communicated to your
3 coworkers? That you were pursuing what? A course of action
4 with the Department of Labor and the NRC?
5 A Correct.
6 Q Do you recall any of the specific conversations
7 that you can tell us about? More specific than what I'm
8 stating, do you remember any of your wording or anything?
9 A It was coming back to work and I'm meeting all my
10 coworkers that I haven't seen for four months, and they're
11 asking me what happened, and I'm kind of just referring to
12 what had happened, I was discharged and they escorted me
13 rudely off site, and that -- that now -- that they tried to
14 fire me, I said, but the general manager rescinded it, and
15 that back to work now, but I'm pursuing a complaint with the
16 Department of Labor and the NRC, and that I hoped to prevail
17 on that and hoped that that would be my remedy. That's
18 about what I said.
19 Q Do you recall who any of the individuals were that
20 you were talking to in this conversation or series of
21 conversations?
22 A I remember maybe talking to IMC Technician, Don
23 Wiles, I talked to lots of people, all my coworker friends.
24 Mike Braun, a quality assurance engineer, I think Rich
25 Manheimer, and even people that I'm just not that familiar

1 with, just -- there may have been a couple of others that I
2 can't remember.
3 Q Thank you. So you were going to talk about your
4 return to work then?
5 A Right. So at that meeting I tried to sort of --
6 they were satisfied with my response and the facilitator
7 said -- recommended to Steve Redeker that these rumors have
8 to stop, and it's understandable -- it shouldn't be unfairly
9 -- they shouldn't take action against me based on rumor or
10 innuendo, or have any opinion, and that's a problem. It's
11 evident by that even there. I think they suspended me for
12 pursuing rumors or making up -- I don't know.
13 Anyway, at this meeting later on in the day, the
14 whole purpose of the meeting was to try to get me to reveal
15 what I had disclosed to the NRC as part -- they'd already
16 received my complaint, Department of Labor complaint, and it
17 had references, as does, as you can see in -- what exhibit
18 is this? The actual labor --
19 Q I'm not sure we've even marked that as an exhibit.
20 A Here it is, this one.
21 Q That's Exhibit No. 1 to your last interview.
22 A Page 18.
23 Q Okay, go ahead.
24 A Attachments three and six, concerns regarding
25 Rancho Seco. So I had -- they had known that I had

1 submitted concerns regarding Rancho Seco to the NRC. In
2 fact it was part of an earlier similar complaint to the
3 State Department of Labor that I made on November 19th,
4 1998. We had a meeting with the investigators of the State
5 Department of Labor, Ms. Martina, where I provided basically
6 the same documentation to SMUD, but I withheld attachments
7 three and six, the letters to Mr. Boal regarding the
8 confidential disclosures I had made on August 20th to the
9 NRC.
10 Again, I had recently submitted on December 8th,
11 1998 a similar complaint to the Department of Labor, U.S.
12 Department of Labor, and I believe they wanted to know what
13 my concerns were that I withheld. It's my opinion that they
14 wanted that so they could respond to the Department of Labor
15 complaint. Additionally, I think they were --
16 Q They being Redeker?
17 A Yes. Okay, so that's a very clear fact that was
18 written on the board, other NRC concerns, Jim Field and Mr.
19 Redeker were asking me about these other NRC concerns. Jim
20 Field left the meeting. I was with Dale Flowers, Mr.
21 Redeker and myself, where he's still trying to get these NRC
22 concerns from me, and this memo, I took notes that the
23 facilitator -- well, I took notes that day in my notebook,
24 so I tried to recall, I mean I clearly know the basic
25 statements that were made to me. They're described here in

1 this memo.

2 Q This is Exhibit 2 to your March 26th, 1999

3 interview, and you're on page two?

4 A Right.

5 Q Okay, go ahead.

6 A He said he demanded these NRC concerns so that

7 PDQs could be written so management could address them.

8 Steve Redeker insisted that this was a condition, the

9 general manager imposed a condition for my continued

10 employment. He referenced that, and he was -- and I was

11 stating that I had a Form 3 right that I could report

12 directly to NRC and I didn't have to report to him, and I

13 had already done that. He kept on going, even after I said

14 that. He kept on insisting that no, you have to write a PDQ

15 or it's going to be deliberate misconduct. I replied -- let

16 me back up.

17 When I was describing NRC Form 3 rights, I made it

18 very clear to him my understanding. I said, "Yes, the NRC

19 wants the employee to report to his employer, but he also

20 gives the employee the opportunity to report directly to

21 NRC." So I was telling him my understanding of NRC Form 3.

22 He continued to press me, and he said, "Well, if you don't

23 write a PDQ, I'm going to write you up for deliberate

24 misconduct." That evident by his September 2nd memo that we

25 already reviewed where he made that claim before. He made

1 that claim in December of '95. I remember that, December of
2 1995. But anyway --
3 Q When he said he was going to write you up for
4 deliberate misconduct, what does that mean to you? What did
5 that mean to you at that time?
6 A That he was focuses on a simple matter of
7 procedure violation without taking into consideration Form 3
8 right and --
9 Q He was talking about -- now, there was a
10 regulation, NRC regulation, pertaining to deliberate
11 misconduct. Was he referring to an NRC regulation?
12 A Yes.
13 Q Or was he referring to a Rancho Seco procedure?
14 A He was saying both. He was saying we have a
15 Rancho Seco procedure to write PDQs and to intentionally
16 violate a procedure would be constituted deliberate
17 misconduct by the federal law 50.5 or .7, whatever it is.
18 Q Okay.
19 A But that's described in his memo of September 2nd,
20 too, where he makes the same statement, and for which I was
21 in part suspended for, for claiming that I had a suppressed
22 environment. Anyway, getting back to this, when he said,
23 "You'll be in violation of plant procedures, which is
24 deliberate misconduct," I replied, "You had better revise
25 your procedure, then, to read you shall write a PDQ or

1 report to the NRC."

2 It's those kind of statements that it's easy for

3 me to remember. It's easy for me to remember Form 3, it's

4 easy to remember you'd better change your procedure and have

5 it add or NRC. That's something that I would remember.

6 It's clear. It's not contrived. And I remember him making

7 a statement that he was aware of an allegation made against

8 Rancho Seco in 1998, and that if he ever found out that

9 there was another allegation without first having written a

10 PDQ, that he'd write me up for that.

11 But this could be based on our prior discussion at

12 the outset of this meeting about whether a company has the

13 legal obligation to report directly to -- I mean, has the

14 requirement to report to his employer or whether he can

15 indeed go directly to the NRC, circumventing. In our Rancho

16 Seco training, I know how we're trained --

17 Q How are you trained?

18 A We're trained it doesn't -- trained to report

19 directly to the NR -- to the employer, SMUD, first. You're

20 supposed to write a PDQ first, and if you're unsatisfied

21 with the results of the PDQ, then you may go to the NRC.

22 It's trained that way. There's no statements made at

23 training that well, if you don't feel comfortable writing a

24 PDQ to your employer, you can always go to the NRC. That's

25 not trained that way. They put it in sequence that you're

1 supposed to report first to SMUD, and then if you're
2 dissatisfied, then you can go to the NRC.
3 That's the way they train it and they state it,
4 this is -- so I can understand how he might have had a
5 misunderstanding, but anyway, I remember telling him --
6 here's another point that I can clearly remember where he
7 says that I told him that he had better review NRC Form 3.
8 In fact I told him that he should review the general
9 manager's letter itself because in the general manager
10 letter it says and/or to the NRC. I'm trying to point that
11 out to him, and/or NRC. Even the general manager and the
12 attorney knows that, why are you continuing to press me? He
13 says, "Don't tell me what to do." I remember that.
14 Then I even mentioned about my attorney said I
15 could report only to the NRC. He goes, "Your attorney,"
16 he's uptight about it. After all that is said --
17 Q How did you take that statement by, "Your
18 attorney?" Expound on that.
19 A I think he -- my opinion, he was disrespectful of
20 my attorney's position. Discounting it and saying that it
21 was full of shit.
22 Q Okay, thank you. Anyway, this conversation
23 continued, is that correct?
24 A Yes. And right after all that was done and said,
25 and he's bringing -- inferring to my -- referring to my

1 conditions of employment trying to tell me -- he is telling
2 me that it's important that you reveal to the employer your
3 safety concerns so that we can best resolve them. He did
4 state that, but again, I'm trying to clarify to him that I
5 had already report to the NRC and I don't have to reveal
6 these concerns to you. In fact I withheld them. I didn't
7 want him to see them.
8 And he's still pressing me and a very important
9 point about the facilitator, I know the facilitator doesn't
10 understand NRC Form 3, doesn't understand reporting rights,
11 doesn't understand the terminology, it's his first meeting
12 with us, but he's listening to it and he does know the
13 conditions of employment where I'm supposed to write a PDQ,
14 and he's listening to all this, and after Redeker's
15 mentioned, "I'm going to write you up," he -- and I'm making
16 a stand here. He says to me, "What are you going to do when
17 he writes you up?"
18 Q This is Flowers?
19 A Dale Flowers, "What are you going to do when he
20 writes you up?" I didn't answer him, I just looked at him.
21 So further conversation went on. In fact it's not said
22 here, but he left in a heated argument because after all
23 this, this was heated. I stood up to him and said this is
24 my right, and here's an example of me standing up to when I
25 know my rights of privacy, when I know it's a procedure

1 violation, or regulatory, I know the difference between
2 management discretion, what's safe, unsafe, and when he's
3 violating my rights in certain instances, and I'll make a
4 stand.
5 When he's trying to get this information from me,
6 I didn't feel it was proper and I was citing my NRC Form 3
7 rights, and he continued to badger me. Dale Flowers, "What
8 are you going to do when he writes you up?" And here I've
9 got this condition of employment says I can be terminated if
10 I don't show a willingness to write PDQs. I'm putting all
11 that together, and I didn't think it was fair.
12 Q What was your hesitancy at that point in time to
13 write a PDQ?
14 A Again, they wanted these concerns that I had told
15 in confidence to the NRC, and therefore I didn't want them
16 to know that I'm accusing them of trying to cover up a
17 technical specification violation. They didn't report the
18 fact that we hadn't been calibrating the totalizer for the
19 whole duration of the plant operation, which was a very
20 critical parameter for assessing the dose to the public. I
21 know what transpired and management's disposition of that
22 problem. It was a cover up. And I don't want them to know
23 that.
24 There's nothing that I know that's in those
25 documents that immediately threatening to anybody's safety.

1 I mean, there's nothing exegent or really going to cause
2 loss of safety problem that's going to impact immediately.
3 Q And immanency?
4 A Yes.
5 Q So there was nothing in those allegations that
6 constituted an imminent safety hazard in your opinion?
7 A Right.
8 Q Just to be clear, because I know we've got the
9 exhibits here from your last testimony, these allegations
10 that you're talking about that you submitted to the NRC, are
11 they contained in Exhibit 4 here from your last interview?
12 A That's one of them.
13 Q That's one of them? That's the one to Special
14 Agent Boal?
15 A Yes.
16 Q And there was another -- was there another letter
17 that went out on the same day?
18 A Yes. It's the one with the three circled on it,
19 attachment three.
20 MR. JOUKOFF: Let's go off the record for a minute
21 while I find that.
22 (Off the record.)
23 MR. JOUKOFF: Back on the record. We found the
24 document we were looking for. Those previous allegations
25 that Mr. Saum had made to the NRC are shown in Exhibits 4

1 and 7 of his last interview on March 26th, 1999.

2 BY MR. JOUKOFF:

3 Q And that's where you conveyed these allegations

4 that Redeker wanted you to write a PDQ about, is that

5 correct?

6 A Yes.

7 Q Thank you.

8 A So again Dale Flowers says, "What are you going to

9 do when he writes you up?" No answer. The conversation

10 still went on, and I had made a statement to Mr. Redeker

11 that he had discriminated in the past against me, and he

12 said, "No I did not." I said this, I said, "And Clinton

13 never had sex with Monica Lewinsky." He got understandably

14 upset by that and got up and left upset. Dale Flowers said,

15 "Don't worry, he'll be back."

16 But this shows the level of tension resulted from

17 this -- his seemingly frustration that I'm not turning over

18 what he wanted, the other NRC concerns, that I'm standing

19 ground. That caused a lot of tension there and it ended up

20 with that last statement and he left the meeting. He came

21 back an hour or so later, and the first thing he said after

22 coming back to the meeting, he said, "Well, I guess in

23 certain cases where an employee feels that he'll be

24 retaliated against for reporting to his employer, he may

25 report directly to NRC." That's the first thing he said

1 coming back to the meeting. I'm going -- I said, "Thank
2 you." I said thank you to Dale Flowers because I thought
3 that Dale Flowers had followed him up, he's the facilitator
4 mediator.
5 Q So Flowers left the room?
6 A Yes. I took a break. I stayed there with Flowers
7 for a while talking to him, but then we broke and Flowers, I
8 assumed, went up to Mr. Redeker's office. Then we
9 reconvened the meeting and the first thing that Mr. Redeker
10 said was that statement, I guess there are cases if you feel
11 retaliated you can go directly to NRC. I said thank you in
12 a sigh of relief thinking that Dale Flowers finally mediated
13 the situation and stopped him from continuing to press me
14 for that information and somehow I thought that was an act
15 by Dale Flowers of mediation, but Dale Flowers said, "I
16 didn't talk to Mr. Redeker about that."
17 Mr. Redeker, here's another thing that I can very
18 clearly remember, and it's understandable why I can
19 remember. I knew that, that's why they made me plant
20 manager. That's something that you could hear. And another
21 important thing that Dale Flowers can testify to, the fact
22 that he came in after the break and said, "I guess there are
23 certain cases where if an employee feels retaliated against,
24 he can report directly to NRC."
25 That clearly -- well, that gives circumstantial

1 support to the fact that he did make the statements I claim
2 prior to that where he's making threats that if he ever
3 finds out that I went to NRC without first writing a PDQ,
4 that he would write me up.
5 The second part of the meeting that directly
6 connects but circumstantially connects, there's a connection
7 between the two events, and I think that Mr. Redeker must
8 have gone and reread Form 3 and consulted maybe with quality
9 department or legal on the matter and changed his position.
10 Q That's your opinion? You don't have any objective
11 evidence of what he did between the two times you met on
12 that day?
13 A No.
14 Q Okay, thank you.
15 A Another indication of his misunderstanding, or I
16 don't know what his intents were, all I know is those were
17 the words that were said, and any reasonable person would
18 say if he ever finds out I went to the NRC without first
19 writing a PDQ, that's a threat and that's illegal. I don't
20 care if it was intentional or a result of misunderstanding,
21 it wasn't right for him to say that.
22 The next day I tried -- on the 14th I had
23 confronted Dale Flowers again, realizing here was another
24 case of discrimination that I felt, and now he -- and so I
25 was concerned Dale Flowers would interfere with being a

1 witness as far as here's a paid -- another paid contractor
2 by Mr. Redeker who's -- I thought there was influence there.
3 Of course he wants to satisfy the one who pays him, so I was
4 concerned about his presence and being a witness.
5 Anyway, I didn't express -- well, yes, I did
6 express that to him. But then I tried to get him to see if
7 he would -- how he's -- what he would say. I wanted to use
8 this, you know, use him as my witness, so I was doing an
9 inquiry. I said, "Do you remember when you told me that
10 he'd write you up? What are you going to do when he writes
11 you up?" Although I wasn't that surprised, I was still very
12 -- what do you call it? Discouraged or frustrated when he
13 said no, no he didn't hear that.
14 At that point I said, "We need a tape recorder."
15 Imagine -- imagine yourself in my shoes. You know what
16 transpired, you know that he said that, it was a very clear
17 statement, but when you ask him about it the next day
18 whether he said that and he says, "No, I didn't say that,"
19 and when I asked him other questions, he says, "Well, I
20 don't recall that either," and stuff like that. He says,
21 "No, that wasn't my understanding." He said, "It was that
22 he was going to write you up if you don't write a PDQ."
23 Wait a second, I don't want to confuse the
24 testimony. That was said later on. Later I inquired again
25 on February 23rd, but so we'll get to that one later. But

1 he said no, and I said, "We've got a problem here. We need
2 a tape recorder. I don't care. I need to get on record
3 what actually was said." The facilitator went on, well,
4 that wasn't his intention and, "I don't want to be a
5 witness. They don't pay me enough."
6 Q He didn't want to be a witness to what transpired
7 the previous day?
8 A Yes. He did tell me that he didn't want to be a
9 witness, he didn't get paid enough to be a witness. Those
10 were statements he made.
11 Q How did you take that? What did you take that to
12 mean? He wasn't being paid enough to do the job he was
13 doing, or wasn't being paid enough to be a witness, or both?
14 A What he meant by that was he didn't want to get
15 involved in this, that he was paid to be a facilitator, and
16 didn't want to get into a legal dispute.
17 Q Okay.
18 A Now, if you look at the attachments --
19 Q To Exhibit 2?
20 A Yes.
21 Q Okay. This is Exhibit 2 to your March 26, '99
22 interview?
23 A Right. The one I've got, attachment three here,
24 this is disconcerting to me, reporting requirements. It's a
25 Steve Redeker to Jim Saum letter, MPC and D 9933, dated

1 March 8th, 1999.

2 Q That's at page 12 of Exhibit 2 to your March 26th

3 interview. Go ahead.

4 A "I became aware on February 24th, 1999 in a

5 conversation with Mr. Dale Flowers, Facilitator, that you

6 believe that I may terminate your employment if you reported

7 issues directly to the NRC and not SMUD." That's not a true

8 statement of -- that might be his understanding. What I

9 really said was not that he may terminate me, but that he

10 had made those treats, threatening statements. Not that he

11 may terminate you, but he made those statements. That's

12 what I told Dale Flowers.

13 Q So you see this as a difference between being

14 terminated --

15 A And the threat.

16 Q -- and the threat of termination.

17 A Right.

18 Q Okay.

19 A He's denying -- he's not mentioning that he

20 actually did make those statements. I believe that I can

21 terminate you for doing that. Of course he knows now that

22 he can't terminate me for that, but he's not admitting to

23 what I really said to Dale Flowers, that he had made those

24 threats.

25 Q That there was a threat of possible termination?

1 A Yes.

2 Q Okay.

3 A That's what he -- that's how -- what I'm talking
4 about. How a manager will distort what actually happened or
5 put it in his best light, and it's frustrating when I see
6 that statement. And then it looks like in here that --
7 look. Only the general manager has the authority to
8 terminate you, not me. Yeah right. That's a minor
9 technicality there.

10 And then he goes on to properly describe the
11 reporting requirements that I told him on January 13th.
12 This does in essence conclude the reporting requirements, my
13 understanding, and it makes it look like he has a total
14 commitment to that, yet he knows very well over the years
15 that I've always been stating to him that I felt that Jim
16 Field and himself have been discriminating against me,
17 putting me in a Catch-22 positions. He's always been
18 biased, suffering from backlash.

19 He knows that on January 13th that I had filed
20 discrimination complaints with the Department of Labor,
21 State Department of Labor. He had known that, he's still
22 pressing me for the information that I had given to the NRC
23 based on I think he thought it might have been a legal
24 obligation for me to report those concerns at that point.
25 Whether it was misunderstanding or not, the threats were

1 made, and this is, in my opinion, a cover up for him to put
2 his best -- now he's documenting that he knows this will
3 probably come out in the Department of Labor complaints, and
4 he's documenting this.
5 Q What you're saying here is that the information in
6 the March 8th, 1999 letter that Redeker wrote to you, you
7 think is an attempt to alter what his position was on
8 January the 13th, 1999?
9 A Right. I think he knows that now you don't have
10 to report directly to the -- you don't have to go through
11 and report to the employer, that you have the right to go to
12 the NRC. It's not like they train you. You have to first
13 report to the employer and then you can report directly
14 without their approval. You can go around and report again.
15 That was his understanding. When I challenged him on that
16 and tried to make it clear on the 13th, he went back in the
17 meeting. He took a break, came back, and finally came to
18 this new understanding, and this memo was generated well
19 after that, but he doesn't admit to the threats made that
20 morning or that first part.
21 Q Is there some reason so much time has elapsed
22 between the incident, which was basically January 13, 1999
23 and March 8, 1999 when he wrote you this memorandum? That's
24 a period of almost two months later. Do you know why
25 there's such a long time distance between the event and this

1 memorandum?

2 A Like I said, February 24th, I think, February 23rd
3 I revisited my inquiry of Dale Flowers. I'm trying to
4 establish again the facts of statements made and trying to
5 get him to repeat what he, you know, certain things that he
6 heard so that I can make sure that he's going to be a
7 reliable witness. So that gets us up to the 23rd where I
8 asked him again, Dale Flowers again. At that meeting he did
9 admit to the fact that he had made the statements.

10 Q One of them --

11 A That he came back after the meeting and said, "I
12 guess there are cases when an employee fears retaliation,"
13 that part. And also the fact that he had said, "What are
14 you going to do when he writes you up?" But he had a whole
15 different spin on what he meant by that. I said, I tried to
16 say -- he said that was in relationship to writing the PDQ.
17 I said, "Hold it. Just hold that thought." And then he
18 because frustrated like that didn't satisfy me and like I
19 still can use that as evidence. "I didn't say that." In
20 other words, he wasn't being very genuine.

21 Q Did you document that February 23rd meeting
22 somewhere?

23 A Yes, I think it's in here. Yes. It's page three.

24 Q This is Exhibit 2 from your last interview, page
25 three.

1 A The second paragraph, last sentence, "On 2/23/99
2 Dale Flowers did admit that he did recall these two facts,
3 but would not be a witness."
4 Q Is there any more notes that you have other than
5 that?
6 A Yes. I've got my notes.
7 Q So if we need them, you can produce them?
8 A Yes.
9 Q That's fine.
10 A So another bit of evidence of this
11 misunderstanding or whatever it was. I'm not concluding
12 what his intents are. I know what actually happened. I'd
13 like to refer to attachment four, Exhibit 2.
14 Q Just a second, let me get there. So this is going
15 to be Exhibit 2 to your interview of last week on March
16 26th, 1999 at page 17 as numbered in the lower right hand
17 corner in handwriting, handwritten. Go ahead.
18 A Knowing that there's a complaint of discrimination
19 by me he's trying to document in defense that there isn't a
20 concern. Although that's not -- I don't think that's
21 necessarily improper, but it's happening. This is what the
22 motive behind this memo is, trying to respond to my
23 discrimination complaint, trying to show that what I'm
24 saying is not true because it's not widespread.
25 In fact they hired a contractor, Mike Tompkins, to

1 do an all-site survey, and in December while I was in
2 suspension, I didn't respond to it. I was asked to respond
3 to it, I didn't respond to it. Sixty-five percent of the
4 site staff responded to it. That means -- Tim Shaw, I asked
5 him. He said he didn't respond to it, but he's another one
6 who claims that he's been subject to discrimination.
7 So that means 35 percent of the employees did not
8 even respond to that survey, and two, myself and Tim Shaw,
9 well at least me, I can state that I've got a valid or a
10 complaint of discrimination in. We didn't respond, so what
11 I'm saying is the results of that survey are not that
12 accurate, and even if there's only two cases of
13 discrimination or one case of discrimination, that's bad
14 enough.
15 This memo is proper, it should be told, he should
16 communicate to his staff that we should have an open
17 atmosphere for raising problems. It also states again a
18 misunderstanding. It says, last paragraph, "In the nuclear
19 safety area, we have the PDQ process. Our corrective action
20 process encourages you to report concerns. When in doubt,
21 write a PDQ. Should you still feel that management is not
22 addressing your concerns, you can contact the NRC." Again
23 restating that first come to us, then you can go to NRC.
24 Q And when it says here he attaches an article from
25 the NRC web site, is that also attached here?

1 A Yes. And it's still not clear in the question
2 one, yes workers have the option of reporting nuclear safety
3 concerns to NRC, however the NRC encourages employees to
4 raise these concerns to their employers because the employer
5 has the primary for insuring safe operations in a position
6 to address concerns directly and properly.
7 But let me go on, because after the February 22nd
8 or where Dale Flowers, again confronts him about my concerns
9 about the threatening statements he made. Look at
10 attachment five where he goes through a revision.
11 Q This is going to be Exhibit 2 from your testimony
12 last week on 3/26/99 at page 22. It's another memorandum
13 you're talking about now?
14 A Right. And this is in response because he's
15 trying to correct his January 20th memo by explaining, "You
16 may report directly and only to the NRC without reprisal or
17 consequences from SMUD." So this is in response and trying
18 to -- you can see his revision, attachment 6, MPCD 9908,
19 Rev. 1.
20 Q That's page 23 to the same exhibit. Go ahead.
21 A Where he's making the revisions to that. And in
22 this it's correct, but the point I'm trying to make is
23 that's somewhat of an indication of his misunderstanding and
24 his attempts to correct the situation, but he's not
25 admitting -- he's not admitting that he made those threats,

1 and they were made. And yes, it looks like everything rosy,
2 there is no problem, but there is a problem. He can write
3 all the great memos to make it look like there's no problem,
4 but I can assure you in my particular circumstance there is
5 a problem, and I think there's probably a problem with
6 others, but I'm here to testify in my own behalf.
7 Q Are there any others that you'd like to tell us
8 about? You've told us about Mr. Shaw, are there any others?
9 A I believe -- well, no, I don't know of any other
10 specific -- any other employees who have expressed to me a
11 complaint of discrimination. Anyway, other than Tim Shaw,
12 and I know that -- well. I just recently got this last
13 week, and finally that report, that site survey that I
14 mentioned that was conducted in December, the results came
15 in and now I'm sure they're going to produce this when you
16 question them, so you might as well have it now.
17 MR. JOUKOFF: Okay. Let's mark this as Exhibit
18 No. 4 to your testimony today. It's a Sacramento Municipal
19 Utility District office memo to the Rancho Seco staff from
20 Colin Taylor dated March 18th, 1999.
21 (Exhibit 4 was marked for
22 identification.)
23 BY MR. JOUKOFF:
24 Q And what is it that you wanted to tell us about
25 this?

1 A That only 65 percent of the personnel completed
2 the questionnaire. Tim Shaw and I did not. It was our --
3 that lack of response, could it be that the other 35 percent
4 may feel like Tim Shaw and I did? That it's not even a
5 worthwhile exercise to be involved in? Not even worth -- so
6 I'm saying that this is not necessarily accurate. Those
7 that responded -- those that did respond were -- well, some
8 of them did, some of them didn't.
9 There's the scores. I believe that the scores are
10 accurate of what the questionnaires were. I'm kind of
11 curious as to those, the lower marks, the extremes in the
12 marking, just because the averages come out, it's one to
13 five questionnaire, and most of them, I guess the average
14 would be 2.5 or three. These are coming above average. I
15 wonder what the range is. If there's individuals saying no,
16 it's extreme, there isn't an atmosphere to raise concerns,
17 that it doesn't have to be -- what I'm saying is that the
18 averages don't necessarily -- may not reflect --
19 Q Averages aren't the same as the median?
20 A Or even individual variances from that, those are
21 still significant variables.
22 Q I see what you're saying. So if you have four
23 persons that say five and one person that says one, it could
24 get lost in the statistics, the one person --
25 A That's what I'm saying.

1 Q -- that's grading a one. Is that what you're
2 saying?
3 A Yes.
4 Q Okay. I understand that.
5 A There's something else I wanted to comment about.
6 In November last year Rancho Seco management gauged in the
7 firm straight ahead management. That's when I'm -- that's
8 when they're becoming defensive about me. November is when
9 I filed my complaints to the Department of Labor. This is
10 when they started the firm straight ahead management.
11 Q That's in the first paragraph of the letter, is
12 that correct?
13 A Right.
14 Q Okay.
15 A I don't think that's even a noteworthy point, but
16 it's pretty obvious that they're responding to my
17 discrimination complaint, and it's not unreasonable for them
18 to develop a management action -- a little group to defend
19 off my case, so they're all meeting together in this
20 straight ahead management. Straight ahead management is Jim
21 Saum -- SMUD defense against Jim Saum. That's what that is.
22 Firm, I'd like to comment. Firm is what they call
23 inflexible, resistant to change. Why don't they put that in
24 my evaluation, Jim Saum is very firm?
25 Q Is there anything else you wanted to testify to?

1 A Are we on record?
2 Q Yes. Is there anything else you wanted to testify
3 to, or you want to take a break?
4 A Yes, break.
5 MR. JOUKOFF: It's 2:30. We're going to take a
6 break.
7 (Recess.)
8 MR. JOUKOFF: Let's go back on the record. It's
9 2:32 p.m. Mr. Saum is going to continue with his testimony
10 now.
11 THE INTERVIEWEE: This next part of my testimony
12 is very important and it really explains why I'm here today
13 and what this is -- what this case is all about. It's page
14 four of Exhibit 2, I believe.
15 BY MR. JOUKOFF:
16 Q Page four of Exhibit 2, we've got it.
17 A Why I'm still reluctant to write a PDQ. Please
18 refer to attachment 7. It's MMTS 9866.
19 Q Right. Let me just make this clear. We're
20 talking about Exhibit 2, and this is from the last
21 interview, the one on 3/6/99. It was page four is where,
22 "Why I'm still reluctant to write a PDQ," is in the title.
23 And then at page 24 of that same exhibit is the Sacramento
24 Municipal Utility District memorandum that Mr. Saum was just
25 referring to. Go ahead.

1 A This memo was written from me to Jim Field, dated
2 August 17th, 1998, prior to me getting suspended while I was
3 still working there. I was trying to draw up my task list.
4 EWT means engineering work tracking system, and it's a list
5 of all your tasks that are still open and due, and I'm
6 trying to close out certain items that are still overdue or
7 still pending.
8 Like I said, I had weekly meetings all along with
9 my supervisor, and on 3/5/97 I had brought to the attention
10 of my supervisor, and this is what I mean by where I no
11 longer wrote PDQs myself. I'd verbally notify my supervisor
12 of a problem. Like I said, after '95 I tried to encourage
13 my supervisor to get the responsible parties to write the
14 PDQs themself, rather than me taking the heat for it. I
15 thought this was a better approach to get me disengaged or
16 removed from the problem.
17 Jim Field agreed that he'd have the maintenance,
18 electrical maintenance supervisor, Dennis Jones, write the
19 PDQ and I had mentioned two problems that -- one with design
20 change package 96002. This was a modification to replace
21 the security sheriff's radio. The sheriff had changed his
22 frequency from two different frequencies and needed a new
23 radio so that we could meet the -- our security plan
24 requirement.
25 Q Of what? Being able to communicate by radio with

1 the sheriff?

2 A Right.

3 Q Okay.

4 A So I prepared that package and after the

5 implementation phase, I noted that construction staff didn't

6 -- deviated from approved design documents and put the radio

7 in a place other than shown on the drawings, and I also

8 noted -- described to Jim Field that I noticed that there

9 were cables that were changed without a field problem report

10 on another MUD that my fellow engineer was working on, DCP

11 94002. I had observed two situations that warranted a PDQ

12 that I knew that there was a precedent already in place,

13 there were several other PDQs on this very same

14 circumstances, several that I wrote myself, and they were

15 deemed valid deviations from quality before, and I knew this

16 was a recurring problem, and here it is happening again.

17 The point I want to -- the clear point I want to

18 make is here's what happens when my supervisor -- when I

19 inform my supervisor of a problem verbally, that over --

20 over six months I kept on asking him several times, and he'd

21 say he was working on it with Dennis Jones, or Dennis Jones

22 was about ready to write a PDQ on it. Over and over I'd

23 bring this to his attention at our weekly meetings and was

24 told the same story, it's still working with Dennis Jones on

25 writing the PDQ.

1 Finally it became overdue. No action was taken by
2 my supervisor or the electrical maintenance supervisor.
3 They knew it to be a PDQ-able event, but took no action. On
4 September 18th I had to extend the item and it still was no
5 PDQ has been written.
6 Q And what was the problem with the radio? It was
7 put in the wrong place?
8 A Deviated from the drawings. We'll get more into
9 the technical problem in a minute.
10 Q Okay.
11 A There's two in this letter. Not only is there a
12 continuation, a description of continuing discriminatory
13 acts, but in this report is another technical report of a
14 procedure violation and possible misconduct by my
15 supervisor. We'll get into that part of it. I still want
16 to discuss why I'm reluctant to write the PDQ.
17 This memo, I don't know if my testimony can clear
18 it up. I think the memo itself is very clear, but I'll just
19 review it anyway. The circumstances that you have to be
20 aware of is that so I come back to work and this problem
21 that I had reported over a year ago still hadn't been
22 resolved. I come back to work and now I'm subject to a
23 probationary period, and that there's a facilitator involved
24 that I have to show improved interpersonal and
25 communications skills improvement or I'm going to be fired.

1 I know that part of the problem with so called
2 interpersonal communication problems is a result of not my
3 -- not those -- that it's a result of the -- that I offend
4 people by writing problem statements that effect their area
5 of responsibility.
6 Here's a very important fact that on 1/13/99 at
7 that same facilitation meeting that I spoke of earlier with
8 Mr. Redeker, Mr. Redeker did admit at that meeting that when
9 I had wrote a PDQ on a very similar circumstance, DQ 95-91,
10 that he had observed the electrical maintenance supervisors
11 were complaining about me and were very upset.
12 Jeff Roberts, Dennis Jones complained about my
13 writing of the problem report and this is how I feel I got
14 unfair treatment because of reporting a valid problem. So
15 people were complaining about me. They considered that poor
16 communication skills. I always challenged them to please
17 give me fairness. You find out what I said that was
18 unprofessional or what I did that was unprofessional,
19 because I'll stand by my performance and my relationships
20 with others.
21 I treat people professionally and that I feel it's
22 -- these complaints are a result of my -- the way I report
23 problems, and I'll get into that even more further, because
24 I report problems different than other coworkers and other
25 plant workers in the way I report problems, and that's a

1 very important point to note.

2 The important point I want to make right now is

3 Mr. Redeker admits, he concedes, that he observed adverse

4 reaction in the past from me having written a PDQ in the

5 past very similar to the problem that I brought to the

6 attention of my supervisor in March of '97 on the sheriff

7 radio and on the plant integrated computer system.

8 Q Is there some negative connotation at the plant

9 when a PDQ is written that it effects a certain individual?

10 Like as an example, if you were working on a certain

11 component or were doing a certain job and the PDQ was

12 written, would that --

13 A Yes.

14 Q -- be negative outlook upon your abilities or your

15 work? Is that -- is there anything like that going on out

16 there? In other words, why would these gentlemen become

17 upset if you wrote a PDQ? Does it adversely effect them?

18 A I'm sure they get evaluated in their job

19 performance. Yes it can result in them being held

20 accountable for that. Just the other day I was in the

21 control room and I overheard people. They said -- somebody

22 wrote you up for that, and so it was like the PDQ process

23 was a method for writing people up. Like it's a ticket or

24 something.

25 Q So you think it's viewed negatively that being the

1 subject of a PDQ is a negative image?

2 A Of course it is. Any criticism. I probably, as a

3 human being, somebody criticized and wrote a PDQ that

4 somehow indirectly or directly shown that I didn't meet my

5 job requirements, I would feel bad about it. I would.

6 Q Thank you. Please go on.

7 A On March 3rd, '99 Jim Field summoned me into his

8 office and informed me of a complaint received from Dennis

9 Jones who claimed that I was not cooperative in his inquiry

10 of the sheriff's radio problem. Little did I know now that

11 finally Dennis Jones is acting on what they said to do over

12 a year prior. So now he's investigating the problem and I

13 thought he was going to write a PDQ once he finds out where

14 the discrepancy is.

15 So I'm downstairs in the records department. I'm

16 just passing through the hallway and Dennis Jones informally

17 asked me a question. He said, "Jim, I'm looking into the

18 sheriff's radio problem. Here it documents where all the

19 drawings are, and can you tell me what the problem is?" I

20 said, "Well, I wrote a" -- here it is a long time, I really

21 didn't know exactly what the problems were. So I said,

22 "What I know is that I wrote a design change package and the

23 construction wasn't per the prints."

24 I said that I had -- might have had the drawing

25 package up at my desk and that I was willing to bring it

1 down to him so that we could review it. He said, "No, I'm
2 right here," where the drawings are. "I'll get the
3 drawings." I thought, here I am in passing. I thought he's
4 happy. I find out later that Jim Field calls me up in the
5 room and says another one of these complaints. I know every
6 time I hear complaint it means bad evaluation and they use
7 this.
8 I don't feel it was fair, especially under this
9 circumstance when I offered to bring the drawings down to
10 him and he said he was satisfied. What more can I do? And
11 at this time I wasn't aware that the facilitator, Dale
12 Flowers, was using this as a test he had -- Jim Field and
13 him had talked about this problem and they had agreed to use
14 it as a test of my interpersonal skills or to demonstrate
15 that. I didn't know that, but he made the complaint. So
16 Jim Field asked me to --
17 Q Explain to me what you mean by test of --
18 A I'm on probation for -- for improving my
19 interpersonal and communication skills.
20 Q Okay, so this is --
21 A This is a test of my ability to work with my
22 coworkers, my interpersonal and communication skills. I
23 didn't know that.
24 Q What do you mean by you didn't know that? Are you
25 saying that Flowers asked Field to set up this situation

1 with Jones?

2 A Not to set it up. Here's what I think happened,
3 that Jim Field mentioned this complaint made by Dennis Jones
4 to Dale Flowers, and Dale Flowers thought, oh, here's an
5 opportunity to see if we can't -- how we can improve
6 relationships here. Here's a good test point to see how Jim
7 does and see if we can't improve -- demonstrate
8 cooperativeness and collaborativeness and all those things.

9 Q Why do you think that's what happened?

10 A I'll tell you later. It was explained to me that
11 was the case.

12 Q All right.

13 A So Jim Field asked me to contact Dennis Jones and
14 resolve the matter. So I called up Dennis Jones and said
15 that I was sorry if he had a misunderstanding and he agreed
16 to -- he said that he had investigated the problem and has
17 one of his people comparing the drawings against what was
18 built, and that he'd come down later in the afternoon when
19 that was completed and we'd review it. I said great.

20 So that happened. Dennis Jones and the technician
21 came down, we reviewed the drawings, and we agreed what the
22 problem was, and we discussed what a solution would be. We
23 agreed that the radio should be put wherever the security
24 department wants it. When I originally prepared the
25 drawings, I had a security supervisor tell me he wanted it

1 over here. I prepared the drawings and everybody signed off
2 that that's where they wanted the radio.
3 When I came back later to close out the
4 modification or inspect it, I saw the radio over here. I
5 didn't care necessarily from an engineering point where the
6 radio was. It's important to note one thing, though, that
7 it could have been an important problem because the design
8 of the security system, I used to have these individual UPSs
9 that didn't have much capacity.
10 Q What's a UPS?
11 A An uninterruptable power supply.
12 Q Okay.
13 A That was a requirement for the security system to
14 have back up power. I had several of these little UPSs in
15 the cabinets and they were almost at their max load, so it
16 was very important what was plugged into what because it
17 could overload and we wouldn't meet the back up power
18 requirement.
19 So at one point it was critical where things were
20 plugged in, but as it turned out, we provided a different
21 power supply to that system and therefore it wasn't any more
22 -- it was no longer critical where things were plugged in.
23 So I said wherever they want it.
24 So he came back and said, "Well, I talked to
25 security supervisor, and he says it's okay where it is." I

1 said fine, we'll revise the drawings accordingly. We're all
2 happy. Happy, but in my mind I'm going, "No PDQs been
3 written, and if I write PDQ this little test" -- what
4 happened was that I met with the facilitator the next day
5 and he's the one who told me that this was a test set up and
6 what an excellent job. That this was a great -- a good
7 success and proves that I'm collaborative and able to work
8 with my coworkers.
9 I said, "I told you that. I told you that up
10 front. That problems arise when I write the PDQs." This
11 guy, there's no telling him. He told me the first day I met
12 him that, "Since I'm hired, you must have a problem." I'm
13 saying, "No, not necessarily. There's another explanation
14 for this." He continues that line. Of course he continues,
15 that's why he's paid.
16 So I find out it's a test and that it went well.
17 On 3/15/99 Jim Field asked me if there were any other open
18 issues on the sheriff's radio problem. I don't know why I
19 told him again, I'm risking it. I told him, "Hey, RSAP 1308
20 requires a -- has procedural violations criteria for writing
21 PDQ." I reminded him that he should be aware of this case,
22 as should Dennis Jones.
23 In response to that, here I'm saying, you know,
24 basically that a PDQ should have been written. He's looking
25 at me and he's reminding me of my continued -- my condition

1 for continued employment, that I have to show a willingness
2 to write PDQs. I'm going, like, I reported to you, he knows
3 about it, why do you expect me to write the problem, you
4 know? I reported it to you instead.
5 Q Reported it to --
6 A It's in here.
7 Q You reported it to the NRC instead?
8 A Yes.
9 Q Okay.
10 A And this is because I know that if I had written
11 the PDQ, Dennis Jones, this little test -- that I'm under
12 the gun. I'm under -- I could get fired if this guy
13 complains. I'm under -- I have to show improved
14 interpersonal and communication skills. I'm not going to
15 risk his negative response and spoil this -- I wouldn't have
16 got this excellent reaction if I had -- it's already
17 evident, Mr. Redeker had already claimed, that in the past
18 on this same very issue I had got adverse reaction.
19 So on 3/17/99 I discussed the sheriff radio
20 problem with Dale Flowers. I told him that the
21 interpersonal relationship with Dennis Jones went very well
22 because I did not insist on a PDQ. Dale Flowers advised me
23 not to write a PDQ. Here we get a contractor advising me
24 not to write the PDQ, not to spoil the relationship.
25 Q And how did you view that? As a contradiction or

1 what?

2 A I viewed it like yes, this is the message that

3 management really wants me to get. Don't write the PDQs,

4 just cooperate.

5 Q But in the actual written communications they're

6 criticizing you for not writing the PDQs.

7 A Right. This is what I'm -- the two mismatch.

8 Q Okay.

9 A In fact all along I told Dale Flowers all along

10 that the reason why I'm so -- that the reason why I write

11 PDQs is based on principles of the way I have for quality

12 assurance, verbatim procedure compliance, regulatory

13 compliance, and that's just driven by those principles that

14 I adhere to as far as quality assurance in those matters.

15 And he goes, he starts putting down my principles, you know?

16 He says -- it's the tone of his voice. It's again, "Your

17 principles."

18 Q In a derogatory method?

19 A Yes.

20 Q I mean in a derogatory meaning?

21 A Yes. And then he says, he mentioned examples,

22 "Well, police officers don't write jaywalkers, give them a

23 ticket every time. Use discretion here." And as I will

24 explain later, I know what the requirements are here, and

25 it's very clear. I'll refer to the actual source documents

1 that make this -- that prove that this circumstance here,
2 although not life threatening or anything, is definitely a
3 valid PDQ and it's definitely a procedure violation.
4 For him to say that I need to use discretion and
5 don't write the PDQ to save the relationship is an example
6 of what -- this is the guy that's going to be grading me of
7 whether I'm going to get -- of whether I'm going to pass my
8 probation or not. And this is the, like I said, the
9 unwritten direction that supervisors want me to go.
10 Remember when I wrote the PDQ about one of the
11 radiation monitors not meeting -- didn't have surveillance
12 procedures and I wrote a PDQ about it stating that now it's
13 a radiation monitor subject to the ODCM, but nobody told
14 anybody about that, so they made it a new tech spec
15 requirement and therefore it should have surveillance
16 procedures because they imposed surveillance requirements
17 against the monitor, but they didn't follow it up with the
18 surveillance procedures to insure that those surveillance
19 requirements are met.
20 I wrote a PDQ about that. Management discarded
21 it, didn't hit the point. Said that we didn't need the
22 surveillance procedures. I revisited the problem with my
23 supervisor who said, "You did enough to upset people around
24 here." That's -- and he didn't write the PDQ after I told
25 him and it went a long time on that. It was only when I

1 went to the assistant general manager with my allegations
2 that were confidential that they order -- they went out and
3 wrote a subsequent PDQ by somebody else as part of that
4 responding to my allegation. Because they wrote the other
5 PDQ that it did save them. We were written up on a
6 violation --
7 Q BY NRC?
8 A By the NRC for not meeting the surveillance
9 requirements for that monitor, but because of my
10 confidential allegation, because they wrote a PDQ to address
11 it again, we did have a surveillance procedure in place at
12 the time the NRC discovered -- or at least we did have a PDQ
13 in the process that showed that there was a potential
14 problem there and that he did find the consequences of that
15 problem is we didn't surveil on time and it wasn't part of
16 the surveillance, master of surveillance schedule.
17 It's a requirement that anything subject to
18 surveillance or has a regulatory surveillance standard
19 against it, like in a tech speck or ODCM or fire protection
20 plan, security plan, that those type of requirements warrant
21 special attention in the maintenance and surveillance of it,
22 but they become subject to a special program we have, the
23 surveillance program, where it's carefully tracked as far as
24 how we insure that we appear adequately surveilled and
25 maintain the equipment.

1 It's important to note that, and this is in the
2 response to the general manager's -- response to the plant
3 manager's -- what is it? Attachment three or six?
4 Q It's Exhibit 4 from your interview last week on
5 3/16/99.
6 A And on page five it has my response to the general
7 manager's response to my allegations. Here Steve Redeker's,
8 after I did all that and Jim Field did not write the problem
9 report after I told him that there's still a problem. He
10 said that I did enough to upset people around here. Nothing
11 went on until I made this confidential allegation and when I
12 did bring it up, they did write another PDQ. Steve Redeker
13 says that -- to me, that I should have written another PDQ.
14 Yeah right. This is Steve Redeker's response when my
15 supervisor didn't write it. Here I'm getting in trouble for
16 adverse consequences and the conclusion of the plant manager
17 with all of this is it's my fault. I should have wrote the
18 PDQ. Not the supervisor's fault.
19 Q What are the procedures for initiating PDQs? Is
20 that something that you're supposed to do, or your
21 supervisor is supposed to do, or anybody is supposed to do?
22 A Anybody. Everybody's supposed to do. And I had
23 already written one on that very same subject. It wasn't
24 acknowledged. It wasn't disposed of properly. For my
25 supervisor it wasn't disposed. It's still a problem. He

1 says I did enough to upset people around here. He didn't
2 write one himself. Finally I go through the confidential
3 allegation process where they do write one, and the plant
4 manager's response to my allegation is -- read what he says
5 about it. He says I should have wrote the second one.
6 Q That you, Jim Saum, should have written the second
7 one?
8 A Yes. Blaming me.
9 Q Okay. That's after you received a negative
10 comment from your supervisor?
11 A Yes.
12 Q Okay.
13 A While we're on that subject, again when I made an
14 allegation about falsification of records by an INC
15 technician, he said --
16 Q Is this the contract INC technician?
17 A At the time he was a SMUD employee, long standing
18 SMUD employee. The things I heard the INC technician say
19 was that he had fudged calibration data and he also made a
20 statement, "This time I'm not going to lie about it."
21 Q Tell us where you're reading from.
22 A It's Exhibit 4, page two.
23 Q This is Exhibit 4 from last week's interview,
24 right?
25 A Right.

1 Q Okay.

2 A Those statements were verified. In fact I was
3 surprised that the technician admitted saying it. The point
4 I want to make here is when I brought that to the attention
5 of my supervisor, the supervisor's response to me bringing
6 it to his attention and what I should do about reporting it,
7 I was discouraged from reporting it. I would refer to page
8 22, Exhibit 4.

9 Q Of last week, right?

10 A Right. On 11/18/93 Jim Field mentioned to me that
11 he heard that maintenance had been fudging data as part of
12 performing this SP. Shortly thereafter I consulted Jim
13 Field, telling him I had heard directly that maintenance had
14 been fudging data. Jim Field replied, "Well, you know what
15 I think? There is fudging and there is fudging. The fact
16 that if some variable is fluctuating and you're supposed to
17 call it, it's very difficult to call an exact number. So if
18 they call a number and then look at and see that the number
19 is wrong but go back and call it as something else that's
20 still a reasonable number, it's hard to criticize them for
21 that."

22 To me it is hard to criticize them. You take what
23 you observe and you record that down. You don't, after you
24 find out it's out of spec, you don't go back and do it again
25 and say knowingly what the spec is and say yes, it's in

1 there. Now it's in spec. You report is as out of spec and
2 it's not right to go back and change it.
3 Q What you're saying is just report it out of spec
4 and let engineering disposition and you let it be
5 dispositioned in some manner?
6 A Right. There's a more important thing about the
7 way he's dissuading me from reporting it. Here it is, page
8 23, "Field: Are you thinking of pursuing it?" And this is
9 -- this is when I'm taking really careful notes, real
10 careful notes, and these are almost verbatim lines here.
11 "Field: "Are you thinking of pursuing it? Is that why you
12 are here? Saum: Yes. Field: Because I don't think --
13 well here are my own feelings on it. Picture what happens
14 if you would try to pursue it, then maybe that something
15 would be impossible to document, you would go down there to
16 the shop and everyone would say no, I deny it. Jim must
17 have misunderstood what we said. Jim misunderstood. I
18 don't think it could be substantiated, and certainly even
19 you would agree that it worsen your relationship to the
20 shop."
21 He knows that my reporting worsens relationships.
22 He's dissuading me from doing it. Here I heard a guy say
23 he's fudging data, next time I'm not going to lie about it.
24 He's dissuading me saying, well, we're going to claim it's a
25 misunderstanding, a communication problem. I'm surprised

1 that the technician admitted it. He's thinking the guy's
2 not going to admit it, you're going to be claimed a
3 misunderstanding here and it's going to worsen your
4 relationship.
5 I said, "I don't want to hear that they're fudging
6 data again." And he replied, "Well, with the revised
7 procedure they won't have to." That's not true. The
8 revised procedure had nothing to do with that part of the
9 procedure where the technician is -- still has the
10 fluctuating level to deal with and he still has to make --
11 has to determine the average fluctuation point, that's still
12 a requirement.
13 If that -- if that recorded data is out of spec
14 when he puts it down and finds it out of spec, he still has
15 the impetus or motive to go back and do the same thing that
16 he was doing all along up front, even with the new
17 procedure. The problem hadn't been resolved in that regard.
18 The point I want to make, not the technical issue,
19 but the fact this is the unheard or this is their dissuasion
20 or their real mind set as far as trying to get me to
21 cooperate and -- do you get my point?
22 Q Yes, I get your point. Let me see where you were
23 just reading from, Exhibit 4 of last week's interview at
24 page 23. Is it written in here exactly where this
25 instrument is that you're talking about?

1 A Yes. Well, it's well documented in there if you
2 look at the -- it's the F1 flow totalizer again, that same
3 device in question. It's --
4 Q Okay.
5 A Now it's called FIQR 95108. That was basically
6 the device. It's SP-482. That's the one in question.
7 That's the one where this same technician marked up the
8 procedure but marked it up incorrectly where it wouldn't
9 result in a calibration, and that's the on that I responded
10 to and said, "No, I won't sign this one because it's not
11 technically accurate." That's what I got downgraded for in
12 my performance evaluation for being inflexible.
13 The point I'm trying to make here is why I'm
14 reluctant to write a PDQ and those are just two examples of
15 the type of message I'm getting from supervision when I'm
16 trying to write problems that are very sensitive. Here I
17 am, it's already admitted by the plant manager on this
18 sheriff radio problem that I had received criticism from
19 electrical maintenance on this, and I'm under the gun now to
20 show improved relationship.
21 The facilitator is advising me not to write a PDQ
22 and I already got the test of my interpersonal skills with
23 Dennis Jones turned out well, and I don't want to spoil them
24 now by writing the PDQ because my job depends on it at this
25 point.

1 Q It depends upon writing one or not writing one? I
2 thought that they were telling you to write them?
3 A Both, but they're conflicting. Now, if -- I'd
4 already reported this problem a year earlier, tracked it for
5 several years. I mean, now he's -- so my supervisor's aware
6 of the problem and it warranted PDQs in the past and he
7 didn't write one. That's the problem. That's the problem
8 right there.
9 Let's go into that. I hope you understand why in
10 this particular matter I'm reluctant to write a PDQ.
11 Q It seems to have something to do with the
12 facilitator and what he's telling you.
13 A From my point of view -- look at it from my point
14 of view. I'm on probation now to show, demonstrate, that I
15 have improved interpersonal communication skills with my
16 coworkers and my supervisors. In the past I knew when I
17 wrote a PDQ on this very same subject that I got negative
18 response from the supervisor, adverse reaction. In the past
19 that type of adverse reaction was construed by supervision
20 management as my interpersonal relationship skills. It's
21 not, it's just from me reporting the problem.
22 Here, unbeknownst to me, this was a test case
23 observed to demonstrate my improved relationships.
24 Q I'm still not certain you've convinced me that it
25 was a test case that was set up in advance versus a test

1 case that was used after the fact.

2 A Well, okay. I can tell you, it's in my notes, the

3 facilitator told me it was a test.

4 Q Set up in advance?

5 A Set up in advance.

6 Q In advance?

7 A Yes.

8 Q Okay. That's fine. Okay. You're back now on why

9 you still are hesitant to write a PDQ, is that correct?

10 A Yes. Do you have any -- is that clear to you?

11 Q Yes.

12 A Does that make sense?

13 Q Yes, it makes sense to me. Why don't we go off

14 the record for a short break at 3:14 p.m.

15 (Recess.)

16 MR. JOUKOFF: On the record at 3:21 p.m.

17 THE INTERVIEWEE: Now I want to report a

18 procedural violation that I was reluctant to report to my

19 employer for the reasons just stated. The problem is design

20 change made without approved configuration documents. As I

21 already discussed, I found a deviation that the construction

22 staff deviated from drawings when installing the sheriff's

23 radio without first writing a field problem report or having

24 DCNs revise.

25 This is a procedure violation of Rancho Seco

1 Administrative Procedure 303, which is the procedure for
2 making design changes or plant modifications, and RSAP 305,
3 which is the procedure for writing field problem reports
4 when you find there's a problem with the construction and
5 you want to do something other than what the drawings say.
6 This is the mechanism, another mechanism, for getting
7 approval, prior approval, before making the design change.
8 The radio has been used by security installation
9 without an interim release. An interim release is while
10 you're in the construction process before, and you do a
11 large modification, if you want to release a part of it to
12 operations so they can use it before you close out the
13 complete modification, that is allowed with a vehicle called
14 an interim release where you can say that -- claim that you
15 have tested that portion of the system, it's ready and safe
16 to be used by operations, and it's a step where it's an
17 authorization process, quality assurance process, that
18 insures that that part of the system is ready for usage.
19 As I said, this DCP, design change package, 96002
20 is still open. It's been open, as I already explained,
21 because my supervisor, I had reported it in March of '97,
22 the problem. It's taken over a year to get somebody to
23 address it, and still haven't acknowledge whether it's a
24 PDQ-able event. In fact I'm being discouraged by the
25 facilitator for not -- to not write it.

1 BY MR. JOUKOFF:

2 Q Just before you go on, just to make sure that

3 we're clear, you're now looking at Exhibit 2 of your

4 interview from last week at page five, is that correct?

5 A Right.

6 Q Go ahead.

7 A I'd like to make a correction. It says, "Note,

8 this has been a recurring problem as documented in previous

9 DQs, 9247, 9408, 9591, and 9907. I'd like to correct 9907

10 to read 9908.

11 Q Okay. I've corrected the exhibit.

12 A And I'd like -- here's a summary of those PDQs and

13 one other. No, those are the PDQs. That document in

14 summary form, and you can get the full deviation from

15 quality at Rancho Seco. I didn't bother to, but what I'd

16 like to point out is --

17 MR. JOUKOFF: Let me mark that. Let's go ahead

18 and make that an exhibit to today's interview. That way our

19 staff will have it. This will become Exhibit 5 to today's

20 interview and it's multiple-page type written document

21 entitled SMUD Rancho Seco Commitment Tracking System,

22 general CTS report, 17 March '99.

23 (Exhibit 5 was marked for

24 identification.)

25 BY MR. JOUKOFF:

1 Q We've marked that so go ahead and tell us where
2 you're reading from.
3 A Let me number the pages. Page two of Exhibit 5,
4 DQ 92047, telecommunications group removed a 900 megahertz
5 radio repeater. Again, this is the same kind of radio, it's
6 a security radio. They removed it without the drawings, and
7 it was deemed to be a deviation from quality. The DQ is an
8 important thing to note here, because if you review our
9 procedure for PDQs and DQs, that if the management group,
10 CMRG, commitment management tracking review group, reviews
11 the reported potential problem and determines that it's a
12 valid procedural violation or warrants a full -- that a
13 deviation of quality has in fact occurred, they'll deem it a
14 DQ, warranting a full disposition with corrective actions
15 and actions to prevent recurrence, and a review of the
16 extent and the cause.
17 That was the case for a very similar circumstance
18 to this report that I'm making right now. All these do.
19 Q So what you're saying is that these are a series
20 of examples of design changes that were made without
21 approved configuration documents?
22 A Correct. And here's another one, DQ 94008. I
23 think I wrote this one. Also during construction
24 implementation electrical maintenance deviated from a
25 drawing by installing different cable than specified without

1 writing a field problem report in violation of RSAP 303 and
2 305. Exact same thing. This was very much related to the
3 pics problem that I -- this DCP 94002 that I found where
4 they had deviated in their -- in the cabling of the
5 modification. We're not even addressing that and that mod's
6 probably been already closed, so they might have already
7 corrected the documentation, but it wasn't reported. Done
8 deal.
9 So all these are examples that show that their
10 precedent has been made, that they do in the past warrant a
11 PDQ, in fact they warranted a DQ. My supervisor, he's
12 supposed to know this stuff, he was informed. He didn't
13 write it back in March of '97. He let it go all the way
14 until now, and then when I kind of hint at it again, he
15 hints at my continued employment. You better write the PDQ
16 or we're going to fire you.
17 Q And again, you didn't want to write the PDQ
18 because of negative fallout you'd had in the past from
19 writing PDQs?
20 A Yes. I didn't, especially now that this
21 particular circumstance is being reviewed by the facilitator
22 who's monitoring my interpersonal relationships. Okay. I
23 want to make sure that we don't lose -- that we're -- that I
24 convince the readers here that this is indeed a problem, a
25 procedural violation, so let me -- here's RSAP 1308

1 attachment one.

2 Q Okay, let's just mark this as the next exhibit.

3 It's going to become Exhibit No. 8. Do we need the whole

4 document, or just this one page?

5 A Since you've got it, you might -- it would be

6 valuable if you want to do a technical review, you can use

7 it.

8 Q Okay.

9 A You can have the whole thing.

10 MR. JOUKOFF: Let's mark the whole document as

11 Exhibit No. 6, and this is Rancho Seco Procedure Manual No.

12 RSAP-1308, revision 11.

13 (Exhibit 6 was marked for

14 identification.)

15 BY MR. JOUKOFF:

16 Q You're reading from page 11 of the document.

17 You've made two X's here. Are those the points that you

18 want to highlight?

19 A Yes.

20 Q I've put two arrows next to them to make sure

21 they're very well noticed. You want to testify from the

22 document?

23 A Any potential deviation from quality procedure for

24 reporting problems, gives examples of conditions requiring

25 PDQs. It says, "Items installed without required

1 documentation and procedure or training violations," which
2 this is.
3 Q Training violations?
4 A Procedure or training violations. Procedure
5 violations.
6 Q Procedure violations, okay.
7 A And here's another one, "Discrepancies between as
8 built and design documents." So all three of those warrant
9 -- are conditions that apply here.
10 Q Okay.
11 A Now let's see if that's the case here. Has there
12 been a procedure violation? I want to make very clear that
13 it is. I guess we'll have to enter another exhibit.
14 MR. JOUKOFF: This will become Exhibit No. 7, and
15 this is Rancho Seco Procedure Manual No. RSAP-0303, revision
16 15. It's a 44-page document.
17 (Exhibit 7 was marked for
18 identification.)
19 BY MR. JOUKOFF:
20 Q Okay, we've marked that one. And you want to
21 refer to page 15 of that document, is that correct?
22 A Yes. It states, "All construction work shall be
23 performed in accordance with approved DCNs, design change
24 notices, of drawings, or FPRs," which is a field problem
25 report, which is another method of getting prior approval of

1 design changes without having to make a drawing change up
2 front. It's a convenience, but it still has a review of the
3 proposed change so that for quality assurance purposes it
4 can be duly reviewed and make sure that it's proper.
5 "Variances from approved configuration documents
6 are not permitted." The reason why is, as I explained
7 before, if I had, for example, UPSs that were loaded near
8 their capacity and somebody plugged in a major load to it,
9 it would downgrade, it would cause a failure of the ability
10 to meet the requirement. That's one reason why you don't
11 deviate, but there's many reasons why you don't deviate.
12 Again, I really don't have to justify it, it's already in
13 procedure and the procedure has been clearly violated.
14 Q Okay, thank you.
15 A Also, refer to step 6.8. This step was violated
16 in that there has been no interim release form completed to
17 allow it be released to operations.
18 Q And that's Section 6.8 entitled Interim Release.
19 It's at page 21 of the procedure.
20 A That concludes the -- my report of design changes
21 made without approved configuration documents. Now I want
22 to report the failure to write a PDQ by my supervisor. I
23 informed him on 3/5/97 of those two particular problems with
24 the sheriff radio and the one with DCP 9402, and he failed
25 to report it.

1 I've been told, given letters, that if I failed to
2 report a problem that I'd be subject to deliberate
3 misconduct and I'd be subject to firing. Here's a case
4 where my supervisor's totally informed of the same
5 circumstance. He fails to report it. I told him it was PDQ
6 verbally and I told him in memo form. He's aware that I
7 feel it's a PDQ, and I told him it's procedural violations.
8 I've hinted at it, and still over a year no PDQ has been
9 written.
10 Q And again, you didn't write one yourself because
11 you were afraid of some type of retaliation for writing a
12 PDQ?
13 A Yes. And I felt I'd met my reporting obligation
14 since I reported it to my supervisor. I feel that's
15 adequate enough. In fact if you look at that RSAP 1308,
16 that's the first step, report it to your supervisor.
17 Q Okay, thank you.
18 A Break?
19 MR. JOUKOFF: Let's go off the record for a break
20 at 3:39 p.m.
21 (Recess.)
22 MR. JOUKOFF: We're back on the record at 4:05
23 p.m. While we were taking a break Mr. Saum found some
24 documents that he wants to make part of his transcript
25 today. What we have here is we have three separate one-page

1 documents. The first one is a series of signatures
2 regarding some SMUD employees that feel that Mr. Saum
3 conducts his business in a professional manner with good
4 working relationships. The second page is a 12/11/95 memo
5 to Jim Field from Walter Partridge. Was he a SMUD employee?
6 THE INTERVIEWEE: Yes, chemistry supervisor.
7 MR. JOUKOFF: Regarding working relationship with
8 Jim Saum. And then the last one is a character reference
9 from a Gary Sprung. This is from electronic mail dated
10 February 18th, 1999. Those three together will become
11 Exhibit 8.
12 (Exhibit 8 was marked for
13 identification.)
14 BY MR. JOUKOFF:
15 Q Was there a comment that you wanted to make about
16 those three?
17 A Right. My employer's likely going to try to prove
18 a dual motive argument, and going to say that they -- that
19 they have valid reason to be doing what they're doing with
20 regard to me. That this isn't a discrimination matter, this
21 is that I have some interpersonal and communication problem
22 with my coworkers is the problem.
23 I feel that's an unfair criticism and that when I
24 try -- I know that to be untrue, and when I went out and
25 tried to prove it, I went out and got signatures from about

1 15, 18 different individuals that I work with, and this was
2 on February 10th, 1999, knowing that I'm on probation for
3 this same subject. Within that day I spent at lunch time
4 and got all these signatures, and my supervisor found out
5 about it and again ordered me to stop getting signatures
6 from my coworkers, saying that I was interrupting their
7 business.
8 I did not interrupt these people. This took less
9 than a minute to get, and it was done at lunch time. I'm
10 just trying to get fairness and show that it's not true that
11 I have a serious working relationship with other people.
12 There are some that don't get along with, but that's true
13 with a lot of people. This is more motivated -- that I know
14 this to be -- that the interpersonal problems that they're
15 talking about really stem from people who get upset from me
16 writing sensitive problem reports that effect their area and
17 they become defensive about it, and human nature, they
18 complain.
19 Once Jim Field in 1995 accused me of having some
20 kind of poor relationship with Walt Partridge, I believe
21 this was again regarding that incident where they sent me up
22 regarding DQ 9512 where they asked me to go upstairs and
23 investigate the -- I'm not sure if it was that one, but they
24 asked me to go to chemistry and get more information to
25 support the DQ finding. I got a complaint from -- that's --

1 well, Partridge complained about me.

2 So I went upstairs and that was not true, and he

3 signed that that wasn't true. He said, "Jim Saum and I have

4 a good working relationship. We listen to and respect each

5 other's opinions. I respect Jim's technical expertise and I

6 believe Jim is striving to do a good job." That countered

7 it. That's an example. When I bring that to their

8 attention they say I intimidate the people, and that's just

9 another example of the unfair treatment I get. Again, it

10 was referenced by my attorney, as Steve Redeker had already

11 admitted to my attorney, that he had told me to stop. So

12 there's documentation that that was a fact.

13 Gary Sprung, he is my project team for security

14 systems, he's the one I worked most closely with, and he has

15 a totally different impression about what the real problems

16 are with relationship with me and my coworkers and my

17 employer. It is not because of interpersonal skills, it's

18 based on other factors as described in his letter to me.

19 Q Thank you. You had some closing remarks that you

20 wanted to make about your testimony to the NRC?

21 A Well, before I get into closing, I'd like to try

22 to anticipate the arguments that my employer will make as

23 far as why they don't feel discrimination has occurred here.

24 It's -- I'd like to reference to -- what is it?

25 Q Exhibit 1, page 12 from your March 26, 1999

1 interview.

2 A Right. My supervisor will likely take the
3 defensive position that although I engaged in protected
4 activities, it had no bearing on his decision to ultimately
5 suspend my employment, and that these activities resulted in
6 any form of discrimination. They will likely deny that
7 their long held negative attitudes towards me, that I'm
8 inflexible, resistant to change, and I'm uncooperative were
9 not formed by my resistance to follow their directions that
10 I had previously communicated to them as unlawful and
11 unsafe.

12 They will deny that their negative attitudes
13 towards me and actions taken against me had anything to do
14 with the fact that I reported to upper management that my
15 supervisors had been responsible for deliberate misconduct
16 and discrimination against me.

17 Mr. Redeker will likely deny that the long hours
18 spent by his staff and himself investigating, responding to
19 these serious allegations effected his attitude towards me.
20 They will deny that my reporting of problems with clear
21 supporting evidence supported a threat to affected
22 management, supervision and coworkers responsible for their
23 involvement in causing the problem.

24 Mr. Redeker and Mr. Field will likely claim they
25 welcomed, appreciate, and in fact demanded my reporting of

1 these problems, although they never felt it appropriate to
2 commend me for doing so.
3 So rather than just read it, please, whoever's
4 investigating, to read this as a counter to the dual motive
5 factor that these -- this -- the result of the adverse
6 reaction, adverse actions they're taking against me have
7 been in part due to the way I've reported problems in the
8 past, and the threat that I have about holding management
9 accountable for certain things, and the trouble that
10 responding to those allegations has caused them.
11 I'd like to -- okay -- point out the differences
12 between my previous supervision and current supervision.
13 1983 to '93 I reported and resolved numerous safety
14 concerns. I was praised from previous supervisors for my
15 commitment to safety and regulatory and procedural
16 compliance, quality and excellence and engineering. I was
17 promoted to senior electrical engineer in the shortest
18 period administrative allowed a that the time, which was
19 exceptional.
20 I worked for four different supervisors during
21 this period and never received criticism for having raised
22 safety concerns, identifying and following regulatory
23 requirements or verbatim compliance with the procedures. I
24 was never criticized for being inflexible, resistant to
25 change, or uncooperative for having brought to my

1 supervisor's attention their directions were not in
2 accordance with regulations or procedures, or that I had a
3 concern that they would cause an unsafe result. My previous
4 supervisors welcomed my recommendations on the best way to
5 proceed to resolve a problem and we always could agree on an
6 acceptable solution.
7 As a result of the NRC's decision in 1985 to order
8 the shut down of Rancho Seco for lack of confidence in
9 management's ability to operate the plant safely, SMUD's
10 upper management replaced the entire Rancho Seco management
11 team in an effort to restore NRC's confidence. This new
12 management welcomed and encouraged the reporting of
13 problems. That was during the outage after 1985. The NRC
14 shut us down and we were in a two-year outage to try to make
15 great improvements in administrative procedures and
16 controls, and improvements in the facility itself.
17 So it was only when I transferred or became
18 reassigned to my current supervisors, Jim Field and Steve
19 Redeker, and they both became my supervisors at the same
20 time, and they were pretty much friends with each other at
21 the time, so they supported each other. So I believe Mr.
22 Redeker was blindly supporting Jim Field's criticizing of me
23 and I was simply trying to stand up to an unfair situation,
24 unfair criticism of them telling me that I was inflexible
25 and resistant to change to three different tasks that I had

1 been involved with.

2 I clearly showed, and the documents will prove,
3 that I had good reason not to go forward with the QA Class-4
4 change downgrading highly reactive material that I knew and
5 proved that the revision SB-482 was unsafe and that as far
6 as this security system options, my memo MMTS 9316 clearly
7 showed that I was only trying to point out that the current
8 design was not in accordance with regulations and that we
9 needed to seek an exemption immediately because we were -- I
10 felt SMUD was being put at risk.

11 We are right now because six years later we still
12 haven't got out security plan approved for that same reason
13 I pointed out there, that the alarm station or control room
14 -- alarm station needs to be on-site in a protected area.
15 That my design option I wanted at one time was to link both
16 headquarters as the secondary alarm station and the control
17 room as the primary. That would have been flexible.

18 That would have allowed us to -- that was not
19 inflexibility, that was flexibility by insuring that we had
20 an on-site alarm station and a secondary alarm station which
21 could be off-site. Or we could reverse the two if we got
22 that okay from the NRC, but for them to accuse me of being
23 inflexible on that is totally unfair.

24 Here's where a lot of the problems I have
25 differing with the plant stem from. I believe in verbatim

1 compliance with regulations and procedures. As a nuclear
2 worker under the new 1985 to 1990 Rancho Seco management
3 team, I was trained to rigorously comply with regulations
4 and procedures word for word. If a procedure could not be
5 performed as written or did not include the description of
6 the scope of actions to be performed, then a procedure
7 revision and a safety analysis of the change was required
8 before proceeding.
9 Shall statements within a procedure or regulation
10 meant a requirement, should meant that it was recommended,
11 and may meant that it was permissible. Those are my
12 approach to determining whether a procedure violation has
13 occurred, as I described earlier, about the new reported
14 problem of deviations from approved design documentation.
15 The shall statements were violated.
16 If you look at my -- when you're reviewing the
17 problem reports I've made in the past and in the
18 confidential allegations or any of the problem reports, some
19 of the problems I report are seemingly insignificant and
20 trivial, but they still meet the intent. They still meet
21 the -- they still are a violation of procedure. There's a
22 shall statement that was violated. They were approved
23 procedure.
24 No matter how trivial the consequences were, all I
25 did was report that the shall statement was not met and

1 showed an example of why the shall statement was not met. I
2 don't believe there's others at my plant that do that.
3 That's why I'm different.
4 But I want to emphasize, and this is very
5 important, that I always -- I've always clearly understood
6 the differences between what is within my supervisor's
7 purview and what was not legally within their authority.
8 Every example they have documented where they have charged
9 me with being inflexible or resistant to change will be
10 shown that I had been resisting to engage in unlawful unsafe
11 acts that had previously communicated them as such.
12 I already told them that it was a violation of
13 5082, not to go forward with authorizing or proving a safety
14 analysis which would allow the removal of highly radioactive
15 materials. An intervenor at Yankee Row, again the NRC was
16 allowing licensees to deviate from 50.82. They were
17 allowing their licensees to remove steam generators and
18 primary piping under the 5059 process. Mr. Redeker told me
19 about them, gave me examples of the Trojan Plant removing
20 their generators, and I found later about Yankee Row
21 removing their steam generators.
22 An intervenor at Yankee Row complained, and he was
23 anti-nuclear group complained about Yankee Row proceeding
24 with removing highly radioactive materials in violation of
25 10-CFR-50.82, 1993. The First Circuit Court of Appeals has

1 agreed with my position that I held and expressed at the
2 time. On July 20th, 1995 the First Circuit Court of Appeals
3 struck down the NRC's approval of Yankee Atomic Energy
4 Commission Component Removal Project because it did not have
5 the required approved dismantlement plan.
6 I don't have these attachments, but a new reg,
7 1145 and the nuclear 1295 is where I determined -- where I
8 discovered that to be the case. Also as a result of that
9 court's ruling, the NRC changed 10-CFR-50.82 in August of
10 1996 and it's decommissioning regulations. The First
11 Circuit Court of Appeals admonished the NRC for not
12 requiring the licensees to conform with their own
13 regulations and said if you want the licensee to go forward,
14 then you change your regulations.
15 Same thing in these procedures. If you want to
16 deviate from the procedures, you get the procedure changed
17 prior to allowing one to take actions that aren't described
18 in the procedure. Again, it's subtle. What's the
19 difference between 50.59 and dismantlement plan? It's the
20 letter of the law.
21 For example, it's like Kenneth Starr stating that
22 Mr. Clinton committed perjury. Okay, perjury was just
23 trying to defend something that commonplace people think he
24 had a -- he could -- he had a right to lie to the court. He
25 was only trying to defend some kind of affair, and why

1 should the government be pursuing that? He was entitled to
2 lie and try to defend it. Of course he's trying to get --
3 well.
4 I more agree with Kenneth Starr. The letter of
5 the law said that one cannot commit false statements on the
6 witness stand. Maybe they were petty. The fact is they
7 were a violation of the law and the fact is the people
8 overrided it and he was acquitted.
9 Similarly, a lot of the problem statements that I
10 brought forward are sometimes deemed as petty, but they
11 still follow the letter of the law. I think it upsets my
12 supervisors. This latest one about the sheriff's radio
13 might be an example of that, but again, they're accusing me
14 of deliberate misconduct if I fail to write a PDQ, and
15 here's a clear example of them not writing a PDQ.
16 If you look at the technical procedure, it is a
17 clear violation. There was a precedent. They didn't do it,
18 but they're pointing the finger and they're trying to use
19 that. I've got a condition of employment to show a
20 willingness to write PDQs. They can use that to say -- to
21 terminate me. I hope that the NRC sees that and puts the
22 responsibility and accountability where it belongs.
23 In my -- on the security system options, again the
24 new reg 14 -- the -- what I had recommended to my
25 supervisors, my concerns, have been realized. We still

1 don't have approval of our security plan because of the fact
2 that alarm station is not located on-site in a protected
3 area.
4 What I probably see happening here is we have one
5 regulatory agent making up a rule, a regulation, that
6 requires it. It's a shall be in a protected area on-site.
7 So far I believe that a number -- I retract that. I can't
8 support that statement. The statement I made about the fact
9 that we still haven't received approval for the security
10 plan is valid. That part is true. For the reasons that our
11 alarm station is not located on-site in a protected area.
12 That's true.
13 I advised my supervisors in 1993 of that
14 circumstance and many of the concerns that I brought forward
15 that they discarded turned into being real problems.
16 Although it's scattered throughout this documentation,
17 there's many examples of that.
18 The bottom line is I will not sign anything that I
19 know to be unsafe or unlawful, even if it means receiving
20 discrimination by my supervisors. It is important to note
21 that my supervisors have not provided any examples of my
22 inflexibility for which I have not previously communicated
23 to them that it was unlawful or unsafe. It's only those
24 three examples that they've ever accused me of being
25 inflexible and resistant change for. I've clearly explained

1 why I was resistant to change for those and I'll stand by it
2 today.
3 I know the difference between what's in my
4 supervisor's purview and what's not legally within their
5 authority. I know when to stand up for my rights. I stood
6 up for my NRC Form 3 rights and I . . .
7 Q Which one, Jim? The one back in 1993?
8 A Let's see, the response to my appeal. Never mind,
9 I've got it. What's this document called?
10 Q That's Exhibit 3 from your March 26, 1999
11 interview.
12 A I'd like to refer to that and make it very clear
13 that this charge of being inflexible and resistant to change
14 is only related to three different examples. That's the
15 removal of highly radioactive material in a safe -- and them
16 coercing me into approving that. I can guarantee you that
17 if I had not written the memo, written the PDQ, and was like
18 another coworker, I would have blindly followed my
19 supervisor's instruction and right now you would have a QA
20 Class 4 reactor vessel steam generator that could be removed
21 without -- under the 5059 process without meeting the 50.82
22 requirement.
23 I took a stand, got it corrected, but I don't feel
24 I should be charged with inflexibility for doing that. I
25 admit I'm inflexible with proceeding with something I know

1 to be a procedure violation, is adverse to safety, or would
2 result to regulatory noncompliance. I should be commended,
3 not punished for such actions as I believe such efforts will
4 eventually be -- well, that's not true.
5 I want to ask the NRC, was I inflexible not to
6 process that 5059? And was I wrong for arguing that? Was
7 it proper for Jim Field to demand that I proceed with the
8 5059 when necessary administrative controls were not yet
9 clearly not in place? Again, the Richard Manheimer letter
10 from licensing disagrees, and has clearly stated in his memo
11 that I reference earlier.
12 Again, it comes to the issue when you hear in
13 response the dual motive factor from my employer that I'm
14 inflexible and resistant to change, I want you to put that
15 in context to the specific examples. Have them specifically
16 determined or described examples where I was inflexible and
17 resistant to change and you will see examples will show that
18 I had a valid right for not going forward with those.
19 The other example was the SP-482 revision to a
20 calibration procedure. In here I prove technically why the
21 recommendations from the INC technician would result in a
22 procedure that did not calibrate the totalizer which is used
23 to assess the dose received to the public from liquid
24 effluence. In my appeal to the assistant general manager I
25 provided that proof and said why do you expect me to sign a

1 procedure revision, make a procedure provision, according to
2 a technician suggestion when that will result, when that
3 revision will result in an unsafe condition? It puzzles me.
4 I was inflexible with not going forward with that
5 procedure. I'd stand by that decision today. Of course I
6 don't want to get fired so maybe I wouldn't. Now it's
7 coming to the point where I'm going to get fired, and
8 perhaps the NRC wants me to do what the other employees do.
9 Perhaps they do not want me to challenge the incorrect
10 direction of my supervisors.
11 Q When you say do what the other employees do, what
12 do you mean by that?
13 A I believe that if this was assigned to another
14 engineer, that same task, that it would have gone forward,
15 would have resulted in an approved 5059 for -- which would
16 allow the downgrade of those materials, the removal of those
17 materials without -- in violation of 50.82.
18 Q So you believe it was your diligence in this case
19 that prevented that violation?
20 A Of course.
21 Q And that another engineer may have gone ahead and
22 done what he was told to do?
23 A Yes.
24 Q Thank you.
25 A Was I inflexible with regard to the options when I

1 informed my supervisors that the design proposed to put the
2 alarm station at headquarters was not in accordance with
3 10-CFR-73.50? Who's not being flexible here? If we had
4 done that as I proposed, we would be in a very good
5 situation for -- we would be in compliance with the existing
6 73.51 rule now, and I was only trying to bring it to their
7 attention that we're not in compliance and we needed an
8 exemption if we're going to go forward, and I offered a
9 solution that we could have some flexibility in the design
10 by having both the downtown headquarters and the on-site
11 alarm -- on-site alarm station on a network so that we'd
12 have some flexibility on getting NRC approval if they did
13 demand eventually that we have our alarm station on-site, as
14 I saw was an existing regulation.
15 For them to come in for saying I'm inflexible for
16 that is a gross unfair treatment. That's what I stood up
17 for. For me standing up like I am now and all this
18 documentation, that's what leads them into this negative
19 opinion of me. How dare I challenge their decision on this?
20 I hope you can see that from my point of view that I was
21 only diligently pursuing my job. Hopefully you'll see that
22 as an unfair criticism, and I had a right to try to defend
23 against that unfair criticism.
24 I have no problem taking accountability for things
25 that I do wrong, but the things that they say I did wrong, I

1 know I didn't do wrong. A lot of this particular exhibit is
2 my reply to that. This is what stemmed -- the -- caused the
3 attitudes between -- with Mr. Redeker, Mr. Field and myself.
4 This caused their -- them continuing to charge me with that
5 and their insensitivity, my complaint about the Catch-22
6 situation where I complained early in '93 that caused me to
7 go into not writing -- my reluctance to writing PDQs.
8 It did work for me, the reporting verbally
9 problems and in memos, did work for me quite well as the
10 performance evaluations will be seen, '95, '94 were
11 improving. The performance evaluations on '96. I asked for
12 even a better one. I wasn't given one.
13 Q You weren't given any performance appraisal at
14 all?
15 A Right.
16 Q Since '95, is that correct?
17 A Right. And I asked for one because I knew I had
18 completed all my goals and expectations and had no
19 complaints. The complaints were way down since I -- my new
20 technique of just verbally informing my supervision of
21 problems. The record -- and I know there was a causing
22 relationship between complaints received and problem
23 statements I made.
24 Q Actions that were taking against you?
25 A The actions taken against me were poor

1 performance --

2 Q No, I was just saying that there was a cause -- I
3 think you're testifying, or correct me if I'm wrong, there's
4 a causal effect between the stand that you took and the
5 actions that were taken against you by your employer. Is
6 that what you were trying to say?

7 A There's causal relationship based on the
8 complaints I'd get from coworkers and the problems or PDQs
9 that I had written. I'd write a PDQ and I'd get a
10 complaint. I wouldn't write a PDQ, I wouldn't get a
11 complaint. So there was -- everything that people
12 complained about was in relationship to some kind of
13 criticism or problem statement that I made that effected
14 their area of responsibility, and like human nature is,
15 people have a tendency to cross-complain and try to get back
16 at who they feel is maybe criticizing them.

17 So bottom line now is I'm on probation here.
18 There's a facilitator that's in management that are
19 reviewing my interpersonal and communication performance.
20 I'm really sensitive to upsetting people with problem
21 statements that I know will cause poor relationships. So
22 I'm still in a situation where I'm not free to report
23 problems, and I hope the NRC can assist in correcting that
24 situation somehow.

25 I know that there's going to be a strong dual

1 motive argument made and they're going to claim that
2 discrimination isn't rampant as the survey -- they may try
3 to use that survey as proof of that. Well, even if there's
4 only one case of discrimination and it's only particular to
5 me, I still feel that warrants correction, and I hope the
6 NRC agrees with that. It may not be rampant, but it exists.
7 You can see, I hope, why I don't feel free to go forward
8 with continuing writing problems.
9 I ask the NRC, what do you want me to do here? Do
10 you want me to do like the others in the plant and do what
11 my facilitator says, use discretion? Don't write PDQs on
12 everything that I know technically, as I described, what
13 constitutes a procedure violation is verbatim procedure.
14 The shall statement violations. I know that common sense
15 approach where discretionary approach, I know the
16 consequence of that.
17 Even small procedure violations I think result in
18 complacency that will lead into a more serious procedure
19 violations. Even the problems that I've been involved with,
20 you'll see some seemingly petty ones, but those same petty
21 ones result in some pretty significant ones like the problem
22 not calibrating the totalizer for all those years since
23 operation. I can do that, but not in good conscience.
24 I believe if no action is taken here that my
25 employer and the attorney staff will document that the

1 reason why they're terminating me is based on other reasons
2 than this, and I hope that the NRC will intervene here and
3 correct the situation.
4 Q You know the NRC doesn't have the power to
5 intervene?
6 A Not to intervene, but rather to determine the
7 validity of what I'm saying here and see that there is
8 discrimination that is occurring, or at least a condition,
9 if not deliberate discrimination, but a condition here that
10 is suppressive and needs correcting.
11 Should I have done what my supervisor said and not
12 reported that falsification of records? Sure it didn't --
13 Q Which falsification of records?
14 A The ISC calibration. He advised me, "Well, if you
15 do it, it's going to worsen your relationships with the
16 maintenance staff, and if you say it, they're going to deny
17 it."
18 Q And was this ever reported to the NRC?
19 A I reported that as an allegation, a confidential
20 allegation, to my plant manager, or the AGM, James Shetner,
21 so I don't know if it was report to -- it's report now,
22 again, as part of that --
23 Q In that letter to Mr. Shetner?
24 A Yes.
25 Q Okay.

1 A So it's reported.

2 Q It's in Exhibit 3 of your testimony or your

3 exhibits from your interview on March 26, 1999. Is it in

4 here?

5 A Yes.

6 Q Okay, thank you.

7 A Should I have followed my supervisor's instruction

8 when I asked to write another PDQ on the IOSB radiation

9 monitor that wasn't receiving -- wasn't subject to a

10 surveillance program? He didn't write one. How come he

11 wasn't held accountable for writing a valid PDQ? Why isn't

12 he held accountable for not writing a PDQ on the sheriff's

13 radio and all the other -- and some of the other allegations

14 I made?

15 He has told the facilitator that he is tired of me

16 accusing him of procedure violations, and that's part of his

17 interpersonal relationship problem, but at the same time

18 they're demanding that I write PDQs. He's tired of me

19 criticizing him for procedure violations, yet they're

20 demanding, and if I don't write the PDQ I'm subject to

21 termination. I hope you can see the conflict and dilemma

22 I'm in and correct the situation. Thank you.

23 Q There is just one -- on that last point, anybody

24 at the plant can't write a -- can write a PDQ, though,

25 right?

1 A Yes.

2 Q There was one point that I wanted to go over with
3 you before we concluded your interview, and that was
4 regarding some allegations that I've been asked by the
5 technical staff to review with you. During one of our
6 breaks we went over these allegations, and I just want to
7 make two more exhibits, okay?

8 The first next exhibit that we have is No. 9.
9 Actually we'll make both of these exhibits No. 9. Both of
10 these pages Exhibit No. 9. The first page is part of your
11 DOL filing, and the second page is a page of safety concerns
12 that was provided to Russ Wise of the NRC by SMUD. Let's
13 mark those as No. 9.

14 (Exhibit 9 was marked for
15 identification.)

16 BY MR. JOUKOFF:

17 Q And what we've done here just so our staff
18 knows, our staff went through on the first page of Exhibit
19 No. 9, this is your DOL filing of complaint, and found five
20 allegations and numbered them one through five. The second
21 page of Exhibit No. 9 is part of the e-mail that Russ Wise
22 of the NRC received from SMUD, and there's five allegations
23 there. In pen next to the typewritten numbers you've put
24 the handwritten numbers from the first page, is that
25 correct?

1 A Correct.

2 Q So these two pages contain the same five

3 allegations?

4 A Yes.

5 Q And you've previously reported these five

6 allegations to the NRC, is that correct?

7 A Yes.

8 Q And that was in your letters to Special Agent

9 Dennis Boal?

10 A Correct.

11 Q On 8/6/98. The staff can find those as Exhibits

12 No. 4 and No. 7 to Mr. Saum's March 26th, 1999 interview.

13 These allegations are, in your opinion, completely developed

14 in those two letters, is that correct?

15 A Yes.

16 Q Mr. Saum, I'd like to --

17 A And also -- no, that's enough.

18 Q That's enough? Okay. I want to -- that's fine.

19 So our staff can look at those five allegations. The other

20 comment that you made to me during one of the breaks was

21 that the staff had done some inspection activities on some

22 allegations that you made last year and that the results of

23 those inspections were reported to you in a letter by Russ

24 Wise, is that correct?

25 A Correct.

1 Q And I think you wanted to say on the record you
2 disagree with some of the findings made in that inspection
3 report?
4 A Yes, I do.
5 Q And that you're going to report that directly back
6 to Russ Wise when you get a chance to write him a letter
7 going point by point over what your disagreements are, is
8 that correct?
9 A Yes.
10 Q I'd like to thank you for all the time you've
11 spent with us, and all the documents you've provided, and
12 for coming and talking to us these two times. We're going
13 off the record at 4:55 p.m. concluding this interview.
14 (Whereupon, at 4:55 p.m. the interview concluded.)
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REPORTER'S CERTIFICATE

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

NAME OF PROCEEDING: INTERVIEW OF
JAMES SAUM
(CLOSED)

CASE NUMBER:

PLACE OF PROCEEDING: Rancho Cordova, CA

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

Judith Jackson-Sieck

Judith Jackson-Sieck
Official Reporter
Ann Riley & Associates, Ltd.

CARROLL, BURDICK & MCDONOUGH LLP

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October 21, 1998

JoAnna L. Brooks
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COPY

1

Jan Shori, General Manager
S M U D
6201 S Street
Sacramento, CA 95852

Re: James Saum - Written Response to Notice of Termination

Dear Ms. Shori:

I. INTRODUCTION

Our firm has been retained by Mr. Saum to assist him in the grievance process and to respond to the Notice of Termination he received on October 13, 1998. We are confident that following review of the contents of this letter and the attachments that you will reconsider your decision to terminate his employment.

The purpose of this letter is threefold:

(1) Mr. Saum wants to make it clear that he has not, and has never, refused the full psychological evaluation ordered by SMUD. He has merely requested that SMUD follow its procedures as set forth in the Site Security Plan and the verbal understanding that was established between his attorneys and SMUD counsel, Bruce Notareus. He has also requested that SMUD recognize and honor his privacy rights.

(2) Mr. Saum wants the chronology of events to be clear. A review of the facts shall reveal that Mr. Saum has not been insubordinate, but has been protecting himself from discrimination, harassment and intimidation for having engaged in protected activities described in 24 CFR 2, the Energy Reoganization Act and the California Labor Code. Mr. Saum's concerns regarding his privacy rights and SMUD's failure to follow procedures did not materialize out of thin air. This has been a long and arduous path littered with repeated

EXHIBIT
4/2/99

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procedural errors and violations of Mr. Saum's rights. Mr. Saum is in the process of pursuing his legal remedies through the Nuclear Regulatory Commission, the Department of Industrial Relations and the Department of Labor. However, Mr. Saum believes this cycle of harassment and discrimination could have been stopped internally, and still can be, if SMUD is only willing to recognize that Mr. Saum is seeking to protect himself and others by the action he has taken.

(3) Mr. Saum requests that SMUD reverse its decision to terminate his employment. At a minimum, Mr. Saum requests that you suspend your decision until we can resolve the issue of whether or not his MMPI results require a full psychological evaluation and if so, Mr. Saum is given an opportunity to comply. The Notice to Terminate is premature.

In addition, Mr. Saum asks that you take into consideration the fact that the motivation for sending him to a psychological examination and the manner in which it has been handled reflects a pattern of retaliation that Mr. Saum has suffered at every turn when he attempts to assert his legal rights and to request compliance with procedures established by SMUD. Mr. Saum can only hope that seeing the whole picture will demonstrate that he is entitled to a second chance.

Mr. Saum likes his job. He has had security clearance for over 20 years. He has worked for the Rancho Seco facility for 15 of those years. His supervisor, Steve Redeker, admits that he is an excellent engineer. Mr. Saum does not consider himself a threat and harbors no ill will towards any of his co-workers. Mr. Saum would simply ask that SMUD treat him with the common respect and decency that any long-term dependable employee deserves. Pursuant to RSAP 1003 6.1.1.2, 10 CFR 73.56 and Civil Code 56.10, he deserves to know the objective bases for his being ordered to a psychological evaluation, what information will be released and to whom. It is unlawful for SMUD to deny Mr. Saum this information and/or to violate his privacy rights.

II. CHRONOLOGY OF EVENTS

1984 Mr. Saum commences employment with the SMUD Rancho Seco Nuclear Facility.

1984-93 Mr. Saum received positive evaluations of his work performance. He has never been disciplined.

1993 Reassigned to current supervisor, Jim Field. Mr. Saum received his first set of negative complaints for being inflexible for (1) resisting downgrading the QA class of highly radioactive components such as the reactor vessel, (2) communicating his concerns regarding the revising of a calibration procedure that monitors the liquid effluent release, and (3) resisting the evaluation of options for the ISFSI security system.

With regard to the Mr. Saum's concerns regarding the downgrading of highly radioactive material, Mr. Saum explained to Mr. Field that it was a violation of federal regulations (10 C.F.R. 50.82). Mr. Field disagreed and was angered by Mr. Saum's position. It should be noted that the Fifth Circuit Court of Appeals has ruled that Mr. Saum's interpretation of 10 C.F.R. 50.82 was correct.

With regard to the resistance to revising SP 482, the calibration procedure for the liquid effluent flowmeter, Mr. Saum clearly communicated his concerns that this procedure would result in an unbounded condition with no guarantee of accuracy of the instrument. Mr. Field criticized Mr. Saum for being uncooperative.

With regard to the ISFSI Security System, Mr. Saum explained that 10 C.F.R. 73.50 required an on site alarm station in the protected areas of the ISFSI. Mr. Field disagreed and criticized Mr. Saum for his concerns. 10 C.F.R. 73.51, as ratified by the NRC this past year, clearly requires an ISFSI alarm station to be located on site as Mr. Saum had informed his supervisors in 1993. The NRC has not approved SMUD's alarm station to date for failure to comply with federal regulations.

1993-98 Mr. Saum reports numerous safety and health concerns to his supervisor. He continues to receive verbal comments from his supervisor that he is being inflexible and resistant to change.

3/02/97 Mr. Saum submits a memorandum to Jim Field regarding his concerns of the Kurz Calibration of CTE-60601; DQ 97-0049; DQ 97-057.

7/24/97 Mr. Saum raised concerns with his supervisor by memo MNTS 97-031 regarding procedural deficiencies which could lead to the free release of contamination. Plant management ignored his concerns and complained that he was interfering by memo IDT 97-052 and MNTS 97-037.

7/9/98 Mr. Saum reported safety concerns to the NRC during their on-site inspection related to the free release of contamination incidents on 12/27/97 and 4/30/98. Rancho Seco subsequently received an NRC citation for violation of Tech. Spec. D6.11.

7/14/98 Mr. Saum memorializes meeting with Mr. Field where Mr. Field accuses Mr. Saum of being unprofessional. Mr. Saum points out that in many instances he has suffered backlash from pointing out procedural deficiencies and safety concerns. [Attachment # 1].

7/16/98 Mtg. between supervisor Steve Redeker, supervisor Jim Field and Mr. Saum regarding the need to "improve relationships" between Mr. Saum and Mr. Field. Mr. Saum attempts to explain the recent

conflict with Mr. Field regarding his concerns over procedural deficiencies and the free release of contamination. [Attachment #2 memorandum memorializing content of meeting]. Mr. Saum explains to Mr. Redeker that Mr. Field's first complaint against Mr. Saum materialized after he brought these concerns to his attention. Mr. Redeker indicated that he did not want to know specifics and insisted that Mr. Saum, Mr. Field and himself see George Rendon (a licensed counselor) through the Employee Assistance Program to work out the conflict. He refused to explain specific objective reasons why the counseling was required. Mr. Saum became alarmed because he suspected that the reason for the counseling was due to the meeting he had with the NRC on 7/9/98. Another plant employee saw him at the meeting, and another accused him of reporting to the NRC that same day.

7/21/98 Mr. Redeker provides Mr. Saum with George Rendon's professional resume and a note which requests his agreement to sign a Release of confidentiality. [Attachment # 3].

7/22/98 Mr. Saum reviewed the Standard District Policy SDP4.1.3 which indicated that the EAP program was voluntary. Mr. Saum initially declined the EAP consultation based on the scope of the release and the fact that he felt he was being harassed for his report of safety violations. Mr. Redeker stated to him, "There are other non-voluntary and less confidential and more personally threatening and less desirable ways to handle this." Mr. Saum felt personally threatened with termination if he did not submit to a "voluntary" EAP consultation and agreed to participate. Mr. Saum tried to get Mr. Redeker to informally negotiate and discuss whatever problems existed but he refused. [Attachment #2, memorandum memorializing content of meeting].

7/27/98 Meeting between Steve Redeker, Jim Field and Mr. Saum wherein Mr. Saum expressed his concerns over the format of the consultation and the confidentiality of the process. Mr. Redeker indicated that the only information he would need from the counselor was the date and time that Mr. Saum attended the consultation and

would prepare a written guarantee of confidentiality. Mr. Saum was provided a form which authorized release of information that went far beyond what Mr. Redeker said was being requested. [See Attachment # 4]. The Release allowed full disclosure of any and all information. Again, Mr. Saum became concerned that the Release was a further indication that SMUD intended to use the counseling process to determine what information he had given to the NRC.

8/13/98 Teleconference with Mr. Saum, his attorney Brian Morrison, and Steve Redeker. After discussing the format of the counseling and the content of the Release, Mr. Saum's attorney expressed concern over the confidentiality of the counseling and recommended that Mr. Saum seek counsel specializing in employment/labor law.

8/14/98 Mr. Saum contacted our law office requesting assistance and review of the legality of the Release.

8/19/98 Mr. Redeker contacted Mr. Saum by letter and assured him that the EAP session was to improve relationships and that there would be no release of information other than the date and time of attendance. [Attachment #5].

8/21/98 Mr. Saum retained our firm to represent him. Counsel immediately called Mr. Redeker and Mr. Notareus to determine what was going on and to try and reach a prompt resolution of this matter.

Mr. Redeker admitted that the EAP process was suppose to be voluntary and that he could not cite any procedure mandating that Mr. Saum was required to attend the consultation and release all the information obtained through such a consultation. He further indicated that the Release he gave Mr. Saum was in error and that all he wanted to know was the date and time Mr. Saum went to the consultation. He further indicated that he would be willing to let Mr. Saum select a different counselor if he did not feel comfortable with Mr. Rendon.

Mr. Notareus agreed that EAP was not suppose to be a mandatory referral process and explained that Mr. Redeker was simply trying to figure out a way for Mr. Saum, Mr. Field and himself to work through a mediation process. He admitted that the proposed counseling sessions with the restrictions on confidentiality would probably not be conducive to what Mr. Redeker had in mind. Nevertheless, he indicated that if Mr. Saum did not agree to the EAP consultation, he would be considered insubordinate.

8/26/98 Based on Mr. Redeker's representations, Mr. Saum agreed to the EAP consultation with a counselor of his own choosing, and provided a Release reflecting Mr. Redeker's agreement that all that was needed was confirmation of the date and time that he saw the counselor. [See Attachment # 6].

8/27/98 Upon review of Mr. Saum's agreement to appear at the EAP consultation, Mr. Redeker informed Mr. Saum that his agreement to attend the EAP consultation was rejected. Mr. Notareus indicated to counsel for Mr. Saum that Mr. Redeker was confused and that Mr. Saum's acceptance of the EAP consultation did not meet his expectation that there would be a 3-way mediation with the counselor. Mr. Notareus indicated that they would explore a six (6) month performance plan with Mr. Saum or a facilitation process that did not involve a psychologist in order to improve working relationships.

9/2/98 Mr. Saum was summoned to a meeting with Mr. Redeker wherein he was given memo MPC&d 98-136. [Attachment #7]. He reminded Mr. Saum of his obligation to report NRC violations. Mr. Saum responded that he was being put in a catch 22. When Mr. Saum reported the violations in writing, SMUD accused him of being inflexible and not a "team player." Mr. Saum explained that when he reported the violations verbally to Mr. Field, he was complimented and then Mr. Field would avoid writing an official problem report (PDQ). Mr. Redeker did not seem interested in Mr. Saum's explanations.

9/3/98 Mr. Saum was summoned to Mr. Redeker's office. He was placed on paid administrative leave pending his submission to a full psychological evaluation (MMPI and clinical interview) to verify his fitness-for-duty. He was not given any written notification of the reasons for this action. He was verbally told there were four grounds for the action:

(1) SMUD was displeased with how long it took Mr. Saum to decide regarding their referral to EAP consultation;

(2) SMUD was concerned that Mr. Saum was not writing down PDQ's;

(3) SMUD was concerned about his ability to work with others;

(4) SMUD had received reports that Mr. Saum threatened other employees and was concerned that he was a threat to the safety of its employees.

None of the stated reasons provided objective reasons or specific incidents that Mr. Saum could address. Mr. Saum was not given an opportunity to respond. Instead, he was escorted by armed security guard off of the premises of the Rancho Seco Nuclear Facility in front of co-workers. Counsel requested additional information and was told that none would be forthcoming, that SMUD had no obligation to inform Mr. Saum of the allegations requiring him to submit to a psychological evaluation. It was sufficient that his supervisors thought he was going to go "postal" on them. [Attachment #8].

9/3/98 Counsel for Mr. Saum contacted the psychologist assigned to conduct the evaluation to determine if he would agree to counsel's presence as a non-participatory observer of the evaluation scheduled for September 8, 1998.

9/4/98 Mr. Notareus responded to counsel's inquiry by informing counsel that SMUD opposed our presence at the evaluation, unless it was restricted to the waiting room. Mr. Notareus stressed that Mr. Saum

had been "properly" instructed to attend this evaluation and that his failure to do so would constitute insubordination. [Attachment # 9].

9/8/98 Mr. Saum appeared at the psychological evaluation scheduled in the offices of Rusty Otto, Ph.D. at the requested time. Counsel was present but only for the purpose of dropping off a letter to Dr. Otto reflecting Mr. Saum's agreement to participate in the evaluation, without waiver of his legal objections to the process. [Attachment # 10]. In addition, the letter reminded Dr. Otto of his obligations pursuant to Civil Code section 56.10 to not release confidential information. Mr. Otto indicated that SMUD had requested more information than what was indicated in the letter and that he did not think it would be ethical for him to conduct the evaluation and release the requested report based on the information we provided. Dr. Otto canceled the evaluation pending further instruction from SMUD.

9/8/98 In subsequent telephone conversations, counsel for Mr. Saum reached an agreement with Mr. Notareus whereby: (1) Mr. Saum would re-schedule the full evaluation and (2) counsel would provide a supplemental letter to Dr. Otto indicating that not only could he release a determination regarding whether or Mr. Saum was "fit or not-fit," but could also describe any functional limitations. Counsel for Mr. Saum believed that they had finally reached a mutual understanding between the parties that a state licensed psychologist's and/or physician's disclosure of records is controlled by state law. Civil Code §56.10.

9/11/98 As requested, Counsel for Mr. Saum submitted a letter Dr. Otto requesting that he re-schedule the evaluation for September 15, 1998 at 10:00 a.m. The letter reflected the agreed upon stipulation regarding release of information, without waiver of Mr. Saum's legal objections to the process. [Attachment # 11].

9/11/98 Mr. Notareus rejected the narrow scope of the disclosure referred to in the letter to Dr. Otto and indicated that he had requested a joint letter via e-mail on 9/9/98. Mr. Notareus indicated that he fundamentally disagreed with Mr. Saum's position regarding his privacy rights and contended that federal law applied to the situation, not state law. Mr. Notareus threatened to place Mr. Saum

on unpaid administrative leave until an evaluation with another provider could be obtained. [Attachment # 12].

9/14/98 Counsel for Mr. Saum was in confusion and dismay over the complete turnaround in SMUD's position. Counsel demanded that SMUD produce support for their position, that Mr. Saum was not protected by state privacy laws. [Attachment # 13].

At the same time, Mr. Saum voiced his legal objections to the demand that he submit to a psychological evaluation. He explained his position, that he felt he was being retaliated against for reporting safety, health and procedural concerns to co-workers and management. He further indicated his concern that he was being retaliated against for asserting his constitutional right to privacy. By failure of SMUD to provide notice of the specific incidents requiring his referral to a fitness-for-duty evaluation, it was Mr. Saum's further position that he was being denied his right to due process. SMUD had failed to state any objective reasons why Mr. Saum was being sent to a psychological evaluation. (To date, SMUD has refused to provide an objective basis for their actions).

9/17/98 Counsel for Mr. Saum received a portion of the District's Site Security Plan for Rancho Seco dealing with site access requirements. [Attachment #14]. Counsel also reviewed federal statutes and regulations at the direction of Bruce Notareus. Counsel for Mr. Saum contacted Bruce Notareus and discussed the fact that SMUD was not following their own procedures. Mr. Notareus was asked over the telephone to review the Method for Conducting a Psychological Examination RSAP 1003, 6.9.2.3. Counsel agreed over the telephone that it was clear that the Security Officers should be handling this process, not Mr. Redeker. Counsel agreed that an MMPI was the first step in the process. It was further agreed that if Mr. Saum passed the MMPI, that a full clinical interview was unnecessary. In the event that he did not pass, we would re-address the issue of confidentiality and prepare a joint letter to the psychologist if necessary. [Attachment #15].

9/24/98 Mr. Saum took the MMPI. He signed a release which indicated his understanding that Behaviordata, Inc. (the company which analyzes the test) would conduct the MMPI and that his employer would receive a one page form indicating certification or non-certification. The release further indicated that a clinical interview would only be required if "more information was needed." Mr. Saum interpreted this to mean, as previously agreed upon, that a clinical interview would only be required in the event that he did not pass the MMPI. [Attachment # 16].

9/30/98 Mr. Saum was notified by Estaban Nava that Mr. Saum was required to report to a full clinical interview with a psychologist. When Mr. Saum asked what the results of his MMPI were, Estaban Nava had no knowledge of the results. He informed Mr. Saum that Mr. Redeker requested a full evaluation, including a clinical interview, prior to Mr. Saum's taking the MMPI.

10/01/98 Mr. Notareus informed counsel for Mr. Saum that Mr. Redeker requested the MMPI because he was told by the service, Behaviordata, Inc. that a follow-up was necessary. When asked to provide written confirmation from Behaviordata, Inc. or a copy of the MMPI results, Mr. Notareus refused. He stated that SMUD's demand that Mr. Saum submit to a full clinical interview was sufficient to require Mr. Saum to do so. He said he would provide written notification to Mr. Saum detailing SMUD's position.

10/5/98 Counsel for Mr. Saum spoke to representatives of Behaviordata, Inc. They did not have any knowledge of the MMPI results and did not have any idea why SMUD was indicating that they had requested a follow-up. They did not appear familiar with the Site Security Plan provision which only permits a follow-up when any of the MMPI indices fall outside established norms. [See Attachment #14, RSAP 1003, Method for Conducting Psychological Evaluation 6.9.2.3.].

10/6/98 Mr. Saum received a written notice of a clinical interview scheduled with Dr. Carol Kirshnit for October 8, 1998 at 9:00 a.m. There was no attached explanation nor any written confirmation of the MMPI

results. There was no warning that failure to appear would constitute insubordination. [Attachment #17].

10/6/98 Counsel for Mr. Saum spoke to Dr. Carol Kirshnit and was informed that SMUD told her not to release any information to Mr. Saum about the MMPI nor to discuss anything else with his attorneys. Despite this instruction, Dr. Kirshnit indicated that she had not requested the follow-up and again, did not appear familiar with the Site Security Plan provision which only permits a follow-up when indices fall outside established norms. [See Attachment #14, RSAP 1003, Method for Conducting Psychological Evaluation 6.9.2.3.].

10/6/98 Counsel for Mr. Saum informed Mr. Notareus and Mr. Redeker regarding the apparent failure to follow the procedures set forth in the Site Security Plan, and the procedures that had previously been agreed upon. Counsel for Mr. Saum requested that the clinical interview either be canceled or that SMUD provide written confirmation that he did not pass the MMPI and/or that a follow-up was requested by the psychologist. [Attachment # 15].

10/6/98 Counsel for Mr. Saum submitted a letter to Dr. Kirshnit requesting additional time to submit to the psychological evaluation pending resolution of outstanding issues regarding the MMPI results and confidentiality. [Attachment # 18].

10/7/98 Via voice-mail message, Mr. Notareus informed counsel that he was looking into the situation. (Listened to at approximately 2:00 p.m.)

10/7/98 Mr. Notareus faxed a letter indicating that he was changing his position. It was now SMUD's position that the results of the MMPI were not controlling whatsoever. Relying on different provisions in the Site Security Plan for psychological evaluations conducted prior to commencement of employment, it was SMUD's position that Mr. Saum could be referred to a full evaluation based on information aside from the MMPI. Accordingly, Mr. Saum would not receive any written confirmation of the MMPI or any confirmation that a psychologist requested the clinical interview. Mr. Notareus warned

that if Mr. Saum did not appear at the full clinical interview the following morning, Mr. Saum could face termination for insubordination. [Attachment #19]. (*This letter was faxed after 4:30 p.m. to our offices. I was no longer in the office, but in San Francisco. My secretary had left the office for the day. When I checked my voicemail later in the day, there were no additional messages. I contacted Mr. Saum and told him that we were still awaiting their response and to not appear at the interview until further notice).

10/8/98 The following morning, Mr. Saum did not appear at the scheduled interview because he was operating under the assumption that SMUD was still in the process of getting together the written confirmation he had requested. (Still in San Francisco, I checked my voicemail that morning, no message. That afternoon, I spoke to my secretary and the secretary read Mr. Notareus' letter to me over the telephone. I left a voicemail message with Mr. Notareus indicating that I was in San Francisco and had just received notice of his letter and had informed Mr. saum of the same. I further informed him that Mr. Saum would proceed through the grievance process to request a determination of whether SMUD was following procedure or not and warned that termination was premature under the circumstances).

10/12/98 Counsel for Mr. Saum began preparing a written grievance to be submitted requesting that the General Manager/District Services Manager make a determination as to the proper procedures for the requested evaluation. Mr. Saum had every intention of complying with whatever determination was made by SMUD.

10/13/98 Mr. Saum received a Notice of Termination for failing to appear at the scheduled interview on September 8, 1998. [Attachment #20].

III. ANALYSIS

As should be evident from the chronology presented, there have been a series of actions, demands, orders, threats, agreements and broken promises that have resulted in our present dilemma. It cannot be stressed enough that Mr. Saum enjoys working for SMUD and is greatly distressed by the circumstances presented. Perhaps some of the events could be chalked up to mere oversight, or perhaps even the circumstance where one hand simply is not aware of what the other hand has promised or agreed upon. However, the actions of SMUD viewed as a whole reveal a strong correlation between Mr. Saum's complaints about safety and procedural concerns and the systematic retaliation he has faced through demands for psychiatric counseling/evaluation. Although Mr. Saum has never refused a psychological evaluation, and has been repeatedly told SMUD's actions were not disciplinary in nature, he has been punished at every turn.

Imagine yourself in Mr. Saum's shoes:

- As soon as he raises a safety concern, his supervisors begin questioning his sanity and reliability.

- Shortly after voicing complaints to the NRC, he is told he must submit to psychiatric counseling.

- Although Mr. Saum agrees to the counseling, when he attempts to question the procedures and the scope of the release of confidential information (which are unprecedented and not in any SMUD policy), SMUD rejects his agreement to submit to counseling.

- Mr. Saum's supervisor, Steve Redeker, then decides to humiliate him in front of co-workers by having him removed from his post by armed security guards and stripping him of his un-escorted status pending a full psychological evaluation. Mr. Redeker never even gave Mr. Saum the common courtesy of written notification or objective reasons to support such a drastic measure.

- When Mr. Saum attempts to protect his privacy rights by informing the psychologist that he is obligated to comply with state law regarding disclosure/non-disclosure of confidential information, Mr. Saum learns that his employer is seeking much more than that. SMUD contends that state law does not apply, but never produces any federal law indicating the extent of disclosure allowed.

- When SMUD is required to produce what they are relying upon to obtain additional information, Mr. Saum learns that the procedures they "claim" they are relying on have not been followed. Mr. Redeker had no authority to send Mr. Saum for a full evaluation through the workers' compensation carrier. The Security office is responsible for handling referral to psychological evaluations and ensuring that procedures are followed to safeguard the privacy rights of the employee.

- Just when Mr. Saum thinks he finally has reached an understanding with SMUD regarding taking the MMPI (taking the test, getting the results, and then determining if an interview is necessary based on his results), he is told that he has to do the full interview regardless of the MMPI. Mr. Saum merely asked for written confirmation from SMUD that he did not pass the test and/or that a psychologist requested the interview, before submitting to the follow-up. Given the prior understanding with SMUD that they would follow this procedure, he had no reason to believe nor adequate notice that he would be terminated for simply demanding SMUD to honor its own promises and policies.

Based on the foregoing, there can be no question that any reasonable person would have the same reaction as Mr. Saum has had in this case. Mr. Saum feels he has been retaliated against for bringing to light concerns that other SMUD employees would prefer to keep hidden, and that those same employees will go to great lengths to intimidate and silence Mr. Saum. His concerns are not the product of an unsound mind but are based in the cold hard reality of the chronological history presented. Despite his willingness to improve working relationships and to comply with SMUD requests, he is faced with a termination notice.

Mr. Saum <u>has not refused to participate in a psychological evaluation</u>. Mr. Saum wants to put this behind him. As indicated, he fully anticipated that SMUD would honor its prior agreement and produce confirmation of his MMPI. In addition, Mr. Saum anticipated SMUD would honor its agreement to jointly address the outstanding confidentiality issues before demanding that he appear at the interview. SMUD has yet to honor its promises and/or to comply with its own procedures. Mr. Saum has not been informed of his MMPI results, nor given notice of how the confidentiality of his evaluation will be handled pursuant to RSAP 1003, 6.1.1.2 and 10 C.F.R. 73.56. Mr. Saum has received absolutely no notice regarding the objective reasons for the evaluation, the scope of the evaluation,

the confidentiality of the evaluation etc. . . Mr. Saum has requested and been denied access to records that he is entitled to review.

Mr. Saum is prepared to promptly re-schedule the psychological evaluation, without waiver of his legal objections, provided that his privacy rights are protected and the agreed upon procedures are followed. The scope of the evaluation, pursuant to the Site Security Plan RSAP 1003, is to determine his "trustworthiness and reliability." As indicated, Mr. Saum has had security clearance over 20 years, never had a criminal record nor prior disciplinary action taken against him. He is certain that he will be certified to return to work.

Mr. Saum, like any employee, simply wants to feel like his legal rights are acknowledged and respected. As indicated previously, it is not too late for SMUD to reverse some of the damage that has already been done. Reverse your decision to terminate Mr. Saum. Or, alternatively, suspend your decision until Mr. Saum has been given an adequate opportunity to submit to the psychological evaluation. We are confident that Mr. Saum will demonstrate his "trustworthiness and reliability" as a SMUD employee.

Thank you for your anticipated cooperation in this regard.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks

JLB:tcm
Enclosures

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Jim Field

DATE: July 14, 1998
MNTS: 98-061

FROM: Jim Saum

SUBJECT: MEETING MINUTES

The purpose of this memo is to document our meeting discourse held on July 13,1998 regarding memos MNTS 98-59 and draft memo MNTS 98-060 (attached).

I presented you with the referenced memos. You read both of them. I asked if you would sign MNTS 98-060. You declined stating that you did not know the facts of the matter. I replied that I had documentary evidence of the original request for change in life insurance beneficiaries dated 12/29/98, the fax Debbie Alberte requested dated 6/10/98 proving that she did not have a copy of my original request on file, my telecon notes, and most importantly my word. You still refused to help me with this interdepartmental problem and serious personal problem after I voiced concern about the probable backlash that I would receive if I had to voice this valid compliant myself. Instead you suggested I call the Benefits group to verbally request confirmation that my change in beneficiary designation had been made effective. I requested then that you be on the speakerphone with me so that you could personally witness the request and response. I anticipated that I would not get a favorable response and I am tired of my supervisor taking others complaints about me without hearing my point of view or personally observing the transactions. You again refused this request.

I asked you if you ever had personally observed me behaving unprofessionally. You replied with a smile on your face that you observed me in a confrontation with Mike Maltbe. This is a very good example of your bias against me and also of the need to represent me in voicing interdepartmental complaints. On 9/5/96, I issued a memo describing problems and recommended solutions to problems I experience with the Rancho Seco warehouse system (ref. MNTS 96-0053, attached). In this memo I stated that a $15,000 security system could not be found in the warehouse among other problems. In reply to this professionally written memo, Mike Maltbe, issued memo WHO-121 dated 11/12/98 (attached), whereby he states that my memo was "personally insulting" and then attacks me by stating that I am not properly trained and that I need to take the time to learn how to use the computer terminal. The facts of the matter are that after giving Mike Maltbe the stock code information he requested he could not locate to date the missing $20,000 security system. The problems I described were factual and you should know that I am skilled at using the MIMS system. By the way, I never did get the official District finding on this substantial loss of District property. According to my records, on 11/20/96, on the second floor near the elevator, Mike Maltbe approached you and me. He told you that you needed to train me on using the computer system and went on to make insulting and disparaging remarks that I did not know what I was talking about. I replied that we need standard fields to better search for materials and a District

wide MIMS system. Inspite of his verbal abuse I tried to diffuse the situation by telling him that the described problems had nothing to do with him but with the software and procedures. Mike Maltbe went on by saying that I accused him of being a bad supervisor in my memo. Mike Maltbe went on to say that there was no problem with the system. I replied that my memo stated that there was a loss of a security system. If you find this system I will agree with you that there is no problem. The facts of the matter are that this system has not been located to date. Again, Mike Maltbe backlashed at me as a result of my memo. A review of this memorandum is evidence. Your use of this as an example is evidence of your bias against me. You should have intervened and told Mike Maltbe that he was out of line. I acted professionally. On 11/25/96, we had our weekly meeting, you did not mention this confrontation with Mike Maltbe when I asked if you had any problem with my performance in that week.

Another example of backlash I received as result of a memo I issued which described a problem was the verbal abuse I received from C Fallon at meeting held on 3/3/98. On 3/2/98, I issued memo MNTS 98-0018 (attached) which described that a review of the official calibration sheets for a recent calibration did not contain the necessary data for the proper calibration of the flowmeter. C. Fallon requested a meeting to respond to my memo. On 3/3/98 a meeting was held with C.Fallon (Calibration Tech), J Meyer(Sr. Quality Engineer), J Field, and myself. At this meeting C Fallon was verbally abusive and was on the verge of physically assaulting J Meyer. Jan Meyer's had to grab and restrain C Fallon's arm when C Fallon attempted to put his hand to J Meyer's face in an assaulting fashion. I acted very professionally during this meeting and discussed the technical basis for my finding that the flowmeter was not properly calibrated. Fortunately for me J Meyer was present and is my witness. J Meyer was knowledgeable enough about instrumentation and calibration to understand my arguments and agreed with my finding.. This infuriated C. Fallon and resulted in the attack against J Meyer. After the meeting J Meyer complimented me for the way I professionally handled myself during that meeting. Later on I asked you about the way I handled myself during the meeting and you said I must have done something prior to the meeting to have caused C Fallon to act that way. There was no prior contact with C. Fallon and me. I simply reviewed calibration data sheets and did not discuss this with C. Fallon prior to the meeting. This is another example of your bias, the backlash I receive from describing problems in others areas, and the need for you to represent me in making complaints about the poor performance in other areas.. Fortunately J Meyer was a witness as I am positive you would have used this as another complaint against me if had not been present..

It disturbs me greatly that you continually take hearsay information over the word of your own staff member and always presume that I'm somehow at fault. You tell me that you are meeting your commitment to me when passing on complaints by others. Well this is only part of your commitment. I asked you to hear both sides of the story and get factual evidence as a basis for judging me in these so-called complaints. On 7/6/98, you told me of complaints received from Susan Ring (Benefits Supervisor) and Bev Dahle (Purchasing Agent) and smiled when you said that you are passing these complaints on as we previously agreed. It is very disturbing that you did not ask for my side of the story and were satisfied simply that you passed on the complaints. You were not concerned

what so ever about the fact that after 6 months that my beneficiary designation had not been implemented. You seemed more concerned with the hearsay complaint that Debbie Alberte could not sleep that night because I told her that the mishandling of my request to change life insurance beneficiaries put my family and me in a very serious situation. I **was the injured party**, you did not ask me how I slept that night realizing my life insurance would go to some I did not want it to go to and that my family would have to litigate to get the life insurance proceeds properly paid. You were satisfied with merely passing on the complaint.

You stated Bev Dahle's complained that I was interfering with contract administration with FORTH, Inc regarding terms and conditions requiring the contractor to fix mistakes at their cost. In response I told you that I had been in contact with FORTH, Inc over the last year dealing with a larger service contract for their services and had discussed SMUD's sample contract conditions that made the contractor responsible for correcting mistakes at their cost. Steve Aqular of FORTH, Inc said he did not have a problem with that condition. Bev Dahle's complaint stemmed from a teleconference I had with her on 4/23/98 regarding Service Order SN38530 where I informed Bev that the Service Warranty condition did not require the contractor to fix mistakes at his cost. I asked her to modify this condition in the future so that we could hold the contractor accountable. She became defensive and had Johnny Smothers (Sr. Contract Administrator) get in on the teleconference. I described my concerns in a business like fashion. Mr. Smothers seemed receptive to my suggestions and I hoped that Bev Dahle would implement my request. On 7/14/98, I called Mr. Smothers and asked if he thought I had acted in a business like manner. He said yes I acted professionally and he did not see a problem. Per our agreement ,please call Mr. John Smothers at X 5617, to verify this fact regarding Bev's complaint. You were pleased when I made this same comment to John Bell upon evaluating FORTH, Inc's proposal. I am acting in what I think is the best interest of the District. John Bell agrees with me and is actively negotiating this condition with FORTH, Inc. Please contact John Bell to see if he has a complaint. Bev Dahle's complaint probably stems from a complaint I made to her supervisor, Mike Buchanan, as described in memo MNTS 97-0082 (attached). By the way, Bev Dahle did not keep me appraised of the status of the chart paper exchange status as requested and agreed upon. and that left me with a bad impression. She has in several instances failed to return my calls, with no valid reason. as documented in my teleconference records. .In several instances she had a valid reason such as she was on vacation. On the other hand John Bell is very responsive and reliable and has always returned my calls within 24 hours.. Bev Dahle is a very nice person but notwithstanding. at times drops the ball. No one is perfect. In fairness. she. for the most part. does a good job in serving the customer.

For over the last several years we have been meeting regularly. There has been only a few complaints made in these years and they all stem from me having made a problem statement and recommended solution that affects another's area of responsibility. The complaints if properly investigated should have been dismissed. In most of these cases there was no personal interaction what so ever but rather a formal professionally written memo which stated a problem and recommended solution. My intentions are to achieve excellence in accomplishing a task or goal. The projects that I have been responsible for

demonstrate that. They are done on schedule, they meet regulatory requirements, received excellent feedback from the regulators and they satisfy the end user. I request that you share my goals and support me rather than hinder me. A review of all the problems I have brought to your attention over the years over regulatory requirements, technical requirements, procedural deficiencies, and administrative problems have for the most part proven to be valid over time.

If you believe any of the statements made in this memo to be incorrect, please notify me in writing as soon as possible.

with attachments
cc: RIC

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Jim Field

DATE: July 13, 1998
MNTS: 98-059

FROM: Jim Saum

SUBJECT: MISHANDLING OF BENEFICIARY DESIGNATION CHANGE

The purpose of this memo is to request that as my supervisor, you represent me in resolving a problem I've encountered with implementing a beneficiary designation change for my life insurance. Enclosed, please find a memo I've prepared describing the problem and making recommendations. I do not want to represent myself because I am concerned about the negative backlash that may result from having voiced a complaint against Personnel Services Department. As you know I already have received a negative response from Susan Ring upon expressing these complaints and recommendations verbally to Debbie Alberte.

Please respond in writing if you do not wish to represent me in resolving this problem.

with attachment
cc: RIC

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Shirley Lewis

DATE: July 13, 1998
MNTS: 98-060

FROM: Jim Field

SUBJECT: MISHANDLING OF BENEFICIARY DESIGNATION CHANGE

The purpose of this memo is to bring to your attention a serious problem that exists in the way that the District responds to an employee's request for a change in his life insurance beneficiary designation. A member of my staff requested a change to his life insurance beneficiary designation and after six months his beneficiaries remained the same with no record on file indicating his willed beneficiaries. This problem has caused him unnecessary stress and insecurity and denial of his life insurance benefit. It also, created a serious and costly potential legal problem for his family in that his family may have had to litigate to ensure that the life insurance proceeds were properly paid in the event of his death. This life insurance was purchased to provide a sense of security and well being in knowing one's beneficiaries will be taken care of in the event of one's death. Recommendations are offered which are intended to remedy the problem for the affected staff member and prevent recurrence of this problem for future employees. Although, in order to fully resolve this problem, the cause of this problem and the extent to which the Personnel Services Department mishandles employees' requests and other personnel matters needs to be determined. This memo is written with the goal of achieving excellence in customer service for both its external (i.e., the ratepayers) and internal (i.e., employees) customers.

PROBLEM:

- On 12/29/97, James Saum submitted a request to change his beneficiary designation for his MetLife life insurance.

- On 6/10/98, James Saum received in the mail the original request for beneficiary designation change form and a blank form with a note stating as follows: "James, Please re-do life insurance form. This is an official/legal document. Return to Benefits, MS B351. Thanks."

- On 6/10/98, James Saum called Benefits to clarify why they had returned the change of beneficiary form. He was directed to call Debbie Alberte. Upon calling her, Debbie informed him that a typo had been made on the original form. James asked her where the typo was on the form. Debbie replied, "I don't have a copy of your form to answer that, could you fax me a copy of the form so that I can tell you." James became concerned at this point realizing that there was no record of his willed beneficiary designation on file and that his old beneficiary where the only ones officially on record. To verify this concern James asked Debbie who were the current designees. Debbie replied that she didn't know since she had returned the original

form and had no copy. He then asked her who would get his life insurance proceeds if he were to die tonight. She replied, " Don't be concerned because your prior to 12/29/97 beneficiary would receive the proceeds." James became reasonably stressed at this point realizing that after 6 months after submitting his request and believing that the change had been implemented months ago, that his substantial life insurance proceeds would go to somebody he did not want it to go to and that his family would likely have to go to court to fight over this in the event he died. "Debbie also said she had returned the original forms back, with no copies on file, to several other employees.

- On 6/10/98, James returned the newly completed beneficiary designation form.

RECOMMENDATIONS:

1.0 Investigate the cause of this problem and the extent of the mishandling of personnel matters by the Personnel Services Department. Also determine and implement what preventative actions can be taken to prevent recurrence and what corrective actions should be taken.

2.0 It is recommended that if a typo is found on any legal form that the original be retained in file and that a copy be returned so that there is legally binding instrument that will implement the employee's will in the event of his untimely death.

3.0 It is recommended that personnel matters be handled in a timely manner. Six months is not a reasonable time for implementing a request for change in beneficiary designation. Two weeks is a reasonable period. Upon receiving the request for change form the changes should be made temporarily effective and maintained on record should the employee die before the permanent change be made effective. The goal is to honor and make effective immediately an employee's life insurance beneficiary designation in some manner.

4.0 Provide the requesting employee notification that his request was received and that the change was made temporarily effective. Also notify the employee when the permanent change has been made effective.

Please notify James Saum immediately in writing as to the status of his requested change of beneficiary designation and provide some evidence that the change is effective. If you need more information or clarification regarding this problem please contact Jim Field at extension 4984.

cc:	Jan Schori	B408
	Gail Hullibarger	B408
	Susan Ring	B351
	James Saum	N301
	RIC	

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Jim Field

DATE: March 02, 1997
MNTS 98-0018

FROM: Jim Saum

SUBJECT: KURZ CALIBRATION OF CTE-60601; DQ 97-0049; DQ 97-057

On 2/18/98, a calibration lab. technician visited the KURZ facility to witness the calibration of a flow meter (CTE-60601). According to the lab. tech., no purchase order was used. Instead, a SMUD credit card was used and thus there is no written agreement or calibration specification for the performed calibration. The requirement for a SMUD tech. to witness the calibration stems from the Approved Supplier List condition imposed by QA as a result of the subject DQ's. I have reviewed the KURZ calibration sheets (attached) which document the results of that calibration and found the following problems:

1.0 The AS LEFT calibration data sheets do not describe the AS LEFT relationship between actual and indicated flow. The flow meter has two outputs, a linear 0 to 5 Vdc banana jack voltage output and a digital indicated flow output. The AS LEFT data sheets only document the calibration of the 0 to 5 Vdc output. The indicated flow output is used in our radiation monitor system surveillance procedures (SP 450). I am not aware of any maintenance requiring the calibrated 0 to 5 vdc output. There is no documented evaluation of the AS LEFT data as to how it conforms with the specified accuracy as was done on the AS FOUND data sheets.

.0 There was no purchase order or written specification for the calibration of this flow meter. This test equipment is used to calibrate radiation monitoring equipment which is "subject to quality" per RSAP-0409. Therefore this test equipment should be subject to quality. In the past, quality and non-quality purchase orders were used to calibrate this equipment by KURZ. The specified calibration was very vague such as " calibrate flow meter and provide data sheets". It did not specify the required accuracy, which outputs were to be calibrated, what calibration points, etc. Thus, the indicated flow output upon which we were relying upon as a flow standard for calibrating sample flow instrumentation was never properly calibrated.

I asked with Mr. Damagio (Kurz Service Mgr.) why he did not calibrate the flow meter indicator. He replied that it was up to the customer to specify that. He did agree it was necessary to record data establishing the relationship between indicated flow and actual flow (not linear voltage) in order to properly calibrate the flow meter indicator. Again, this was not done at the 2/18/98 calibration nor ever.

.0 I reviewed the 2/2/94 KURZ calibration data sheets for CTE-

60601 (attached). KURZ states an accuracy of 2% of full scale. On 2/18/98, the data sheets state an accuracy of 2% of reading plus .5% of full scale. This indicates a quality problem with KURZ.

:: Jan Meyer
C. Fallon
RIC

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

): Dan Powell DATE: September 5,1996
MNTS 96-0053

:OM: Jim Saum

;BJECT: RESPONSE TO MATERIALS SERVICES CUSTOMER INQUIRY

.rst of all, let me commend you for taking the novel approach of asking ıe customer for recommendations to improve the warehouse system. I have :veral recommendations which I think will greatly improve the .strict's warehouse system. Over the years I have experienced :ustration with the Rancho Seco warehouse with the following problems.

:OBLEM:

0 Inability to locate stored materials.

ı many occasions I have searched the mainframe Material Management 'stem for an item which is known to reside in inventory with no finds. ı other occasions it takes a difficult search process with many search ›rd trials with an eventual find.

ıst today we were searching for a 3/8" possum tag marker which we could ›t find with the search words possum of marker or tag. We know they are :ock items since we have been using them for 10 years. We found in our ıofficial files the original vendor, Cable Marker Inc. In order to find ıe PO and item number for this marker with the current system would be long cumbersome process.

›LUTION:

:andardize computer fields and require a minimum number of fields to be ›mpleted for stock items. Properly categorize items in the computer ıta base.

›r example, all cabling should be described as cable, with the gauge, ımber of conductors, manufacturer, manufactures part number, cable ›de, shielded or non shielded, etc. In this way, one could search on ıe word cable and a list of all cabling in inventory would come up with minimum description which would accurately describe the item.

ıke it easy to cross reference PRWs, PO's, and stock items. For :ample, create a data base which will list all items ever purchased :om a given vendor.

:OBLEM:

.0 Loss of materials

ı several occasions the item which was identified in the Material ınagement System to be located at a certain warehouse location at a

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ertain bin was not there and could not be located by the warehousemen. or example, a whole security system with a value of $15,000 was not here it was supposed to be and could not be found.

OLUTION:

he cause of this problem lies in poor warehouse practices. Better upervision is required.

ROBLEM:

.0 Loss of Control of Materials for new modifications

hen materials are bought for new modifications at Rancho Seco they are ot put into the Material Management System. The materials are loosely ontrolled in the interim of after being received and being picked up or installation per the modification. For example, I bought various quipment and cabling for a modification. When I asked the warehousemen f the location of this material the warehousemen disclosed that he had o official record of where the material was located. The only record he memory of the warehousemen who stored it! Fortunately in this case he warehousemen had a good memory. The materials were stored in various ocations and could not be readily found.

OLUTION:

reate a procedure for handling materials bought for projects such that controlled staging area is made for interim storage. All materials ould be stored in this one or two designated controlled areas for etrieval. This would be much better than distributing individual aterials in scattered bin locations. It would allow staff to inspect aterials for design and installation information not provided in vendor anuals.

roblem:

.0 Having to buy new materials when the District already has them in stock at other warehouses.

olution:

reate a District wide warehouse computer inventory material management ystem. Thereby an employee at Rancho Seco could find items stored at ll other District warehouses.

c: D. Fierra MS B408
G. Hullibarger MS B408
S. Redeker MS N501
J. Field MS N301
RIC

Sacramento Municipal Utility District

Interoffice Memorandum

TO: Dan Powell

DATE: NOVEMBER 12, 1996

FROM: Mike Maltby

WHO 96-121

SUBJECT: JIM SAUM MEMO MNTS 96-0053 SEPTEMBER 5, 1996

This memo contains words that I find personally insulting and that have no bearing on what we do to serve our customers as best as we can. Please find the following facts as to the reasons why Mr. Saum can't deal with the Material Management System at Rancho Seco.

1. He is not properly trained on way to use the Material Management System.

2. There *are* procedures in place to change any part number, description, quality class, storage level, unit of issue! This is in place now and always has been. As of this date, Mr. Saum has not used this avenue to make the necessary changes to make it easier to locate material the next time he needs it.

3. Mr. Saum has indicated that there are 15,000 items missing from the inventory system. When he provides me with a stock code, I will provide you with the information I collect.

4. Mr. Saum purchases material directly on a Purchase Request. When you purchase material directly, and not through the inventory system, the Warehouse is not manned accordingly to cope with non-stock material. Mr. Saum wants us to watch his material which was purchased for a job, until it is convenient for him. If material is purchased for a job, there are no procedures for the Warehouse to follow. I think that if Mr. Saum had properly planned his job and he knew that the parts were to arrive before the job was to begin, he should have requested to have stock code numbers assigned to the material. That's right. There are enough procedures to cover stock purchased material. We don't need another set of procedures.

5. How dare he say that we have <u>poor</u> warehouse practices. All the means are here to properly locate, purchase all materials, store and issue if only Mr. Saum would take the time to learn them.

cc: Steve Redeker
Jim Field ✓

EXHIBIT 10
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RECEIVED
NOV 18 1996

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Beverly Dahle

DATE: December 10, 1997
MNTS 97-0082

FROM: Jim Saum

SUBJECT: Purchase Order RS37499; Exchange of Chart Paper

This memo is a reminder of your commitment to arrange for the exchange of defective chart paper purchased via item 2 of the subject P.O. My teleconference notes dated 10/9/97 indicate that you had verbally committed to make arrangements with the vendor (ISCO) and warehouseman Richard Geisse for exchange of the remaining rolls of chart paper (SKN# 119155, ISCO pn 602313019). Also, you agreed to keep me apprised of the status of this exchange.

On 10/7/97, I called Boyd Lindsey of ISCO regarding this defective chart paper. The paper is defective in that the rolls were shorter than the specified length of 65 ft. and had a sticky red substance at the end of the rolls which is used to indicate end of the roll. ISCO verified this problem and agreed to exchange our paper for new rolls that were at least 65 feet long. Mr. Lindsey said the machine used to measure the length of the rolls was not accurate and agreed to set up the machine to cut the lengths at 68 feet to allow for a margin of length to ensure the minimum specified length of 65 ft. Mr. Lindsey advised me to have SMUD purchasing contact ISCO purchasing agent Melody Christianson (1-800-228-4373) for an exchange of our remaining rolls chart paper (approximately 47 rolls).

Please expedite this request. Please apprise me weekly as to the status of this exchange. Plant operations requires this new paper.

cc: M. Buchanan MS E101
J. Field MS N301
T. Shaw MS N403
RIC

SACRAMENTO MUNICIPAL UTILITY DISTRICT
INTEROFFICE MEMORANDUM

TO: Steve Redeker

DATE: July 27, 1998
MNTS: 98-063

FROM: Jim Saum

SUBJECT: MEETING MINUTES OF 7/16/98, 7/21/98, 7/22/98 AND 7/27/98

The purpose of this memo is to document our meeting discourse held on 7/16/98, 7/21/98 7/22/98, and 7/27/98. Jim Field, yourself and I were the attendees.

BACKGROUND:

Steve Redeker called these meetings after Jim Field met with Steve Redeker regarding problems described in memo MNTS 98-061 (attached). In this memo I described dissatisfaction over the way Jim Field handled and communicated a complaint made by the Personnel Services Benefits group in response to my complaint of the mishandling of a request to change my life insurance beneficiary designation and a complaint made by a buyer over a recommendation I made over a service order condition to make the contractor correct service deficiencies at their cost in which the buyer felt I was interfering in her area of work.

Meeting held on 7/16/98

Steve Redeker opened the meeting stating the purpose was to improve relationships between Jim Field and myself but did not want to discuss specifics. Steve Redeker suggested that Jim Field and I see an EAP mediator that would provide "independent" suggestions to the District, to try something new and novel but mentioned that there was a slight problem of release of confidentiality with the use of the EAP program. I attempted to communicate my point of view regarding the recent conflict between Jim Field and myself but Steve Redeker said that he did not want to discuss any specifics. I presented memo MNTS 98-061 to Steve Redeker and suggested he read it to gain an understanding of my point of view. Steve Redeker declined. I asked Steve Redeker why he did not want to hear my point of view. He replied by reminding that the purpose of this meeting was not to discuss specifics. I mentioned that Jim Field said that these complaints were not going to be documented and that I did not see why Steve Redeker was taking such dramatic action without even investigating the situation. I mentioned that Jim Field and I had been meeting on a weekly basis for the last 3 years and had received favorable comments by Jim Field. The first complaint that Jim Field brought to my attention at these meetings, after several years, occurred after having issued a memo over my concern over procedural deficiencies that could lead to the free release of contamination. Dennis Gardiner had complained about this to Jim Field. I had no personal interaction with Dennis Gardiner; just the fact that I had written the memo caused this complaint. Steve Redeker asked me if I had any problems dealing with people. In spite of his stated position that he did not want specifics regarding my point of

view of the problem, he noted my response that I did not have any problem with the people I worked with on a regular basis such as Gary Sprung and Estaban Nava but on rare occasions had some problem with people that were unfamiliar with my goals. On occasion they would complain after I would suggest ways to improve District business that affected their area of work. I suggested that all employees have minor conflicts in the course of their work and that Steve Redeker probably had encountered such difficulties in his work.

Steve Redeker insisted Jim Field and I see George Rendon (EAP) and wanted us to agree to agree to sign a waiver releasing confidentiality. Steve Redeker said he was not interested in any recommendations given specifically to either of us but rather recommendations regarding ways to improve the organization. Steve Redeker mentioned how he knew how personal problems at home could interfere with work. I responded by stating that I did not think an EAP social worker was suited for solving managerial type problems. Steve Redeker stated that he wished he could improve the management at Rancho Seco. I suggested that I had offered ways to improve the organization in the past and started to describe them but Steve Redeker interrupted me. I requested to know Mr. Rendon's qualifications and experienced and suggested that I may agree to participate if any release were in writing and cosigned by Jim Field and myself. Steve Redeker said he would get back to us. We concluded the meeting with a light comment on how we could "reengineer" the Rancho Seco organization, as a result of the EAP consultant's recommendations, in an effort to improve things.

Meeting held on 7/21/98

Steve Redeker opened the meeting stating he had little time and gave Jim Field and me a copy of Mr. Rendon's (EAP) qualifications and experience and a written response to my request for confidentiality (attached). I replied that I would consider this information and would give an answer tomorrow.

Meeting held on 7/22/98

Steve Redeker opened the meeting by asking me for my answer. I replied that I respectfully declined his offer with out comment. Steve Redeker said that he did not respect that and went on to request that I attend with confidentiality and no feedback.

I asked Steve Redeker for his reasoning as to why he felt this proposed action was so important. Steve Redeker replied that we could improve working relationships and asked me if I thought there was room for improving relationships. I replied that there is always room for improving relationships but asked him why he was singling out me. What did I specifically do to warrant this? Why don't you ask others to do this? Steve Redeker did not answer.

Steve Redeker again asked if I would attend the EAP counseling. I reiterated that I respectfully declined with out comment. Steve Redeker made a negative comment about

me taking notes. Steve Redeker then said, here I want you to write this down and started to dictate the following:

"I am telling Jim Saum that there are other non-voluntary and less confidential and more personally threatening and less desirable ways to handle this"

I then asked Steve Redeker to sign the dictation in an attempt to have him verify the accuracy of what he just said so that he could not deny having made this expressed threat. Steve Redeker declined to sign and said he was upset that I had suggested he sign what he just said. I told him I considered his statement a threat. Steve Redeker replied that it was not a threat. I restated what Mr. Redeker had just dictated to me emphasizing the words "more personally threatening" and told him that this was why I considered it as a threat.

I asked Steve Redeker if he would consider trying to resolve this by having open communications amongst ourselves in attempt to identify what the problem is, objectively determine the cause by examining all the evidence, establishing goals and negotiating a commonly accepted solution. Steve Redeker replied, "I'm well aware of that approach, it is in my management textbook. I prefer to do it the way I suggested, I believe the outcome would be more positive". I again asked what did I specifically do to warrant this type of action. Steve Redeker replied that it was the way I was taking notes and the way he felt after a conversation like this and the negative personal relationship we've had".

I replied that I have not had occasion in the last three years to meet with Steve Redeker in any meeting or otherwise except at all hands meetings. The last meeting we had was three years ago during the appeal process of my performance evaluation. . During the last three years, I've been meeting with Jim Field on a weekly basis and have received favorable feedback and compliments passed on by others. To be frank, during that period I avoided writing PDQs or problem statements knowing that they were the cause of many past complaints and negative responses from supervision, management and affected staff members. This silent approach worked for me as I have received favorable feedback and appreciation from my supervisor and others. I did, however, feel safe in identifying problems related to contractors such as the identified problem of fraudulent calibration data entries made by a KURZ technician . However, I tried to avoid identifying problems in areas I sensed would not be received well by management. As a result I was no longer perceived as being "inflexible and resistant to change" However, after being tasked with reviewing the purchase of calibration sources for radiation survey instrumentation I discovered procedural deficiencies with RP surveying procedures that could lead to the free release of contamination." I wanted to avoid this problem by having the procedures corrected and by implementing a good calibration program which would guarantee detection of contamination before free release. As a result of this memo I started to get complaints from affected staff members.

I brought to Steve Redeker's attention that the problem with the Benefits mishandling of my request for change in beneficiary designation had been successfully resolved with the

help of Jim Field's intervention. I presented the memo , PS98-226, (attached) from the Benefits group where they apologized for the mishandling of my request and thanked me for my recommendations to correct the problem. I thanked Jim Field for helping me resolve this problem. I pointed out that it was open communications between Jim Field and my self that lead to resolving this problem I pointed out that Jim Field and I don't have a serious problem between us and that Jim Field has realized over time that there is validity in my position. On the other hand, there now appears to be a problem between Steve Redeker and myself stemming from his over reaction to this incident without investigating the matter from all points of view and examining the facts of the matter.

Steve Redeker agreed to consider my recommendation that we first specifically identify what the problem is and objectively examine all the evidence to determine the cause, and negotiate a common solution to the problem.

I, in turn, agreed to reconsider participating in EAP counseling with Jim Field..

I requested that I be dismissed from this meeting because I was preparing for an important presentation of the ISFSI Security Plan to the NRC scheduled for the next day. Steve Redeker said he respected that and concluded the meeting.

Meeting held on 7/27/98

Steve Redeker opened the meeting by stating that the purpose of the meeting is to 1) Get an answer to his proposal to see an EAP mediator and 2) To respond to my proposal to begin an open process of communication which would identify a problem, objectively examine the facts of the matter and determine the cause, and negotiate as to what is the best solution.

I requested Steve Redeker respond first. Steve said that he agreed that I should be heard and agreed to figure something out. Jim Field said that he wanted to separate the technical issues from the personal issues. I then reiterated that the method of addressing a problem should be similar to the PDQ process. Steve Redeker said that he thought that method was not good for solving personal issues. Steve Redeker said that we should make recommendations.

Steve Redeker then asked me for my answer to his proposal. I replied that since he has agreed to my proposal of solving problems by open communications and objectivity that there was no longer any need for this extraordinary method. Steve Redeker then asked for a yes or no answer. I then expressed concerns over confidentiality and how the EAP counselor could possibly deal with three individuals and make recommendations on solving interpersonal problems between those three individuals with out revealing the confidentiality of the individuals. Steve Redeker replied that's the responsibility of the EAP mediator and not to worry. Steve Redeker replied that the only thing that would be released is the time and date that the EAP sessions were attended. I requested that I have a written guarantee of confidentiality. Steve Redeker said that he would try to get one.

In conclusion, I would like to concentrate on our shared goals of gaining approval from the NRC and implementing the ISFSI Security Plan, transferring the spent fuel to Dry Storage, and decommissioning the plant. I can assure you my intentions are in what I perceive as in the best interest of the District. A review of all the problems I have brought to your attention over the years over regulatory requirements, technical requirements, procedural deficiencies, and administrative problems have for the most part proven to be valid over time. An objective review of my past problem statements and recommendations are evidence of this.

My intentions are to achieve excellence in accomplishing a task or goal and I derive personal satisfaction when this is done The NRC Inspectors on their 7/24/98 visit commented on my excellent design of the ISFSI Security System. Security Supervisor, Estaban Nava, also passed on a compliment to Jim Field about my excellent presentation to the NRC.

I do not know why you are singling me out by requiring this type of action. I perceive your proposal as **harassment** and can assure you it is having a negative effect of straining our relationships, it is creating a distraction that is negatively affecting productivity, and it is causing a sense of mistrust.

An objective review of the facts will show that I had a valid complaint with the Benefits group. Also, it will show that I acted in a professional manner and I was only acting in the best interest of the District by suggesting that future service orders include service warranties that make the contractor correct service deficiencies at their cost.

Please work with me in achieving these goals by creating a working environment of trust and support.

If you believe any of the statements made in this memo to be incorrect, please notify me in writing as soon as possible.

with attachments
cc: Jim Field
RIC

From S Redeker on 7/21/98

George R. Rendon, LCSW
psychotherapy, employee assistance, marriage and family counseling
L.C.S. 12947
1321 Howe Avenue, Suite 201
Sacramento, California 95825
(916) 927-8010
Fax: (916) 921-2349

VITA

GEORGE R. RENDON, L.C.S.W.

EX 6 & 7C

EDUCATION

University of Southern California MSW [redacted]
University of Southern California BASW [redacted]
University of Southern California Certificates, Gerontology [redacted]

CREDENTIALS

Licensed Clinical Social Worker
California Community College Instructor Credential
California Community College Counselor Credential
Academy of Certified Social Workers

EMPLOYMENT HISTORY

Private Practice, Sacramento, CA
Provide clinical and organizational services (consulting, training, group retreats, critical incident debriefings). 1988 - present.

U.C. Davis Medical Center, Sacramento, CA
Medical Social Worker. Provided counseling services for patients and families experiencing acute/chronic medical conditions and traumas. 1986 - 1988.

Department of Mental Health, Humboldt County, Eureka, CA
Coordinator, Geriatric Mental Health Services. Provided clinical services to the county-wide elderly population. 1982 - 1986.

Superior Court, Monterey/Salinas, CA
Supervisor, Conservatorship Investigations. Clinical/forensic analyses of conservatorships including fiduciary audits. Coordinated legislative reviews and clinical training programs per Probate and W & I code requirements. 1978 - 1982.

MEMBERSHIPS

American Management Association
National Association of Social Workers
Society for Clinical Social Work
The Family Firm Institute

George R. Rendon, LCSW
psychotherapist, employee assistance, marriage and family counseling
L C S 12947
1321 Howe Avenue, Suite 201
Sacramento, California 95825
(916) 927-8010
Fax (916) 921-2349

SERVICES

1. Alcohol/substance abuse and dependence as related to on-the-job performance/family-related issues.
2. Adolescent and adult depressions and grief/loss issues.
3. Adolescents with single dxs of anger or depression and/or dual dxs with alcohol/substance abuse histories.
4. All geriatric-related issues (including Axis I & III dual dxs)/family support/care management needs.
5. Adolescents and adults with ADD/ADHD, Minimal Brain Dysfunction and Learning Disabilities.
6. Coping with medical trauma, chronic/terminal illnesses, adjusting to disfigurement/amputations associated with work-related injuries or illnesses.
7. Posttraumatic Stress disorders (personal/individual incidents and large group critical incidents/violence-in-the-workplace situations).
8. All Somatoform disorders and Anxiety disorders.
9. Personality disorders.

CONSULTING and TRAINING

1. Violence in the Workplace: Detection and Intervention.
2. Quality-of-Working-Life Programs.
3. Conflict Recognition and Resolution.
4. Proactive Crisis Management Plans: What to do Before a Crisis Occurs.
5. Team Building/Self-Directed Work Team Retreats.
6. Elder Care Workshops.
7. Productivity Management.
8. Understanding Employees' Resistance to Change.
9. Dealing with Difficult People.
10. Organizational Learning and the Corporate Culture: It's Not Oxymoronic.

I have considered Jim Saum's condition regarding the release to SMUD. My expectation is that the third party will have some ideas for things I can do related to general District issues and that would help to achieve positive long term results. In the interest of improvement and in preserving the "independent" nature of the recommendation package as a whole, I have proposed and that the release be general in nature such as the following: Recommendations which deal with only District general issues, such as organizational relationships, and contain no recommendations or issues of the type given specifically to either of you individually, would be given to me, with copies to both of you. Because this is being done via the EAP program, each of you would need to sign a release of information to allow this information to be given to the District.

George R. Randon, LCSW
marriage, family, child, adolescence, individual and family counseling
L.C.S. 12947
1321 Howe Avenue, Suite 201
Sacramento, California 95825
(916) 927-8010
Fax: (916) 921-2349

ALTHORIZATION FOR RELEASE OF INFORMATION

I hereby authorize_____to exchange any and all information relating to the therapy and consultations of_____ _____with _____. This information includes but is not limited to charts and records, reports, letters, dates of visits, the content of consultations, and impressions and conclusions drawn from the consultations. This authorization is effective immediately and shall remain in effect for one (1) year.

I have read the above and have also been advised of my right to receive a true copy of this authorization. Further, I understand the contents of this written authorization in its entirety and have asked questions about anything that was not clear to me and I am satisfied with the answers I have received.

I have received a copy of this release form.

DATED:_____ _____

_____

To Whom It May Concern:

The Federal Privacy Act of 1974 (P.L. 93-579 and other governmental regulations) have heightened the need for security in the transfer of privileged communications. The information you request will be from records whose confidentiality is protected by these regulations and prohibit anyone from making further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations.

SMUD
SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ 6201 S Street, P.O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

August 19, 1998

Ex 7e

Jim Saum
[redacted]

Dear Jim Saum:

SUBJECT: ORGANIZATIONAL RELATIONSHIP IMPROVEMENT

The purpose of this letter is to direct you to respond by Monday August 24 at 0700 at a meeting in my office, whether or not you will voluntarily participate in a counseling session relative to organizational relationship improvement. We have discussed the issue in seven meetings since July 16, 1998, and you have had adequate time to prepare an answer.

As I have stated, your participation will be confidential with the exception that the District will require confirmation that you have made an appointment and that the appointment was kept for the expected duration. This confirmation is required because, among other reasons, the counseling is being requested by the District and provided by the District at no cost to you (it will not be counted against your account of allowable number of EAP visits).

A "yes" response means that you will participate in the confidential session (You will call, by a date set by the District, to make an appointment, and will keep that appointment) and will sign a release indicating that the only information which may be released to the District is confirmation of making an appointment and confirmation that the appointment was kept for the expected duration. A "yes" response may not include any other conditions including, but not limited to, content of the counseling, the counselor, other clients of the counselor, or restrictions on the above release of appointment information required by the District.

As I have stated, the District sees value in this confidential session and is willing to receive no information regarding content of the session. Additionally, as you are aware, the other individuals directly involved in the organizational relationship improvement area needing improvement have volunteered to participate under the conditions specified above.

As I have stated several times in the meetings since July 16, there are organizational relationships, which I believe need improvement, and this voluntary confidential session is our preferred first step to address them. If you decide not to participate, the Districts first step to address the issue would be in another manner, which could include mandatory counseling or teambuilding sessions, which would include recommendations to the District.

Sincerely,

Steve Redeker
Manager, Plant Closure & Decommissioning

EXHIBIT 10
PAGE 182 OF 325 PAGE(S)

CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

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NEWPORT BEACH
RIGA, LATVIA

August 26, 1998

Steve Redeker
Bruce Notareus, Esq.
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95852

VIA FACSIMILE & U.S. MAIL

RE: James Saum: Agreement to Voluntarily Attend Consultation

Dear Messers Redeker and Notareus:

The purpose of this letter is to confirm the content of our various telephone conversations and to notify you that Mr. Saum has agreed to voluntarily attend a consultation with a counselor of his choosing. On advice of counsel and pursuant to California Civil Code 56.10, Mr. Saum will schedule an appointment with a health care provider at his own personal expense in order to guarantee the confidentiality of their consultation.

It is our understanding that the purpose of the recommended consultation is to "improve the working relationship" between Mr. Saum and his supervisors. It is our further understanding that Mr. Saum has been instructed that the suggested procedure for improving working relationships is not mandatory and is completely voluntary. There is no specific SMUD policy and/or procedure which mandates Mr. Saum to participate in the EAP program and/or to see a counselor that has been chosen for him. In addition, there have been no documented specific incidents requiring discipline, and in no way does Mr. Saum's agreement to a consultation constitute an admission of inappropriate conduct, psychiatric difficulties, medical problems and/or wrongdoing.

With respect to the content of the consultation, it is our understanding that every effort will be made to ensure the integrity of the process and to protect against the release of confidential communications. As reflected in the attached Release, Mr. Saum is willing to release limited information concerning: (1) the date that he calls to schedule the consultation; and (2) confirmation that he attended the consultation for the duration of the appointment. In no way shall Mr. Saum's agreement be construed as a waiver of his right to privacy and/or a release of the content of his consultation.

agreement be construed as a waiver of his right to privacy and/or a release of the content of his consultation.

As indicated via telephone, Mr. Saum had concerns regarding the correspondence he had received relating to a "mandatory" procedure in the event that he did not agree to the voluntary consultation. Mr. Saum believes it is important for the record to clarify the circumstances of the recommendation for counseling: (1) Mr. Redeker refused to state specific objective complaints regarding Mr. Saum's relations with co-employees; (2) Mr. Redeker initially provided to him a general release requiring disclosure of all contents of the consultation in violation of his right to privacy; and (3) when Mr. Saum questioned SMUD's authority to refer him to EAP and the contents of the general release, Mr. Redeker indicated that "there would be other non-voluntary and less confidential and more personally threatening and less desirable ways to handle this" if Mr. Saum did not agree to the voluntary consultation. Although we were recently assured that Mr. Redeker did not intend to "threaten" Mr. Saum, the circumstances of how this matter was initially handled was reasonably perceived as a threat by Mr. Saum.

Nevertheless, it is our current understanding that the "mandatory procedure," like the voluntary consultation, was not intended to be a threat of disciplinary action but an indication that other forms of training and third-party facilitation would be utilized in the event that Mr. Saum did not feel comfortable with the voluntary consultation. Mr. Redeker conceded in our August 24, 1998 telephone conversation that the "mandatory" procedure, unlike the "proposed "voluntary" procedure would not involve a licensed counselor, but instead, would involve a third party facilitator for coaching or training sessions. This individual would not be requested to submit any opinion on the behavioral, physical or psychological condition of Mr. Saum, but would merely be involved in a mediation process. As you are aware, it would be inappropriate for such an individual to offer an opinion on the behavioral, physical or psychological condition of Mr. Saum. Further, in the event that such an opinion was disclosed, it would violate Mr. Saum's right to privacy as codified in California Code of Civil Procedure section 56.10. Once again, however, it is our understanding that the option of the mandatory procedure was not intended to reflect, and in no way constitutes, disciplinary action against Mr. Saum. There has been no allegation of insubordination or inappropriate conduct which would necessitate such action.

Lastly, as discussed on August 24, 1998 and as referenced above, Mr. Saum raised concerns about the manner in which he was encouraged to participate in the EAP program without being notified of specific incidents requiring such participation. As you are aware, Mr. Saum has not had a formal evaluation of his work performance and/or relations with co-employees for at least two(2) years. Mr. Saum felt, and continues to feel, that it is impossible for him to work on improving relationships without knowing the context of what is expected. It is for this reason that Mr. Saum felt compelled to consult with his co-workers to determine whether or not they had specific concerns, or, if they were satisfied with his ability to work with them. In addition, Mr. Saum felt compelled to talk to his fellow employees because several had mentioned to him in the past that they felt they

had a good working relationship with Mr. Saum. It was only natural that Mr. Saum would seek the input and/or support of his co-workers in responding to management's concerns.

Although he was initially instructed by Mr. Redeker that he was not allowed to contact other employees seeking either oral or written confirmation of their position on this issue, it is our understanding, through consultation, that Mr. Redeker conceded on August 24, 1998 that he understands that Mr. Saum has the legal right to communicate with co-employees regarding this issue as long as it is done during non-working hours or breaks and does not interfere with the work performed by Mr. Saum and/or that of other employees. Since there have been no complaints regarding Mr. Saum's prior attempts to consult with co-employees, we would appreciate your support in this regard.

Based on the above-referenced understanding, Mr. Saum will agree to sign the attached Authorization for Limited Release of Information inserting the name of his selected health care provider. If for any reason your understanding differs from that set forth in this letter in any way, please contact me by no later than August 28, 1998. Otherwise, Mr. Saum will execute the Release as drafted and will call to schedule a consultation with a counselor by no later than Friday September 4, 1998.

Sincerely,
CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks, Esq.

Enclosure

AUTHORIZATION FOR LIMITED RELEASE OF INFORMATION

I, JAMES SAUM, hereby authorize _____ to disclose the following information to my employer, Sacramento Municipal Utility District (SMUD), regarding my consultation. This authorization is effective immediately and shall remain in effect for one (1) week following the consultation.

1. Date that I made contact with the office of _____ and made an appointment for consultation; and

2. Confirmation that I met with _____, the date of such visit and the duration of the consultation.

In no way is this release to be construed of as a waiver of my right to privacy.

In no way does this authorization provide for a release of information to any third person relating to the content of the consultation between the above-named health care provider and myself, including, but not limited to, oral disclosure of the content of the consultation, notes from the consultation, charts and records, reports, letters, and/or any impressions or conclusions drawn from the consultation. No inferences, hypotheticals, or recommendations may be offered to a third party based on any consultation with me.

To Whom it May Concern:
The Federal Privacy Act of 1974 (P.L. 93-579 and other governmental regulations) have heightened the need for security in the transfer of privileged communications. The information you request will be from records whose confidentiality is protected by these regulations and prohibit anyone from making further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations.

The disclosure of this information is governed by California Civil Code §56.10.

DATED:_____ _____

JAMES SAUM

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Jim Saum

DATE: September 2, 1998
MPC&D 98-136

FROM: Steve Redeker

SUBJECT: **RESPONSE TO MEMO MNTS 98-63 AND NUCLEAR REGULATORY COMMISSION REPORTING REQUIREMENTS**

The purpose of this memo is to respond to your memo MNTS 98-63 and to remind you of your obligation to report violations of NRC rules or the terms of the Rancho Seco license or other matters as required by plant procedures and NRC regulations. I am sending you this memo because of the high significance of an issue you raised in your memo. You stated that during the last three years you have avoided writing PDQ's or problem statements. You characterized your actions as a "silent approach".

You are required by Rancho Seco procedures, including RSAP 1308, "Potential Deviation From Quality" to report deviations by writing PDQ's. Failure to write a PDQ is a violation of a plant procedure. Failure to follow plant procedures can constitute violation of NRC rules or the terms of the Rancho Seco license. Intentional failure to report per plant procedures would be a violation of NRC regulations, 50.5 "Deliberate Misconduct".

Failure to report in accordance with NRC rules could subject you to NRC enforcement action. Failure to report in accordance with plant procedures could subject you to disciplinary action up to and including termination.

Your letter is currently under review and the District will prepare a more detailed response.

CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

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NEWPORT BEACH
RIGA, LATVIA

September 14, 1998

VIA FACSIMILE & U.S. MAIL

Bruce Notareus, Esq.
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95852

RE: James Saum: Psychological Evaluation

Dear Messers Redeker and Notareus:

The purpose of this letter is to confirm that Mr. Saum will appear for the evaluation re-scheduled for Tuesday, September 15, 1998 at the offices of Rusty Otto, PhD. without waiving any of his objections to the requested evaluation.

Much to my surprise, apparently you decided to e-mail me a message which contradicted our earlier agreement by telephone on Wednesday, September 9, 1998. Having never communicated with you by e-mail in the past, and unaware that you intended to send me an e-mail, I was quite shocked on Sunday, September 13, 1998 when I checked my e-mail account and saw your message asking that we jointly draft the letter to Dr. Otto. If you will recall, on Wednesday you asked that I call him directly and re-schedule the appointment and provide him a revised letter which allowed for disclosure of "functional limitations" and a statement of "fit or not fit." I called Dr. Otto on Thursday and provided the requested letter on Friday morning. The unfortunate fact that I did not receive your correspondence until it was too late and went ahead and did what you asked me to do, should not be cause to punish Mr. Saum. It certainly does not constitute "interference".

Your most recent correspondence causes me to have grave concerns regarding SMUD's good faith willingness to resolve this matter amicably and professionally. One minute you agree that Civil Code §56.10 applies to this evaluation, the next minute you claim federal regulations (without referencing any particular regulation) deny Mr. Saum the right to privacy he has asserted. You claim

Mr. Saum is not being disciplined, but then you threaten to put him on unpaid leave for asserting his rights. Which is it?

For the record, we have always been straightforward. On August 26, 1998, despite the failure by the Sacramento Municipal Utility District to notify Mr. Saum regarding specific incidents and/or the procedural authority to refer Mr. Saum to an EAP consultation, Mr. Saum agreed to go to a counselor of his own choosing and at his own expense to help "improve the working relationship" between Mr. Saum and his supervisors. In conversations I had with each of you prior to our correspondence dated August 26, 1998, you admitted that the requested EAP consultation between three employees was unprecedented and was perhaps not well thought through before its proposal. Due to obvious confidentiality problems, Mr. Redeker further indicated that he would be willing to agree to Mr. Saum's consultation with a counselor of his own choosing and would accept a release as drafted by Mr. Saum's counsel. Accordingly, we prepared and submitted the above-referenced correspondence in good faith in an effort to achieve a resolution of this matter.

On August 28, 1998, however, Mr. Saum's acquiescence to an EAP consultation was rejected. Apparently, Mr. Redeker was unwilling to agree to the proposed consultation because it did not meet with his expectation that Mr. Saum would see the same counselor that both Mr. Fields and Mr. Redeker would also be consulting with. Although I proposed that Mr. Fields and Mr. Redeker could also meet with the counselor Mr. Saum selected, you informed me at that time that an EAP consultation was no longer an option and that SMUD would now move forward with a mandatory third party facilitation process. I informed my client of the same. You also informed me that SMUD would begin the process of a six month performance review plan to monitor Mr. Saum's ability to work with co-employees. I informed my client of the same.

On September 3, 1998, however, Mr. Saum was requested to come to the office of Mr. Redeker and informed at that time that he was being placed on administrative leave and was scheduled for a psychological evaluation for Tuesday, September 8, 1998 at 9:00 in the offices of Rusty Otto, PhD. Mr. Saum was informed that there were four reasons for the action being taken:

(1) SMUD was displeased with how long it took Mr. Saum to decide regarding their referral to EAP consultation;

(2) SMUD was concerned that Mr. Saum was not writing down PDQ's;

(3) SMUD was concerned about his ability to work with others;

(4) SMUD had received reports that Mr. Saum threatened other employees and was concerned that he was a threat to the safety of its employees.

With respect to Item #1, Mr. Saum's delay, if any, was due to his exercise of his right to consult with counsel and to assert his right to privacy and right to due process. See, *Stewart v.*

Pearce , 484 F.2d 1031, 1034 (9th Cir. 1973). SMUD's recent action demanding he see a psychologist as punishment for asserting his rights constitutes unlawful retaliation.

With respect to Item #2, Mr. Saum had previously informed SMUD on several occasions over the last five years of his concerns regarding various NRC violations. In a memorandum dated July 27, 1998, Mr. Saum brought to the attention of his supervisors that he felt he was being intimidated and harassed when he put complaints in writing, and for this reason was being criticized for not being a "team player." At no time did he indicate that he had failed to notify SMUD regarding problems. He did so verbally. If you had let him respond to this concern, he would have informed you that Mr. Fields has been verbally notified on several occasions and has chosen of his own volition to fail to prepare a PDQ. Your recent action demanding he attend a psychological evaluation on these grounds constitutes unlawful retaliation for bringing NRC violations and harassment to your attention.

With respect to Item #'s 3 & 4, Mr. Saum has never received any written notification of specific incidents and/or the names of complainants supporting your claims. It is impossible for him to respond to these allegations and defend himself without such information. Due to the seriously damaging and defamatory nature of these allegations, at a minimum, Mr. Saum is entitled to: (1) adequate notice of the facts supporting your action to refer him to a psychologist; (2) notice of the procedural or legal authority for referring him to a psychologist on the basis of these allegations; and (3) an opportunity to respond. Your recent action demanding that Mr. Saum attend a psychological evaluation fails to meet any of the above-referenced criteria in violation of his due process rights.

As indicated, Mr. Saum will agree to attend the requested psychological evaluation (without waiver of his objections) to further demonstrate his good faith attempt to resolve this matter amicably. However, please be assured that, if necessary, appropriate legal action will be taken with regard to SMUD's continuous and repeated acts of retaliation against Mr. Saum.

Sincerely,
CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks, Esq.

Enclosure

To: Joanna L. Brooks 9/4/98

From: Bruce Notareus by facsimile to 446-6954

Re: Jim Saum

Ms. Brooks:

It has come to my attention that you intend to be in attendance during Mr. Saum's fitness for duty appointment scheduled for 9:00 a.m. on Tuesday, September 8, 1998. I attempted to contact you by telephone at your office upon learning of this information. However, it was shortly after 5:00 p.m. when I called and I was unable to get through to you or anyone else. I was also unable to leave a voice mail message without knowing your extension, thus I decided to send you this note by facsimile.

I suggest you reconsider your decision in this regard. You have no business nor right to participate in any capacity in the conduct of this appointment; it is non disciplinary in nature. Mr. Saum has been properly instructed by his supervisors to attend this appointment and his failure to do so would be considered insubordination. Additionally, Mr. Saum could face additional consequences pursuant to NRC regulations for his failure to comply with site access requirements. The fact that his failure to comply was "on advice of counsel" is irrelevant and will not insulate him from potential disciplinary action if he fails to comply.

If you appear with Mr. Saum and demand that you be allowed to participate or be present in the room during the fitness for duty appointment (we have no problem with you sitting in waiting room) the appointment can and will not go forward. If this occurs, be advised that Mr. Saum (and yourself) could be obligated reimburse the District for the cost of the aborted appointment and Mr. Saum could further be subject to removal from paid administrative leave, to disciplinary action

CBM
CARROLL, BURDICK & MCDONOUGH LLP
ATTORNEYS AT LAW

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NEWPORT BEACH
RIGA, LATVIA

September 8, 1998

Rusty Otto, PhD & Associates
Psychology Group
788 University Avenue
Sacramento, CA 95825

Re: James Saum, Senior Electrical Engineer
Sacramento Municipal Utility District

Dear Dr. Otto:

As discussed last Friday, September 4, 1998, the undersigned are counsel to James Saum who was ordered by the Sacramento Municipal Utility District (SMUD) to report to your office for a fitness-for-duty evaluation on September 8, 1998. The purpose of this letter is to advise you that Mr. Saum will not execute any releases authorizing you or anyone from your office to disclose to SMUD any information acquired by you during this fitness-for-duty evaluation other than a statement as to whether Mr. Saum is fit to perform the duties of his position.

California law generally prohibits a health care provider from disclosing medical information regarding a patient without first obtaining the patient's authorization. Civil Code § 56.10(a). An exception exists for fitness-for-duty evaluations performed at the employer's written request and expense. Civil Code § 56.10(c)(8)(B) states:

> . . . (c) A provider of health care may disclose medical information as follows:
>
> . . . (8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:
>
> . . .(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

G:\saum\doctor.11

Based on the above provisions, you can only report to SMUD whether or not Mr. Saum is fit-for-duty as a Senior Electrical Engineer, unless Mr. Saum authorizes a greater release of information. Please be advised that Mr. Saum declines to execute such a release at this time. Moreover, Mr. Saum will strike from any authorization or release form provided to him in connection with this fitness-for-duty evaluation any language permitting you or anyone else to disclose more information than is permitted by law. Mr. Saum will also add the following disclaimer to any authorization form he signs:

> Dr. Otto will only provide SMUD with a final opinion as to whether or not I am fit-for-duty as a Senior Electrical Engineer. I do not authorize Dr. Otto or anyone else to release any additional information obtained in the course of this fitness-for-duty evaluation to SMUD.

By limiting the disclosure of information solely to a description of whether or not Mr. Saum is fit-for-duty, it is not Mr. Saum's intent to avoid his obligation to undertake a fitness-for-duty evaluation as ordered by his employer. In fact, Mr. Saum will pay for the psychological examination. He has always been willing to submit to a consultation with a licensed health care professional, but merely informed his employer that he preferred to meet with a professional of his own choosing, at his own expense, in order to protect the confidentiality of the consultation. Although Mr. Saum objects to his employer's demand that he see you, and not a counselor of his own choosing, he is fully complying with the order given to him by SMUD. I have advised Mr. Saum that he is within his legal right to refuse to execute a waiver and/or authorization permitting a greater release of information than is required by Civil Code §56.10 (c)(8)(B) and that he cannot be disciplined for refusing to waive those rights in this matter.

By advising you in advance as to how Mr. Saum will respond to a request to execute a release and/or waiver, we hope to avoid any misunderstanding or conflict in this matter. However , I will also be joining Mr. Saum this morning in the event that you have any questions or concerns about the foregoing. In addition, I have attached a copy of Civil Code §56.10 for reference.

Should you have any questions, please do not hesitate to talk to me. I would be glad to further explain the reasons why it is necessary that Mr. Saum protect his legal rights in this manner.

Sincerely,

CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks, Esq.

JLB:ph
Enclosure

G:\saum\doctor.11

CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

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September 11, 1998

Rusty Otto, PhD & Associates
Psychology Group
788 University Avenue
Sacramento, CA 95825

Re: James Saum, Senior Electrical Engineer
Sacramento Municipal Utility District (SMUD)

Dear Dr. Otto:

The purpose of this letter is to eliminate any confusion that may have resulted from our previous correspondence. I have had several telephone conversations with counsel for SMUD, Bruce Notareus, wherein we agree to the interpretation of Civil Code § 56.10(c)(8)(B) as set forth in this letter.

As you are aware, California law generally prohibits a health care provider from disclosing medical information regarding a patient without first obtaining the patient's authorization. Civil Code § 56.10(a). An exception exists for fitness-for-duty evaluations performed at the employer's written request and expense. Civil Code § 56.10(c)(8)(B) states:

> . . . (c) A provider of health care may disclose medical information as follows:
>
> . . . (8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:
>
> . . .(B) Describes <u>functional limitations</u> of the patient that may entitle the patient to leave from work for medical reasons or <u>limit the patient's fitness to perform his or her present employment</u>, provided that <u>no statement of medical cause is included in the information disclosed</u>.

G:\saum\doctor.l2

Based on the above provisions, you may describe any functional limitations that may limit Mr. Saum's fitness to perform his present employment and may report a final determination of whether or not Mr. Saum is fit-for-duty as a Senior Electrical Engineer, unless Mr. Saum authorizes a greater release of information. Please be advised that Mr. Saum declines to execute a release to disclose more information than that which is allowed by law. Mr. Saum has not submitted a workers' compensation claim relating to any physical or mental disability that would allow for a full report to SMUD's workers' compensation carrier. Moreover, Mr. Saum will strike from any authorization or release form provided to him in connection with this fitness-for-duty evaluation any language permitting you or anyone else to disclose more information than is permitted by law.

By limiting the disclosure of information solely to a description of whether or not Mr. Saum is fit-for-duty and a description of any functional limitations, it is not Mr. Saum's intent to avoid his obligation to undertake a fitness-for-duty evaluation as ordered by his employer. Mr. Saum has always been willing to submit to a consultation with a licensed health care professional, but merely informed his employer that he preferred to meet with a professional of his own choosing, at his own expense, in order to protect the confidentiality of the consultation. Although Mr. Saum objects to his employer's demand that he see you, and not a counselor of his own choosing and expense, he is fully complying with the order given to him by SMUD. I have advised Mr. Saum that he is within his legal right to refuse to execute a waiver and/or authorization permitting a greater release of information than is required by Civil Code §56.10 (c)(8)(B) and that he cannot be disciplined for refusing to waive those rights in this matter.

By advising you in advance as to how Mr. Saum will respond to a request to execute a release and/or waiver, we hope to avoid any misunderstanding or conflict in this matter.

Should you have any questions, please do not hesitate to talk to me. I would be glad to further explain the reasons why it is necessary that Mr. Saum protect his legal rights in this manner.

Sincerely,

CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks, Esq.

JLB:ph

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EXHIBIT 10

PAGE 195 OF 325 PAGE(S)

CARROLL, BURDICK & MCDONOUGH LLP

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September 8, 1998

Steve Redeker
Bruce Notareus, Esq.
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95852

VIA FACSIMILE & U.S. MAIL

RE: James Saum: Psychological Evaluation

Dear Messers Redeker and Notareus:

The purpose of this letter is to confirm that Mr. Saum appeared for the evaluation scheduled for Tuesday, September 9, 1998 at the offices of Rusty Otto, PhD. without waiver of any of his objections to the requested evaluation. At that time, I supplied Dr. Otto with a letter indicating what information may be released by a health provider pursuant to Civil Code §56.10(c)(8)(B). Dr. Otto declined to conduct the psychological evaluation pending notification by SMUD that the only information that would be necessary to release would be that allowed under Civil Code §56.10(c)(8)(B). See also, ***Pettus v. Cole*** (1996) 49 Cal.App.4th 402; 57 Cal.Rptr.2d 46. Dr. Otto felt uncomfortable with the conflict between what he had been asked to provide, or normally provides, and that which the law allows him to disclose. I am informed your office of the same earlier this morning.

Mr. Saum, as indicated previously, is willing abide by SMUD's order that he appear for a fitness-for-duty evaluation. He is anxious to return to duty and put this matter behind him. However, under the circumstances, we will await further instruction from SMUD regarding the re-scheduling of a fitness-for-duty evaluation. Please be advised that Mr. Saum will continue to assert his legal right to privacy as secured by the California Constitution and Civil Code §56.10.

Sincerely,
CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks, Esq.

Sent by Facsimile and U. S. Mail

SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

September 11, 1998

LEG 98-1357

Joanna Brooks
Carroll, Burdick & McDonough
400 Capitol Mall, Suite 1400
Sacramento, CA 95814-4407

Re: James Saum

Dear Ms. Brooks:

Much to my surprise and dismay, Dr. Otto's office has forwarded me a copy of your September 11, 1998, letter (copy enclosed) concerning the status of Mr. Saum's rescheduled fitness-for-duty appointment on Tuesday, September 15, 1998. In your letter, you have materially misrepresented to Dr. Otto the nature of our discussions and "our agreement" concerning the applicability, scope and meaning of Civil Code Section 56.10 as related to Mr. Saum's appointment. Simply, I do not agree with your interpretation of the code section or its application to Mr. Saum's particular situation.

Further, I sent you an e-mail note on Wednesday, September 9th, (copy enclosed) asking that you discuss the amended letter with me prior to sending it to Dr. Otto in an effort to avoid any confusion over his obligations with respect to Mr. Saum's privacy interests and how it was being communicated to him. Although I have been available to discuss these matters with you since yesterday afternoon as I noted in my e-mail, you failed to consult with me as requested over the wording of your September 11, 1998 letter.

As we discussed in our many telephone conversations about this matter, it is the District's view that you are inappropriately involving yourself in the District's instruction to Mr. Saum that he attend a fitness-for-duty interview as a condition to his being granted access to a nuclear power generating facility that comes under the exclusive jurisdiction of the Federal Nuclear Regulatory Commission ("NRC"). As an employee at a federally regulated facility, Mr. Saum's obligations and any limitations on his personal rights are defined by Federal regulatory guidelines. State law would apply only to the extent it does not conflict with NRC's site access requirements. As I have previously informed you, employees at Federally regulated nuclear facilities have lesser privacy protections due to the nature of the risks associated with granting them access to facilities where nuclear materials are stored. The courts have regularly recognized

DISTRICT HEADQUARTERS ☐ 6201 S Street, Sacramento CA 95817-1899

that employees at such facilities have a greatly diminished expectation of personal privacy.

When we last spoke, you indicated that you were not familiar with the NRC site access requirements and I suggested that may want to familiarize yourself with them prior to escalating this matter any further. My offer to provide you with additional information about the NRC regulatory requirements and the applicable provisions of the District's Site Security Plan (to the extent I can legally disclose them) related to granting security clearances and site access were acknowledged and wholly ignored. Quite simply, while you are correct that California law provides certain privacy protections, such protections either do not apply due to principles of Federal preemption, or if they do apply, they are limited by the requirements of the applicable NRC regulations and the District's Site Security Plan.

Dr. Otto's office has indicated that they will not likely agree to see Mr. Saum on the terms you specified in your letter. As I told you, we have instructed Dr. Otto otherwise and he does not feel comfortable caught between two arguing lawyers. His office will (if they have not already) contact you directly in this regard.

In the District's view, you have improperly interfered with the District's efforts to determine whether or not Mr. Saum may be granted access to a controlled nuclear facility pursuant to NRC regulatory guidelines. The tone and wording of your letters has led Dr. Otto to have legitimate fears that he will be sued if he goes forward with the session. You have made material misrepresentations as to our purported "agreement" (We have no agreement; I think it is abundantly clear that we *fundamentally disagree* about Mr. Saum's privacy protections, if there be any at all.) and as to the applicable legal standards that apply to guide Dr. Otto in his decision as to what he can and cannot disclose to the District in his fitness-for-duty evaluation report. I find it interesting that you infer in your September 11th letter that I concur with your analysis of section 56.10's application to this situation. Having never seen your September 11, 1998, letter prior to receiving the copy Dr. Otto faxed over, I could not possibly have agreed to its contents. (I do not.) Coupled with the inferred threat of litigation if Dr. Otto fails to limit his report as you suggest, you have effectively intimidated Dr. Otto to the point that he likely will not see Mr. Saum, under any circumstance.

I have spoken with Mr. Redeker about this situation and if Dr. Otto, does as we believe he will, cancel the September 15, 1998, appointment, the District intends to move forward and attempt to schedule Mr. Saum's fitness-for-duty meeting with another provider. In the interim and on the assumption that Dr. Otto cancels the appointment, since your misrepresentations are the cause for the failure to move forward toward restoring Mr. Saum's site access, effective upon first notice that the

appointment is canceled or that Mr. Saum fails to complete the September 15th fitness-for-duty appointment, he will no longer be entitled to remain on paid administrative leave. However, recognizing that Mr. Saum's site access can not be restored until after he has been properly cleared, he can use his accrued personal leave (or sick leave, if he provides medical verification of an illness that would preclude him from performing his job, had site access been restored.) until site access is restored.

If would like to discuss these matters with me further, please do not hesitate to call me at 732-6122. Thank you.

Sincerely,

Bruce Notareus
Senior Attorney

Enclosures

cc: Dana Appling
Steve Redeker
Angie Robinson
Corporate Files

CARROLL, BURDICK & MCDONOUGH LLP

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September 14, 1998

VIA FACSIMILE & U.S. MAIL

Bruce Notareus, Esq.
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95852

RE: James Saum: Psychological Evaluation

Dear Messers Redeker and Notareus:

The purpose of this letter is to confirm that Mr. Saum will appear for the evaluation re-scheduled for Tuesday, September 15, 1998 at the offices of Rusty Otto, PhD. without waiving any of his objections to the requested evaluation.

Much to my surprise, apparently you decided to e-mail me a message which contradicted our earlier agreement by telephone on Wednesday, September 9, 1998. Having never communicated with you by e-mail in the past, and unaware that you intended to send me an e-mail, I was quite shocked on Sunday, September 13, 1998 when I checked my e-mail account and saw your message asking that we jointly draft the letter to Dr. Otto. If you will recall, on Wednesday you asked that I call him directly and re-schedule the appointment and provide him a revised letter which allowed for disclosure of "functional limitations" and a statement of "fit or not fit." I called Dr. Otto on Thursday and provided the requested letter on Friday morning. The unfortunate fact that I did not receive your correspondence until it was too late and went ahead and did what you asked me to do, should not be cause to punish Mr. Saum. It certainly does not constitute "interference".

Your most recent correspondence causes me to have grave concerns regarding SMUD's good faith willingness to resolve this matter amicably and professionally. One minute you agree that Civil Code §56.10 applies to this evaluation, the next minute you claim federal regulations (without referencing any particular regulation) deny Mr. Saum the right to privacy he has asserted. You claim

Mr. Saum is not being disciplined, but then you threaten to put him on unpaid leave for asserting his rights. Which is it?

For the record, we have always been straightforward. On August 26, 1998, despite the failure by the Sacramento Municipal Utility District to notify Mr. Saum regarding specific incidents and/or the procedural authority to refer Mr. Saum to an EAP consultation, Mr. Saum agreed to go to a counselor of his own choosing and at his own expense to help "improve the working relationship" between Mr. Saum and his supervisors. In conversations I had with each of you prior to our correspondence dated August 26, 1998, you admitted that the requested EAP consultation between three employees was unprecedented and was perhaps not well thought through before its proposal. Due to obvious confidentiality problems, Mr. Redeker further indicated that he would be willing to agree to Mr. Saum's consultation with a counselor of his own choosing and would accept a release as drafted by Mr. Saum's counsel. Accordingly, we prepared and submitted the above-referenced correspondence in good faith in an effort to achieve a resolution of this matter.

On August 28, 1998, however, Mr. Saum's acquiescence to an EAP consultation was rejected. Apparently, Mr. Redeker was unwilling to agree to the proposed consultation because it did not meet with his expectation that Mr. Saum would see the same counselor that both Mr. Fields and Mr. Redeker would also be consulting with. Although I proposed that Mr. Fields and Mr. Redeker could also meet with the counselor Mr. Saum selected, you informed me at that time that an EAP consultation was no longer an option and that SMUD would now move forward with a mandatory third party facilitation process. I informed my client of the same. You also informed me that SMUD would begin the process of a six month performance review plan to monitor Mr. Saum's ability to work with co-employees. I informed my client of the same.

On September 3, 1998, however, Mr. Saum was requested to come to the office of Mr. Redeker and informed at that time that he was being placed on administrative leave and was scheduled for a psychological evaluation for Tuesday, September 8, 1998 at 9:00 in the offices of Rusty Otto, PhD. Mr. Saum was informed that there were four reasons for the action being taken:

(1) SMUD was displeased with how long it took Mr. Saum to decide regarding their referral to EAP consultation;

(2) SMUD was concerned that Mr. Saum was not writing down PDQ's;

(3) SMUD was concerned about his ability to work with others;

(4) SMUD had received reports that Mr. Saum threatened other employees and was concerned that he was a threat to the safety of its employees.

With respect to Item #1, Mr. Saum's delay, if any, was due to his exercise of his right to consult with counsel and to assert his right to privacy and right to due process. See, ***Stewart v.***

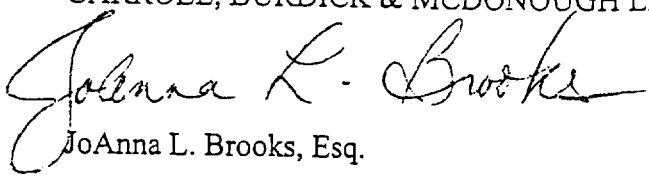
Pearce , 484 F.2d 1031, 1034 (9th Cir. 1973). SMUD's recent action demanding he see a psychologist as punishment for asserting his rights constitutes unlawful retaliation.

With respect to Item #2, Mr. Saum had previously informed SMUD on several occasions over the last five years of his concerns regarding various NRC violations. In a memorandum dated July 27, 1998, Mr. Saum brought to the attention of his supervisors that he felt he was being intimidated and harassed when he put complaints in writing, and for this reason was being criticized for not being a "team player." At no time did he indicate that he had failed to notify SMUD regarding problems. He did so verbally. If you had let him respond to this concern, he would have informed you that Mr. Fields has been verbally notified on several occasions and has chosen of his own volition to fail to prepare a PDQ. Your recent action demanding he attend a psychological evaluation on these grounds constitutes unlawful retaliation for bringing NRC violations and harassment to your attention.

With respect to Item #'s 3 & 4, Mr. Saum has never received any written notification of specific incidents and/or the names of complainants supporting your claims. It is impossible for him to respond to these allegations and defend himself without such information. Due to the seriously damaging and defamatory nature of these allegations, at a minimum, Mr. Saum is entitled to: (1) adequate notice of the facts supporting your action to refer him to a psychologist; (2) notice of the procedural or legal authority for referring him to a psychologist on the basis of these allegations; and (3) an opportunity to respond. Your recent action demanding that Mr. Saum attend a psychological evaluation fails to meet any of the above-referenced criteria in violation of his due process rights.

As indicated, Mr. Saum will agree to attend the requested psychological evaluation (without waiver of his objections) to further demonstrate his good faith attempt to resolve this matter amicably. However, please be assured that, if necessary, appropriate legal action will be taken with regard to SMUD's continuous and repeated acts of retaliation against Mr. Saum.

Sincerely,
CARROLL, BURDICK & MCDONOUGH LLP



JoAnna L. Brooks, Esq.

Enclosure

Sent by Facsimile and U. S. Mail

SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

September 15, 1998

LEG 98-1361

RECEIVED
SEP 16 1998

Joanna Brooks
Carroll, Burdick & McDonough
400 Capitol Mall, Suite 1400
Sacramento, CA 95814-4407

Re: James Saum

Dear Ms. Brooks:

I am writing as a follow-up to our telephone conversations of yesterday morning, wherein I offered to provide you citations to the applicable Federal Regulations; of yesterday afternoon when we discussed how to resolve the "stalemate" over Mr. Saum's fitness-for-duty evaluation without elevating it to a more serious dispute; and in response to your September 14, 1998, letter which I received by facsimile yesterday afternoon..

As I informed you during the afternoon phone call, the regulations governing access to nuclear facilities may be found at 10 CFR § 73. In particular, you may want to look at 10 CFR §§ 73.56 through 73.67 dealing with access to facilities. The sections are very lengthy, detailed and complex, but should provide you with sufficient information to confirm that which I have been telling you – access to the Rancho Seco nuclear power generating facility is governed by the regulatory authority of the Nuclear Regulatory Commission ("NRC"). Further, the District's Security Plan for the site, which is prepared pursuant to the Regulations, sets forth the details of the conditions under which access to the Rancho Seco site may be granted, denied and/or withdrawn. I will provide you with copies of applicable non classified ("safeguards") sections of the Security Plan at some future time. By nature of his work, Mr. Saum is subject to these site access requirements. He has daily access to this information, so I assumed you would have asked him about it or that he would have briefed you as to the particulars of being granted access to Rancho Seco as a controlled nuclear site. I apologize for any confusion that may have been caused by my assumptions in this regard.

Without being argumentative, based on the factual assertions contained in your letter, it is apparent that there is confusion, misperception and miscommunication about what has transpired to date. I believe that we have gotten so caught up in our

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respective positions on some of these issues, that we have not "heard" that which is being communicated. My sense is that rather than comprehending that which is being said, we have tended to get distracted by formulating our next response to what we perceive is being said, rather that actually listening to (or rather "hearing") the words that were being spoken.

I do not believe I asked you to call Dr. Otto to "reschedule the appointment." What I do recall is telling you that the District's Workers' Comp Supervisor would do that and that it would be inappropriate for you or Mr. Saum to do so, since SMUD made the appointment, not Mr. Saum. I recall asking you to call Dr. Otto to confirm that Mr. Saum was amenable to rescheduling the appointment and would attend it, if you and I were able to satisfy his concerns over your September 8, 1998, letter and what information he could provide the District.

With respect to the revised letter, I believe you are taking certain of my comments out of context. You initially suggested that I send Dr. Otto the revised letter. I suggested that Dr. Otto needed to hear from you, since it was your September 8th letter which led to his concerns over his role and response in the first place. (He informed us that he was afraid you would sue him if he said any more than: "Fit for Duty" or "Not fit for duty.") I told you that if I were to send the letter it would be likely to do no more that leave Dr. Otto feeling "stuck between two dueling lawyers" which would exacerbate rather than resolve the issue for Dr. Otto. At that time, to assist you in drafting the revised letter, I commented that Rancho Seco was a Federally regulated nuclear facility and although Civil Code § 56.10 may have some applicability, other standards would also apply. I think my exact words were, "I think you are overstating its applicability here."

You noted that Rancho Seco was closed and that the fitness-for-duty regulations did not apply. (It is unfortunate that at the time you made this comment I did not realize you were referring to the NRC's random drug testing regulations, from which the District is exempt as a non-operating facility; if I had we may have avoided some confusion and frustration on both our parts.) I replied that the plant was indeed closed, but that it is being decommissioned and remains regulated by the NRC because spent fuel and safeguards information and materials remain stored on site. I explained that this was a "site access issue" and so long as safeguards materials and spent fuel remained on site, the NRC site assess regulations remained in effect.

You stated you were unfamiliar with the NRC regulations and were not sure as to their applicability. I noted that Mr. Saum would be more familiar with the regulations than I am, but that I could get you the citation if you wanted. (I told you I could get it from the Nuclear Security Department.) You did not respond, so I did not follow through at that time. At least in my mind, it was implicit from our discussions that

I would review your revised letter before sent it out to ensure that we had no further conflict over the applicable law, the conduct of the appointment or what information Dr. Otto was to provide.

The District is not looking for a "fight" with Mr. Saum. To the contrary, all of the District's actions to date have been responsive in nature and designed to resolve conflict as it arises. As we discussed, if the District wanted a conflict, it would not have suggested facilitation between Mr. Saum and his two supervisors in an attempt to work through the interpersonal problems the three were experiencing. Rather, his supervisors would have simply put him on a performance management program and allowed Mr. Saum's long documented history of interpersonal problems with his co-workers to ultimately support a performance based discharge. They have actively avoided this approach and taken the constructive rather than destructive path to problem resolution in this case.

In his supervisor's view, Mr. Saum has responded to their efforts with an uncooperative attitude and that has frustrated their efforts and the process. To be frank, this has led his supervisors to consider other alternatives, including performance management. However, as I have stated, this is not, at this point in time, a "disciplinary" proceeding and as such, no property rights are affected nor do any due process protections come into play. Mr. Saum has been on paid administrative leave.

To the contrary, this is a site access issue that arose because Mr. Saum engaged in and exhibited certain behavior and made threatening comments toward his supervisors and some co-workers which raised safety concerns about his fitness to be granted continued access to a controlled nuclear facility. It is no more than an attempt by the District to comply with the site access requirements of the NRC regulations and the District's Site Security Plan prior to allowing Mr. Saum access to a controlled facility. As I have previously informed you, once site access is restored, it is the District's intent to live up to its initial intent to have Mr. Saum and his two supervisors participate in a facilitation process aimed at improving the working relationship between them.

Unfortunately, for the same reasons that Mr. Saum failed to participate in the first attempt at a facilitated process, he has failed to participate in the site access fitness-for-duty process. His concerns over his personal privacy, while appreciated, must be weighed against the greater public health and safety concerns that attach to such facilities. In short, the courts have consistently recognized that there is a significantly diminished right to personal privacy at nuclear power generating facilities due to the nature of the risks involved in their operation and maintenance. As we discussed, we have canceled tomorrow's appointment with Dr. Otto and will reschedule it after all concerns over it's conduct and what information can be provided are

CONFIDENTIAL

MANUAL: RANCHO SECO ADMINISTRATIVE PROCEDURE	NUMBER: RSAP-1003 REVISION: 10
TITLE: ACCESS SCREENING REQUIREMENTS	PAGE 1 OF 32

MANUAL: RANCHO SECO ADMINISTRATIVE PROCEDURE	NUMBER: RSAP-1003 REVISION: 10
TITLE: ACCESS SCREENING REQUIREMENTS	PAGE 1 OF 32

LEAD DEPARTMENT: DISTRICT SECURITY	EFFECTIVE DATE: 8-17-98

REVISION SUMMARY:

10→

1. Revise procedure to address NRC Notice of Violation in reference to timely review of FBI and DOJ criminal history records.

2. Clarify duties and responsibilities for District Security Staff who administer the "Rancho Seco Access Authorization" program.

3. Add "FBI and DOJ Criminal History Backgrounds" required for access to industrial and security areas.

←

EXHIBIT 10
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1.0 **PURPOSE**

This procedure establishes the methods and processes for initiating and controlling unescorted access to the Protected, Security and Industrial Areas of the Rancho Seco Nuclear Generating Facility. Other than completion of General Employee Training (GET), there are no screening requirements for access to Security and Industrial Areas.

2.0 **SCOPE**

2.1 This procedure documents clearance and badging rules for providing one level of unescorted access clearance.

2.2 This procedure meets the requirements of 10 CFR, Parts 50 and 73 and NUMARC Nuclear Power Plant Access Authorization Guidelines, Revision 89-01, August 1989 as endorsed by Reg. Guide 5.66.

3.0 **REFERENCES/COMMITMENT DOCUMENTS**

3.1 References

3.1.1 Rancho Seco Physical Security Plan

3.1.2 Security Plan Implementation Procedures

3.1.3 Title 10 CFR, Parts 50, 26 and 73

3.1.4 NUMARC 89-01 Industry Guidelines for Nuclear Power Plant Access Authorization Programs, August 1989, and Reg. Guide 5.66 which endorses NUMARC 89-01 with a few exceptions.

3.1.5 RSAP-1006, Rancho Seco Fitness for Duty Program

3.1.6 SMUD District Procedure 606-12, Grievances, Monthly-Rated and Exempt Employees

3.1.7 SMUD District Procedure 4.7.4, Substance Abuse

3.1.8 Rancho Seco Administrative Procedure RSAP-1009, Protection of Safeguards Information

3.2 Commitment Documents

3.2.1 Rancho Seco Physical Security Plan

3.2.2 NUMARC Access Authorization Guidelines, Revision 89-01

3.2.3 10 CFR 73.57 Requirements for Criminal History Checks

3.2.4 CCTS Commitment (T880324002)

10→← 3.2.5 Response to NRC NOV 50-312/9802-01, MPC&D 98-102, 06/30/98

4.0 DEFINITIONS

4.1 Aberrant Behavior - A change from an individual's normal behavior or a deviation in behavior from that considered normal by conventional standards. The responsibility and authority for making this determination rests with the individual's supervisor.

4.2 Access Authorization System (AAS) - Authorization, based upon job requirements, which allows unescorted access to an operating nuclear power plant.

4.3 Access to Safeguards Information - Authorization to produce, use, store or transmit Safeguards Information on the basis of a verified "need to know" in order to perform official contractual, licensee duties of employment.

4.4 Applicant - An individual who has been identified by a Designated Representative as requiring access to Rancho Seco.

4.5 Background Investigation - The systematic compilation and evaluation of information collected through inquiries made in person, by telephone or in writing. The intent is to establish the general character, trustworthiness and reliability of applicants for unescorted access to the Protected Area at Rancho Seco Nuclear Generating Station.

4.6 Contractor - A business entity which provides personnel or services to the District. Self-screening contractors may provide the background investigations and psychological evaluations on their own employees. The District may accept all or part of the results of the contractor screening program. Employees of non-screening contractors shall be screened by the District.

4.7 Criminal History Report (CHR) - Written or verbal information disseminated by a Criminal Justice Agency which provides individual arrest and conviction data.

4.8 Industrial Area - The operational plant and surrounding area encompassed by a security fence to which access is controlled.

4.9 NUMARC Access Authorization Guidelines - Industry established guidelines standardizing access authorization requirements. Physical Security The District has accepted these guidelines as a part of the Plan.

4.10 Permanent Employee - A person who is employed by the District for an undefined term. Can be either District or contractor personnel.

4.11 Protected Area - The Fuel Storage Building and pool within. The Protected Area is totally within the Industrial Area.

4.12 Rehire - An individual who has been authorized unescorted access to Rancho Seco, has had a break in employment service, and is rehired for employment at Rancho Seco, whether by the same, or a different employer.

4.13 Security Areas - Areas which are afforded additional security.

(1) Control Room/Alarm Station
(2) Communication Room

4.14 Temporary Employee - A person who is temporarily employed by the District or a contractor who is hired under an employment contract with a defined term.

4.15 Transfer - An individual who has been screened under NUMARC criteria and authorized unescorted access to a nuclear facility and then transfers to another nuclear power plant with an Access Authorization System which also conforms to the NUMARC criteria.

4.16 Unescorted Access - Access privileges qualifying an individual to enter the Industrial, Security and Protected Areas of Rancho Seco Nuclear Generating Station without an escort. Successful completion of unescorted access security screening requirements is verified by the District Manager, General Services.

5.0 RESPONSIBILITIES

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5.1 District Manager, General Services

5.1.1 Coordinate and administer the nuclear plant unescorted access authorization program through the District Supervisor, Security Operations (DSSO).

5.1.2 Ensure proper completion of access authorization requests by designated representatives of the Manager, Plant Closure & Decommissioning.

5.1.3 Ensure that all phases of background investigations for plant access authorization, revocation and renewal are conducted and documented as required by this RSAP.

5.1.4 Grant or deny unescorted access based upon the results of the screening program, Training and Fitness for Duty requirements.

5.1.5 Determine contractors' eligibility to self-screening.

5.1.6 Provide the procedure for challenging the Criminal History Report (see section 6.16) and information contained in the Criminal History Report to individuals wishing to challenge an adverse report.

5.1.7 Participate in the review process for a denied or revoked unescorted access authorization.

5.1.8 Ensure through continuous auditing, that approved site access procedures are properly implemented and associated records maintained.

5.1.9 Audit on an annual basis, the unescorted access screening programs of contractor organizations which certify to the District that their employees meet the criteria for unescorted access to the Protected Area at Rancho Seco Nuclear Generating Station.

5.1.10 Evaluate and audit the performance of investigative agencies and consultants who provide services to the District in support of the nuclear plant access screening program.

5.2 Superintendent, QA/Licensing/Administration

5.2.1 Insure audits of the access authorization system are conducted according to the requirements in the NUMARC Guidelines.

5.3 District Supervisor, Security Operations

5.3.1 Supervise administration of the Access Control Program under the direction of the District Manager, General Services.

5.3.2 Receive and act upon requests for unescorted access authorization by the MPC&D or a Designated Representative.

5.3.3 Process requests for permanent unescorted access authorization.

5.3.4 Inform employees of initial approval, or denial, of unescorted access authorization requests, access withdrawal, or reinstatement, as appropriate.

5.3.5 Process applicants for temporary unescorted access.

5.3.6 Ensure that initial employee training is conducted prior to badge issue.

5.3.7 Maintain badging records in accordance with Section 6.17.2.

5.3.8 Ensure urinalysis screening has been conducted in accordance with current District Policy reflected in the "Fitness for Duty Program".

5.3.9 Provide a monthly Master List to Department Managers, Superintendents & Supervisors for their review.

5.3.10 Ensure follow-up telephone calls are made and letters sent to appropriate Department Managers/ Superintendents/ Supervisors if the Master Lists are not returned by the due date. [Commitment 3.2.4]

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10→ 5.3.11 Conduct annual refresher training for Security staff, including proper handling and review of Criminal History Reports.

← 5.4 Human Resources Representative

5.4.1 Coordinate with the District Security Department in regard to the employment and termination of employees at Rancho Seco.

5.4.2 Notify the District Security Department in cases when the reliability or trustworthiness of individuals may be suspect.

5.5 Self-screening Contractors/Subcontractors

Provide copies of information and their procedures to the District verifying that their unescorted access screening program meets or exceeds all of the requirements of this procedure.

5.6 Non-screening Contractors/Subcontractors

Notify the District Manager, General Services or Designated Representative of a requirement for unescorted access through the Department Manager responsible for their work.

5.7 Department Managers

5.7.1 As initiation of the personnel badging process, provide to security the names of individuals who require unescorted access to Protected and Security Areas on an Authority to Badge Form (Attachment 1).

5.7.2 Review the Master List monthly and advise Security, in writing, of changes to Protected or Security Areas access requirements.

5.7.3 Immediately notify Security in writing when an individual no longer needs access to the Protected and Security Areas.

5.7.4 Ensure supervisors within their departments abide by the Continual Behavior Observation Program.

5.8 The Psychologist

5.8.1 Provide technical and professional psychological expertise to accomplish the goals and policies which implement the programs established by the District Manager, General Services.

5.8.2 Ensure program requirements are consistent with sound psychological practices which ensure protection of individual employees and the public health and safety in general.

5.8.3 Conduct psychological assessments for use in determining suitability for unescorted access into the Rancho Seco Protected Area.

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5.9 Corporate Contract Administrators

Ensure that contracts involving employment of contractors/ subcontractors comply with these procedures, including background investigation and psychological assessment.

5.10 Individuals

5.10.1 Provide all information required to conduct a background check.

5.10.2 Participate in a Psychological Evaluation.

5.10.3 Consent to fingerprints for FBI and DOJ Criminal History
10→← Checks. **(Industrial, Security, and Protected Area Access)**

5.10.4 Sign required "Release of Information" forms prior to initiating badging process.

5.10.5 Complete Pre-employment and Fitness for Duty requirements.

6.0 **PROCEDURE**

6.1 Background Investigation Elements
[Commitments 3.2.1, 3.2.2, 3.2.3]

6.1.1 An investigation of the background history shall be completed for all individuals requiring unescorted access to the Rancho Seco Nuclear Generating Station Protected Area.

10→ 6.1.1.1 Investigations shall be initiated by the District Supervisor,
← Security Operations upon receipt of an Authority to Badge Form. Prior to conducting the investigation, the individual to be granted unescorted access shall provide written authorization to make necessary inquiries to include:

(1) Law Enforcement Agencies

(2) Former Employers and Supervisors

(3) Credit Bureaus

(4) Character References

(5) Military Service

(6) Educational Institutions Attended

(7) Psychological Evaluation Elements

(8) Drug Screening in accordance with current District "Fitness for Duty" policies.

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6.1.1.2 The individual shall be informed of the types of records that may be produced, the location where filed, their retention period, and their rights concerning access to the information, and to whom and under what circumstances the information shall be released.

6.2 True Identity
An applicant's identity shall be verified by means such as comparing the social security number and date of birth, educational, military, Driver's license or other historical records and/or through character references who have a personal acquaintance with the applicant.

6.3 Employment History

6.3.1 Employment history shall be verified for the past five years through contacts with previous employers or since the age of 18, whichever period is shorter.

6.3.1.1 This inquiry shall include position held, reason for termination, eligibility for rehire, disciplinary record, known or suspected drug or alcohol problems, arrests, instances of dishonesty and/or abnormal behavior or other information that would adversely reflect on the reliability or trustworthiness of the individual.

6.3.1.2 Activities during periods of unemployment in excess of 30 days shall be verified.

6.3.1.3 Verified full-time attendance at educational institutions or military services satisfies employment history requirements for that period.

6.3.2 Requests for unescorted access may be approved based upon a minimum of three years of employment history if the entire five year period cannot be covered. However, an attempt should be made to cover the entire five year period. A best effort attempt to verify a five-year employment history record is required; however, a minimum three-year inclusive employment history immediately preceding application for unescorted access is mandatory. attempts to contact previous employers, obtaining verification by telephone, letter or other means, etc. If the employment history check could not be accomplished for the entire five-year period, an explanatory statement delineating the reasons must be included.

6.3.3 If previous employers desire a formal written request for employment history, this shall be provided. A copy of SMUD Form 1183, "Authority to Release Information and Records (Attachment 2)," shall be included with the requesting letter.

6.4 Educational History

The claimed enrollment at any educational institution during the past five years shall be verified. The highest post high school attendance or degree regardless of time shall be verified.

6.5 Military History

6.5.1 Military service claimed within the last five years shall be verified through receipt of a Form DD 214 or other National Personnel Records Center (NPRC) documents. A "Federal Request Pertaining to Military Records", Standard Form 180, shall be signed by the individual and submitted to the NPRC to receive a copy of the Form DD 214 (Attachment 3). DD 214 Forms provided by the applicant do not meet these requirements, however they may be submitted to verify other associated information.

6.5.2 If it becomes known that an individual's discharge is other than honorable based solely on receipt of a Form DD 214, or a Form DD 214 is not available from NPRC, further investigation shall be made.

6.5.3 If unescorted access was granted prior to receipt of NPRC records, evidence that the request for military history was submitted within ten working days of granting unescorted access shall be contained in the access authorization file. Documented attempts should be made at least every six months or until a response from the NPRC is received.

6.5.4 Unescorted access may be granted for up to 180 days, pending receipt of the DD 214 provided that evidence of request is on file and all other requirements for background and psychological assessments are satisfied completely.

6.5.5 Military service claimed for a foreign government should be considered. A good faith attempt to verify military service for a foreign government shall be made during the conduct of the background investigation.

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6.6 Criminal History

10→ 6.6.1 A criminal history investigation shall include (1) a review of Criminal History Reports (CHRs) obtained from the Federal Bureau of Investigation (FBI) and the California Department of Justice (DOJ), and (2) a comparison of the CHRs against statements the applicant made on access authorization screening paperwork.

6.6.1.1 Upon receipt of CHRs, Security personnel shall forward the CHRs to District Security supervision for review. Criminal history information shall not be placed in personnel badging folders until after appropriate District Security supervision review.

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6.6.2 Security shall conduct FBI and DOJ Criminal History background investigations on all employees requesting unescorted access to the Rancho Seco Industrial, Security, and Protected Areas.

←

6.6.3 Fingerprinting may not be required if the individual returns to the same nuclear power utility that granted unescorted access, such access has not been interrupted for a continuous period of more than 365 days and previous access had been terminated under favorable conditions. Information obtained from a FBI conducted CHR may be transferred in accordance with Section 6.14.3 of this RSAP.

6.6.4 Specific challenge procedures for the CHR are in Section 6.16 of this procedure.

6.7 Credit History

A check of the individual's credit history shall be performed for the previous five years or since age 18, whichever period is shorter. Credit history shall be verified by calling or writing to a credit reporting agency. If this check does not reveal the requested information, personal credit references listed by the applicant or those developed through other contacts shall be contacted.

6.8 Character and Reputation

6.8.1 The individual's reputation for emotional stability, reliability and trustworthiness shall be determined by four character references.

6.8.2 The applicant shall provide names of five character references. Two additional references shall be developed independently during the investigation. There should be no references provided from relatives.

6.8.3 Emphasis during the investigation must be placed upon identified psychological problems, criminal history, illegal susceptibility to coercion, history of violent or abnormal use or possession of controlled substances, abuse of alcohol, behavior, or other conduct relating to the trustworthiness, or reliability, to discharge job duties within a nuclear power plant.

6.9 Psychological Evaluation Elements [Commitment 3.2.2]

6.9.1 An evaluation by a licensed psychiatrist or psychologist professionally trained to identify aberrant behavior shall be completed prior to granting unescorted access to the Rancho Seco Nuclear Generating Station Protected Area.

6.9.1.1 For District employees, non self-screening contractor personnel and rehires requiring a psychological evaluation the District Supervisor, Security Operations shall coordinate scheduling the psychological evaluation with the psychologist.

6.9.1.2 For personnel transferring clearances, the District Supervisor, Security Operations shall coordinate transfer of the psychological evaluation.

6.9.2 Method of Conducting the Psychological Evaluation:

6.9.2.1 The administration of the psychological evaluation shall be accomplished by a professional services firm.

6.9.2.2 A psychological evaluation may not have to be accomplished Providing that the individual returns to the same nuclear power utility that granted unescorted access, such access has not been interrupted for a continuous period of more than 365 days, previous access had been terminated under favorable conditions and a MMPI was the instrument utilized for the previous psychological evaluation. Information obtained as the result A MMPI psychological evaluation may be transferred in accordance with Section 6.14.3 of this RSAP.

6.9.2.3 The District should use the Minnesota Multiphasic Personality Index (MMPI) as the basic evaluation tool. A clinical evaluation shall be required if any of the indices fall outside the established norms, as determined by the District Psychologist, or the psychologist administering the MMPI.

6.9.2.4 For personality test results that are inconclusive or indicate possible abnormal personality traits, a clinical interview of the individual by a psychologist or psychiatrist shall be scheduled. The clinical interview shall verify that the individual is stable, reliable and sufficiently trustworthy to work at a Nuclear Power Plant.

6.9.2.5 Contractor personnel whose test results and psychological interviews indicate they are unsuitable for unescorted access into a nuclear power generating station may retake the MMPI psychological evaluation after a six months waiting period has elapsed.

6.9.3 Reporting of Psychological Assessment Results

The evaluating psychologist or psychiatrist shall provide to the District Supervisor, Security Operations a written statement of the result of the personality test and the clinical interview (if required). In the case of a recommendation for denial, temporary suspension or revocation, a statement pertaining to the individual's behavior suitability for unescorted access to the Protected Area at Rancho Seco shall be included with the recommendation to the District Supervisor, Security Operations.

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6.10 Screening Requirements for Permanent Unescorted Access Authorization

6.10.1 One level of unescorted access authorization may be granted to personnel who have met the provisions of this RSAP.

6.10.2 Permanent Unescorted Access Authorization may also be granted by Grand-fathering if the individual meets one of the following criteria:

6.10.2.1 The individual held a valid uninterrupted unescorted access authorization to Rancho Seco for at least 180 days prior to April 25, 1991.

6.10.2.2 Individual has a transferable access authorization from another utility i.e., badged under NUMARC and was favorably terminated within the previous 365 days.

6.10.2.3 Individual has been screened by a self-screening contractor accepted by the District (see Section 6.11).

6.10.2.4 Individual has a previously granted, up-dated, reinstatable access authorization from Rancho Seco (see Section 6.13).

6.10.2.5 Individuals who have worked for the District at non-Rancho Seco location's who require unescorted access clearance into the Protected Area at Rancho Seco must successfully meet the screening and the Background Investigative Elements described in Section 6.1 of this RSAP.

6.10.2.6 NRC employees and NRC contractors who possess a "Q" or "L" clearance and have been certified by the NRC Regional Administrator to have met the intent of the requirements of this section, shall be granted unescorted access authorization to the Protected Area at Rancho Seco without further psychological testing or investigation under the provisions of this RSAP.

6.10.3 Temporary Access Authorization

6.10.3.1 May be granted for a period not to exceed 180 days based on the following requirements:

6.10.3.1.1 Pass a psychological evaluation that meets the requirements of Section 6.9 within the past 365 days.

6.10.3.1.2 Successful completion of a credit reference check.

6.10.3.1.3 Favorable recommendation of one developed character reference. The reference should have had frequent direct association with the applicant.

6.10.3.1.4 Evidence that fingerprints have been taken and submitted to the State Department of Justice and the NRC for conduct of a criminal history check by the FBI. Receipt of the Criminal History Reports are not required before granting unescorted access.

6.10.3.1.5 Successful completion of District Drug Screening as required by the District "Fitness for Duty Program": within the previous 60 days.

6.10.3.1.6 Successful completion of General Employee Training.

6.10.3.1.7 ID verification through one photo identification (e.g., Driver's License, Military ID, Passport or similar document).

6.10.3.1.8 Conduct of employment check for the past year.

6.10.3.1.9 The NUMARC Guidelines provide for temporary access authorization for 180 uninterrupted days. Any longer access authorization is not "temporary". Using this provision to allow back-to-back temporary access authorizations for an individual by the District would be a misuse of this provision.

6.11 Requirements for self-screening Contractors
[Commitment 3.2.2]

6.11.1 Background investigations and psychological assessments conducted by self-screening contractors who meet the requirements of these guidelines and make their records available for audit, may be forwarded to the District for consideration for unescorted access authorization. Documents relating to the background investigation and psychological assessment may be sent by mail, computer data transfer, telecopy or other reliable method. The utility retains the ultimate responsibility for assuring that individuals granted unescorted access to the facility meet the requirements of the unescorted access authorization program. Utility unescorted access authorization programs are not intended to modify, subjugate, or abrogate any review rights that currently exist for contractor and vendor employees with their respective employers. The following procedures apply:

6.11.1.1 The Responsible on site Department Manager or his designated representative shall notify Security of the need for access (see Attachment 1).

6.11.1.2 The individual to be granted unescorted access shall sign an Authorization to Release Information and provide personal information to be used in verifying identity.

6.11.1.3 Security shall forward the Authorization to Release Information to the self-screening contractor.

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6.11.1.4 The self-screening contractor shall forward the hard copy documents of the background investigation elements(Section 6.1) through (Section 6.9) to Rancho Seco Security.

6.11.1.5 All background information shall be current as of the date of employment. Psychological dates are considered current, if the MMPI was utilized as the evaluation instrument, a behavioral observation program has been in effect, and termination from prior employment was under favorable conditions within the past 365 days.

6.11.2 The screening package shall be reviewed for access authorization as described in Section 6.14.

6.12 Requirements for Reinstatement of Protected Area Access

6.12.1 Individuals who require reinstatement of unescorted access to the Protected Area at Rancho Seco fall into various categories of employment. Changes in employment status shall be processed upon receipt of a Access Termination/Notice of Transfer (Attachment 5) and request for Authorization to Badge Form.

6.12.1.1 SMUD to Contractor

Individuals who were badged for unescorted access into the Protected Area at Rancho Seco and have been favorably terminated from SMUD employment for less than 30 days can be Grand-fathered unescorted access into the Protected Area.

6.12.1.2 SMUD to Contractor

Individuals who meet the requirements of 6.12.1.1 but have been terminated from SMUD in excess of 30 days shall meet the requirements of the screening elements covered in Section 6.1 of this RSAP to have their unescorted access reinstated.

6.12.1.3 SMUD Returnee

Individuals who were badged for unescorted access and Depart Rancho Seco to work for the District in another location, e.g., SMUD - GEO and then return to Rancho Seco can have access reinstated if the break in service at Rancho Seco was less than 365 days and access was terminated under favorable conditions. If the break in service was greater than 365 days the individual shall be required to meet the screening elements covered in Section 6.1 of this RSAP in order to reinstate their unescorted access.

6.12.1.4 SMUD Temporary Employees

Individuals who are temporary SMUD employees working at Rancho Seco have previously been screened under two Different criteria prior to granting their unescorted access into the Protected Area. For this reason, those individuals changing employers/areas, or status (i.e. Temporary to Permanent) shall be screened according to the Rancho Seco Physical Security Plan as follows:

(1) Those individuals who have had a five year employment and character check shall be granted unescorted access by Grand-fathering when they change employers, departments or status at Rancho Seco.

(2) Those individuals who have not had the five year employment and character check as above shall be required to fulfill the requirements of this RSAP and NUMARC Guideline 89-01, or amendments thereto.

6.12.1.5 Contractor to SMUD

Contractor personnel who terminate their employment with a contractor and transfer to SMUD to work at Rancho Seco shall meet the requirements of the screening elements covered in Section 6.1 of this RSAP.

6.12.1.6 Contractor to Contractor

Individuals who transfer from one contractor to another while employed at Rancho Seco shall meet the requirements of the screening elements covered in Section 6.1 of this RSAP under all circumstances.

6.12.1.7 Contractor Returnee

Contractor personnel who have a break in their employment And have been terminated under favorable conditions shall Meet the requirements of the screening elements covered in Section 6.1 of this RSAP.

6.12.1.8 RSAP-1003 Qualified

Individuals who have been screened for unescorted access Into Rancho Seco Protected Area under this RSAP can have Access reinstated if their termination was under favorable conditions and they return for employment within 365 days.

6.12.2 Where the individual's unescorted access authorization has been interrupted for more than 365 days a complete background investigation and MMPI shall be accomplished to meet the screening requirements covered in Section 6.1 of this RSAP.

6.12.3 Requiring a complete psychological assessment and background investigation after every break of 365 days or less in the behavioral observation program is not feasible. However, there is information available to the District from other sources. For example, if an authorization lapses because an employee took a leave of absence, it is reasonable to assume that the District has some indication of the intended activities of the employee during such leave. Prior to reinstatement of the access authorization, reasonable efforts shall be made to ascertain that whatever activities the employee engaged in during his or her absence would not have the potential to affect the employee's trustworthiness and reliability.

6.13 Transfer of Unescorted Access Authorization Information [Commitment 3.2.2].

6.13.1 Screening accomplished in accordance with this procedure, or NUMARC 89-01 criteria, as endorsed by Reg. Guide 5.66, may be transferred to another member utility, or received from another utility for granting unescorted access into the Protected Area at Rancho Seco.

6.13.1.1 The final authorization for unescorted access remains the responsibility of the District Manager, General Services and shall be allowed only upon receipt of the required supporting documents.

6.13.1.2 Unescorted access authorization granted by one utility in accordance with this RSAP or NUMARC Guidelines 89-01 as endorsed by Reg. Guide 5.66 may be transferred to another participating utility, or used by the District Manager, General Services to grant unescorted access into the Protected Area at Rancho Seco. This information may be transmitted by correspondence, computer data or telecopy if the gaining utility verifies that the individual currently holds a valid unescorted access authorization, or had a valid unescorted access authorization which was terminated under favorable conditions within the previous 365 days, and the individual has been positively identified by cross checking information such as name, date of birth, Social Security Number. A copy of the FBI Fingerprint Criminal Record may be included or transferred separately. In order to minimize problems associated with program variances for a transfer of a valid unescorted access authorization from one utility to another, all requirements are fulfilled as long as the minimum requirements of the Fitness-for-Duty Rule and the Access Authorization Rule are met.

6.13.2 If it has been determined by the screening utility that unescorted access should be denied to an individual, that information shall be transferred to the member utility requesting transferable screening.

6.13.3 Initiation of the transfer process shall include:

6.13.3.1 The responsible on site Department Manager/ Superintendent/Supervisor or his designated representative shall notify Security of the need for access (see Attachment 1).

6.13.3.2 The individual requesting unescorted access shall sign an Authorization to Release Information and provide personal information to be used in verifying identity (see Attachment 2).

6.13.3.3 Security shall forward the Authorization to Release Information to the applicable utility.

6.13.4 The facility verifying prior access shall also indicate:

6.13.4.1 Employment termination date.

6.13.4.2 If the termination was under favorable conditions.

6.13.5 The package shall be reviewed for access as described in Section 6.14.

6.14 Evaluation Criteria for Unescorted Access Authorization [Commitment 3.2.2].

6.14.1 Determinations to grant, deny or revoke access authorization shall be based on the actual results of the Background Investigation and Psychological Assessment. Determination shall not be made solely on verification that such documents exist. The criteria for the decision to grant or deny unescorted Protected Area access are as follows:

6.14.1.1 Withdrawal of consent to a psychological assessment or background investigation shall be deemed as withdrawal of the application for unescorted access authorization.

6.14.1.2 Willful omission, misrepresentation or falsification of pertinent information in the application or Personnel Screening for Security List Authorization.

6.14.1.3 Use of non-prescribed narcotics, hallucinogenic drugs, or other controlled substances and/or excessive usage of alcohol without evidence of rehabilitation.

6.14.1.4 A criminal conviction within the past five years for narcotics possession.

6.14.1.5 A criminal conviction within the past seven years for narcotics sale or possession with intent to sell.

6.14.1.6 A conviction of two or more Driving Under the Influence (DUI) within the past five years.

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6.14.1.7 A verified positive result on the Fitness for Duty screening (Refer to RSAP 1006, Fitness for Duty).

6.14.1.8 A felony conviction within the past seven years involving arson, deadly weapons, explosives, grand larceny and/or premeditated crimes of violence.

6.14.1.9 Any conviction regardless of time, under circumstances that cause concern regarding the District's ability to protect personnel, property, equipment and the health and safety of the general public.

6.14.1.10 History of mental illness or emotional instability that may cause a significant defect in the individual's judgement or reliability. Denial of a clearance can be based upon expert medical opinion which advises against granting a clearance for an individual.

6.14.1.11 Any evidence of coercion, influence, or pressure that may be applied by outside sources to compel an individual to commit an act of sabotage that could affect the health, or safety of the public, or plant personnel.

6.14.1.12 Failure to complete all sentences, probation, and/or work furlough programs, prescribed by law shall be evaluated by the District Manager, General Services or Designated Representative on a case by case basis.

6.14.1.13 Any other information which would adversely reflect upon the reliability and trustworthiness of the individual as it relates to being permitted unescorted access.

(1) Involvement in an act of sabotage, espionage or treason.

(2) Participation or association in a group which unlawfully advocates or practices violence to prevent others from exercising their rights.

(3) Acts of violence or participation in a group which violently protests against private business, public utilities and nuclear energy.

(4) Willful violation of security regulations required at nuclear power plants.

6.14.2 Permanent Unescorted Access Authorization Files on employees shall contain the following information before permanent unescorted access can be granted to the Protected Area:

(1) True Identity - Verified.

(2) Employment History - Completed.

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(3) Educational History - Completed.

(4) Military History - Completed or in progress and documented per Section 6.5 (May grant access for 180 days pending receipt of the DD 214).

10→ (5) Criminal History Review - Criminal History Reports (CHRs) from the Federal Bureau of Investigation (FBI) and the California Department of Justice (DOJ) - Satisfactory review completed.

← (6) Credit History - Completed.

(7) Character Check - Completed.

(8) Psychological Assessment - Completed.

(9) Drug Screening - Satisfactorily completed.

(10) General Employee Training - Verification of satisfactory completion.

6.14.3 Any employee, may be granted temporary unescorted access to the Protected Area for 180 days if the following documentation is available in the badging folder:

(1) Verified identity.

(2) Credit Check - Completed.

(3) Character Check - Recommendation of one developed character reference who has had frequent direct association with the applicant.

(4) Employment Check

(5) Criminal History Report - Evidence that the fingerprints were submitted within 10 days of badging to the FBI and DOJ or had been accomplished and previous termination was within 365 days.

(6) Psychological Evaluation - Passed, or previously qualified under NUMARC Guidelines 89-01 and termination was under favorable conditions within past 365 days.

(7) Drug Screening - Satisfactorily completed within the past 60 days, or in accordance with current Fitness for Duty Rules.

(8) General Employee Training - Verification of satisfactory completion.

6.14.5 Initial Determination of Access

6.14.5.1 All badging folders shall be initially reviewed by the District Supervisor, Security Operations and one other District person who works in Security. The criteria used in the review is listed in paragraph 6.14.

6.14.5.2 If there is no derogatory information, the District Supervisor, Security Operations shall authorize issue of an unescorted site access badge and ensure the badging folder has been reviewed by another District person who works in Security.

6.14.5.3 If derogatory information is indicated based on the criteria in paragraph 6.14, the folder shall be given to the District Manager, General Services or Designated Representative for appropriate action.

6.14.5.3.1 The District Manager, General Services or Designated Representative shall make the initial determination whether or not to grant access.

6.14.5.3.2 If access is denied, the individual and the responsible Department Manager/Superintendent/Supervisor shall be immediately notified. If temporary access had been granted, access shall be revoked.

6.14.6 Final Review Process

6.14.6.1 Employees of the District, contractors or vendors whose employment is, or may be terminated as a direct result of a denial or revocation of unescorted access authorization shall:

6.14.6.1.1 Be informed in writing, within five working days, of the basis for denial or revocation of unescorted access.

6.14.6.1.2 Have the opportunity to provide additional or clarifying information in writing, to the District Manager, General Services or Designated Representative who shall within five working days, reverse or reaffirm the decision to deny unescorted access.

6.14.6.1.3 If denial of unescorted access is reaffirmed, within five working days the individual may request the decision together with the additional information to be reviewed. The review for employees shall be conducted through the District Grievance Procedure 606-12. This process allows appeals through arbitration, referral to the Joint Advisory Council or appeal to the General Manager. For Contractors or Vendors, an impartial reviewer shall be appointed by the District Manager, General Services.

6.14.7 Temporary Suspension/Revocation

6.14.7.1 When an individual becomes the subject of an unfavorable reevaluation due to observation and/or suspected aberrant behavior, that individual's privilege of unescorted access may be suspended until such time as a determination is made to reinstate, or permanently deny the authorization.

6.14.7.2 The determination to reinstate or to deny access shall be made within five working days of completion of the investigation, and in no case, more than ten working days following the suspension.

Proc. violation

6.14.7.2.1 The determination shall be made by the District Manager, General Services based on evidence presented.

6.14.7.3 If it is established that aberrant behavior is evident or a security hazard exists, or that the individual may pose a threat to personnel of the District, the District Manager, General Services shall have the authority to revoke permanently the privilege of unescorted access authorization. Final review of the District Manager, General Services decision may be conducted as discussed in 6.14.6.

6.15 Continual Behavior Observation Program (CBOP)
[Commitment 3.2.2]

6.15.1 All individuals granted unescorted access to Rancho Seco are subject to Continual Behavior Observation. The purposes of the program are as follows:

6.15.1.1 To assure detection of alcohol and drug abuse, and other behavior that may evidence a threat to commit radiological sabotage, or be unreliable, or untrustworthy in the performance of duties.

6.15.1.2 To provide continual behavior observation that assigns management/supervisory personnel the responsibility to observe personnel for behavioral traits and patterns that may reflect adversely on their trustworthiness, or reliability and reporting of those observations to appropriate District Management. (General Services Mgr Don Dungey)

6.15.2 Training shall be conducted as part of the annual Rancho Seco General Employee Training which reasonably assures that Management/Supervisory personnel have the awareness and sensitivity to detect and report changes in behavior, to include suspected alcohol and drug abuse, which could adversely reflect upon the individual's trustworthiness or reliability, and to refer these persons to the District Management for evaluation and action.

6.15.2.1 This training satisfies the requirement for training Management/Supervisor personnel.

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6.15.2.2 Individuals with unescorted access authorization shall be notified of their responsibility to report any arrest to their supervisors.

6.15.3 Administration of the CBOP.

X 6.15.3.1 All supervisors are responsible for observing the behavior of their subordinates. Behavior which reflects the possibility of drug or alcohol abuse, or behavior traits or patterns that reflect adversely on the employee's trustworthiness, or reliability shall be reported to their Department Manager and to the District Manager, General Services or Designated Representative.

6.15.3.2 The Department Manager and District Manager, General Services or Designated Representative shall determine the action to be taken. Actions could include:

6.15.3.2.1 For Cause Testing for drugs and alcohol (RSAP-1006).

6.15.3.2.2 Revoking Protected and Security Areas or site access.

6.15.3.3 When a situation is identified that requires revoking of site access, the District Manager, General Services or Designated Representative shall ensure the proper action to deny site access is taken.

6.15.3.4 After satisfactory resolution of a problem, the District Manager, General Services or Designated Representative may reinstate access to the individual upon the recommendation of the employee's Department Manager.

6.16 Criminal History Report - Challenge Procedures [Commitment 3.2.2]

6.16.1 The District Manager, General Services or Designated Representative may, upon review of an individual's Criminal History Report, make an adverse determination Regarding unescorted access, or access to Safeguards Information.

6.16.1.1 In these circumstances the individual shall have the opportunity to review and challenge the Criminal History Report. The challenge process for Criminal History Report is independent of the final review process for denial or revocation of access.

6.16.1.2 The challenge process shall be conducted before the final review is completed if one of the causes for denial or revocation of site access is the Criminal History Report.

6.16.1.3 Once the challenge process is completed it shall not be reopened during the final review.

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6.16.2 Challenge Procedure

6.16.2.1 If, after reviewing the record, the applicant believes that it is incorrect or incomplete in any respect, they may initiate challenge procedures.

6.16.2.1.1 These procedures include direct challenges by the individual to the agency, (i.e.; law enforcement agency that contributed the questioned information, or may direct the challenge to the accuracy or completeness of any entry on the Criminal History Record to the Assistant Director, Federal Bureau of Investigation, Identification Division, Washington D.C., 20537-9700 as set forth in 28 CFR 16.30 through 16.34).

6.16.2.1.2 In the latter case, the FBI will then forward the challenge to the agency that submitted the data, requesting that agency to verify or correct the challenged entry.

6.16.2.1.3 Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency.

6.16.2.2 The FBI shall be requested by the individual making the challenge to forward any revisions of the Criminal History Report to the District Manager, General Services or Designated Representative.

6.16.2.3 Unescorted access shall not be granted during the challenge period.

6.16.3 Challenge Review

6.16.3.1 Upon receipt of revisions to the Criminal History Report from the FBI, the District Manager, General Services or Designated Representative shall reevaluate the decision regarding granting access.

6.16.3.2 Prior to any final adverse determination, the District Manager, General Services or Designated Representative shall make available to the individual the contents of records obtained from the FBI for purpose of assuring correct and complete information.

6.16.3.3 In all instances, the Criminal History Report shall be treated as a confidential document.

6.16.4 Appeal Process

NOTE

Final determination of clearance authorization shall be made by the District Manager, General Services or Designated Representative.

6.16.4.1 The District Supervisor, Security Operations shall review the screening folder and all Criminal History Reports returned from the Contractor and,

6.16.4.1.1 If the criminal history deficiencies equal or surpasses the thresholds listed in section 6.14, the reports shall be submitted to the District Manager, General Services or Designated Representative for determination of access approval or revocation.

6.16.4.1.2 The District Manager, General Services or Designated Representative shall determine if unescorted access shall be granted during the challenge process and document the decision on the Criminal History Report Processing Sheet.

6.16.4.2 If the Criminal History Report contains information which could lead to an adverse action taken against the applicant, they shall be given the opportunity to challenge the information contained in the report before any adverse action is taken.

6.16.4.2.1 The applicant shall be notified in writing of the contents of the Criminal History Report and allowed to review it.

6.16.4.2.2 If the applicant chooses to challenge the contents, a Criminal History Report Challenge Form (Form SEC-030) shall be initiated to document the challenge process.

6.16.4.3 The applicant has ten working days from date of receipt of the Criminal History Report Challenge Form (Attachment 4) to submit evidence of the challenge to the District Manager, General Services or Designated Representative. This evidence of challenge must include:

6.16.4.3.1 A receipt for a registered or certified letter indicating the name of the individual mailing the letter and the person or agency the letter was mailed to.

6.16.4.3.2 A copy of the letter to the applicable Law Enforcement Agency requesting the correction or confirmation must be sent to the District Manager, General Services or Designated Representative.

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6.16.4.3.4 The applicant shall be allowed 60 calendar days from the date the challenge was mailed to return the confirmation or correction to the Criminal History Report.

6.16.4.4 Should the applicant choose not to challenge the Criminal History Report, the decision reflecting this shall be documented on the Criminal History Report Challenge Form.

6.16.4.5 The District Manager, General Services or Designated Representative shall then make a decision based on the existing Criminal History Report and other background data.

6.16.4.5.1 If a favorable determination is made, the applicant shall be allowed permanent unescorted Protected Area access, or access to Safeguards Information as requested by the applicant's supervisor.

6.16.4.5.2 If adverse action is taken as a result of a review of the Criminal History Report, corrections to the Criminal History Report, and/or other information gathered during the background investigation, the individual's site access and access to Safeguards Information shall be denied/revoked.

6.16.4.5.3 If unescorted access is denied/revoked, the individual may be escorted as a visitor.

6.16.4.6 If a final determination is made to deny access, a written appeal may be made by District employees or candidates for employment to the District Manager, General Services or Designated Representative.

6.16.4.6.1 A full evaluation and a written response shall be sent to the applicant within ten working days.

6.16.4.6.2 In the event that termination of employment would result from the revocation or denial of access, District employees are entitled to a further appeal process as described in SDP 606-12. The General Manager has final approval authority for such actions.

6.17 Documentation [Commitment 3.2.2]

6.17.1 The District, its representatives, contractors or vendors who collect personal information for the purpose of processing access authorization shall establish and maintain files and procedures for protection of this information. The actual data on each badged individual shall be retained by the District Manager, General Services or Designated Representative who shall establish the following:

6.17.1.1 That a background investigation and psychological assessment was conducted for each person granted unescorted access.

6.17.1.2 That individuals who were granted unescorted access authorization under the "Grandfather Clause" met the requirements at the time access was granted.

6.17.1.3 That individuals who were granted unescorted access on a temporary basis, satisfactorily met the requirements for temporary access.

6.17.2 Records/forms concerning unescorted access shall be maintained for a minimum period of five years after the need for unescorted access is terminated.

6.17.3 Documents generated during the security screening process shall be maintained in accordance with the Physical Security Plan and when applicable in Confidential files to preclude unauthorized use. These files shall be available for examination by the NRC.

7.0 RECORDS

The following individual/packaged documents and related correspondence completed as a result of the performance or implementation of this procedure are records. They shall be transmitted to records management in accordance with RSAP 0601, Nuclear Records Management.

(1) Personnel Badging Records

AUTHORIZATION FOR BADGING

AUTHORIZATION FOR BADGING

TO: SECURITY, MAIL STOP N101

DATE:

FROM:

SUBJECT: AUTHORIZATION FOR BADGING

NAME: _____

TITLE: _____

COMPANY: _____

BADGE TYPE: _____
(Indicate protected or Industrial)

SECURITY ZONES: CONTROL ROOM/ALARM STATION COMMUNICATION ROOM

MAIL STOP: _____ EXTENSION: _____

SUPERVISOR: _____

DEPT. MANAGER: _____

SUPERVISOR CODE: _____

APPROVED: _____
Approved Designated Representative

AUTHORITY TO RELEASE INFORMATION AND RECORDS

SACRAMENTO MUNICIPAL UTILITY DISTRICT

AUTHORITY TO RELEASE INFORMATION AND RECORDS

TO: Any person having knowledge of my conduct or activities; or
Any past or present employer; or
Any Credit Bureau, Retail Merchants Association, Bank,
Financial Institution or any other Credit Extending Organization; or
Any Dean, Registrar, Principal, Counselor, or Instructor or other
Authorized person at a School (University, College, High School,
Trade School, or other); or
Any Doctor, Hospital, Clinic, or Sanatorium; or
State Government, or of the Federal Government.

I, _____, hereby authorize the
Name (typed or printed)
Sacramento Municipal Utility District to conduct an appropriate check including but not limited to personal interviews for determination of my eligibility to occupy a position of trust In maintaining the public health and safety. I authorize all persons who may have information relevant to this check to disclose it to the Sacramento Municipal Utility District or its agents, and I release all persons from liability on account of such disclosure. I hereby further authorize that a photocopy of this authorization may be considered as valid as an original.

This authorization is valid for a period of five calendar years from the date given below, unless my employment with the Sacramento Municipal Utility District is terminated at an earlier date, in which case this authorization shall be cancelled on the date of employment termination.

Date: _____ Signature: _____

Date of Birth: _____ (furnished for reasons of positive identification)

Address: _____

_____

STANDARD FORM 180

REQUEST PERTAINING TO MILITARY RECORDS

Please read instructions on the reverse. If more space is needed, use plain paper.

PRIVACY ACT OF 1974 COMPLIANCE INFORMATION. The following information is provided in accordance with 5 U.S.C. 552a(e)(3) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and E.O. 9397 of November 22, 1943. Disclosure of the information is voluntary. The principal purpose of the information is to assist the facility servicing the records in locating and verifying the correctness of the requested records or information to answer your inquiry. Routine uses of the information as established and published in accordance with 5 U.S.C. 552a(e)(4)(D) include the transfer of relevant information to appropriate Federal, State, local, or foreign agencies for use in civil, criminal, or regulatory investigations or prosecution. In addition, this form will be filed with the appropriate military records and may be transferred along with the record to another agency in accordance with the routine uses established by the agency which maintains the record. If the requested information is not provided, it may not be possible to service your inquiry.

SECTION I – INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much as possible)

1. NAME USED DURING SERVICE (Last, first, and middle)
2. SOCIAL SECURITY NO.
3. DATE OF BIRTH
4. PLACE OF BIRTH

5. ACTIVE SERVICE, PAST AND PRESENT (For an effective records search, it is important that ALL service be shown below)

BRANCH OF SERVICE (Also, show last organization, if known)	DATES OF ACTIVE SERVICE: DATE ENTERED	DATE RELEASED	Check one: OFFICER	ENLISTED	SERVICE NUMBER DURING THIS PERIOD

6. RESERVE SERVICE, PAST OR PRESENT — If "none," check here ▶ ☐

6. BRANCH OF SERVICE	8. DATES OF MEMBERSHIP: FROM	TO	9. Check one: OFFICER	ENLISTED	10. SERVICE NUMBER DURING THIS PERIOD
			☐	☐	

7. NATIONAL GUARD MEMBERSHIP (Check one) ☐ a. ARMY ☐ b. AIR FORCE ☐ c. NONE

11. STATE	12. ORGANIZATION	13. DATES OF MEMBERSHIP: FROM	TO	14. Check one: OFFICER	ENLISTED	15. SERVICE NUMBER DURING THIS PERIOD
				☐	☐	

16. IS SERVICE PERSON DECEASED ☐ YES ☐ NO — If "yes," enter date of death

17. IS (WAS) INDIVIDUAL A MILITARY RETIREE OR FLEET RESERVIST ☐ YES ☐ NO

SECTION II – REQUEST

1. EXPLAIN WHAT INFORMATION OR DOCUMENTS YOU NEED; OR, CHECK ITEM 2; OR, COMPLETE ITEM 3

2. IF YOU ONLY NEED A STATEMENT OF SERVICE check here ☐

3. LOST SEPARATION DOCUMENT REPLACEMENT REQUEST (Complete a or b, and c.)

☐ a. REPORT OF SEPARATION (DD Form 214 or equivalent)	YEAR ISSUED	This contains information normally needed to determine eligibility for benefits. It may be furnished only to the veteran, the surviving next of kin, or to a representative with veteran's signed release (Item 5 of this form).
☐ b. DISCHARGE CERTIFICATE	YEAR ISSUED	This shows only the date and character of discharge. It is of little value in determining eligibility for benefits. It may be issued only to veterans discharged honorably or under honorable conditions, or, if deceased, to the surviving spouse.

c. EXPLAIN HOW SEPARATION DOCUMENT WAS LOST

4. EXPLAIN PURPOSE FOR WHICH INFORMATION OR DOCUMENTS ARE NEEDED

5. REQUESTER

6. IDENTIFICATION (check appropriate box)
☐ Same person identified in Section I ☐ Surviving spouse
☐ Next of kin (relationship) _____
☐ Other (specify)

7. SIGNATURE (see instruction 7 on reverse side) — DATE OF REQUEST

8. RELEASE AUTHORIZATION, IF REQUIRED (Read instruction 3 on reverse side)

I hereby authorize release of the requested information/documents to the person indicated at right (item 7).

VETERAN SIGN HERE ▶ _____

(If signed by other than veteran, state relationship to veteran.)

9. Please type or print clearly — COMPLETE RETURN ADDRESS

Name, number and street _____
City, State and ZIP code _____

TELEPHONE NO. (include area code) ▶

Attachment 3
Page 1 of 1

EXHIBIT 10
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CRIMINAL HISTORY REPORT CHALLENGE FORM

CRIMINAL HISTORY REPORT CHALLENGE FORM

As a prerequisite for access to Rancho Seco, or for access to SAFEGUARDS information, a criminal history was requested through the Federal Bureau of Investigation. The attached Criminal History Report revealed a conviction record. Based on this report, your site access and/or access to SAFEGUARDS information may be denied.

PART I

I have reviewed the Criminal History Report and choose not to challenge it.

(Signature) (Date)

PART II

I do not concur with the Criminal History Report and choose to challenge the results. I understand the following conditions must be met in order to challenge these results.

a. I have 10 working days to initiate my challenge as described in 10CFR 73.57 (E). The date by which I must submit evidence of my appeal to the District Manager, General Services is 4 PM

(Date)

b. Failure to submit evidence of an appeal to the District Security office within 10 working days signifies that I have reconsidered and do not wish to challenge the Criminal History Report.

(Signature) (Date)

EVIDENCE OF CHALLENGE RECEIVED.

(Signature) (Date)

EVIDENCE OF CHALLENGE NOT RECEIVED WITHIN SPECIFIED PERIOD.

(Signature) (Date)

SEC-030 Rev. 1

ACCESS TERMINATION/NOTICE OF TRANSFER

ACCESS TERMINATION/NOTICE OF TRANSFER

TO: Security, MS N101 DATE:

ACCESS TERMINATION

FULL NAME: _____ BADGE NO. _____ SSN: _____

DATE HIRED: _____ EFFECTIVE DATE OF TERMINATION: _____

ELIGIBLE FOR RE-EMPLOYMENT: _____ YES _____ NO

EXPLANATION IF NOT ELIGIBLE FOR RE-EMPLOYMENT: _____

NOTICE OF DEPARTMENTAL TRANSFER

FULL NAME: _____ BADGE NO. _____

TRANSFERRED TO:

DEPT.: _____ SUPERVISOR: _____

DEPT. MANAGER: _____ EFFECTIVE DATE: _____

PHONE: _____ MS: _____

RETAIN BADGE: _____ YES _____ NO IF YES, FILL OUT FORM ADM-242 PAGE 2.

DURING THE ABOVE STATED EMPLOYMENT PERIOD, THE EMPLOYEE HAS _____ HAS NOT _____ SHOWN INDICATIONS OF ABERRANT BEHAVIOR OR ACTIVITY THAT WOULD BE CONSIDERED A SECURITY RISK.

TERMINATED/TRANSFERRED BY:

DEPARTMENT MANAGER: _____

COMPANY: _____

DEPARTMENT: _____

SIGNATURE DESIGNATED REPRESENTATIVE: _____

ADM-242 REV 2 PAGE 1 OF 2

CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

WELLS FARGO CENTE
400 CAPITOL MALL, SUITE 14C
SACRAMENTO, CA 95814-44C
916.448.222
FAX 916.446.995
OTHER OFFICES
SAN FRANCISC
WALNUT CREE
NEWPORT BEAC
RIGA, LATVI

October 6, 1998

JoAnna L. Brook
Direct Dial: 916.558.630
joanna@cbmlaw.com

Bruce Notareus
Steve Redeker
S M U D
6201 S Street
Sacramento, CA 95852

Re: *Saum* v. *SMUD* -- Psychological Evaluation

Gentlemen:

As you are aware, I have been retained by Mr. Saum to assist him in the process which was initiated by Sacramento Municipal Utility District requiring him to take an MMPI and a follow-up psychological evaluation, if necessary. The purpose of this letter is to demand that SMUD reconsider its order requiring Mr. Saum to appear for a full clinical evaluation and/or to submit proof that the psychologist requested the evaluation.

Prior to Mr. Saum's agreement to submit to the MMPI, albeit reserving his legal objections, you expressly indicated that SMUD would follow its procedures outlined in the Site Security Plan. Specifically, we discussed the fact that in the event Mr. Saum passed the MMPI, that a full clinical evaluation would be moot. On the other hand, if the psychologist requested a follow-up evaluation, I told you that we would expect to review the results of the MMPI with a licensed professional, if necessary, before Mr. Saum agreed to submit to further evaluation. In addition, we discussed that Mr. Saum would want a joint letter drafted to the psychologist to make sure the psychologist complied with the permitted disclosure allowed under federal and/or state law. Although you would not agree to the contents of the letter, you indicated that you understood our position and that we would re-address this issue in the event that the psychologist demanded a full evaluation.

CONFIDENTIAL

EXHIBIT 10
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Pursuant to the procedures set forth in SMUD's Method of Conducting the Psychological Evaluation 6.9.2.3:

> The District should use the Minnesota Multiphasic Personality Index (MMPI) as the basic evaluation tool. A clinical evaluation shall be required if *any of the indices fall outside the established norms*, as determined by the District Psychologist, or the psychologist administering the MMPI.

Last week, you informed Mr. Saum that the psychologist who analyzed his MMPI was requesting a follow-up evaluation. However, Mr. Saum was simultaneously informed by a SMUD Security Officer, Estoban Nava, that SMUD had requested a full evaluation before Mr. Saum even took the MMPI. Since your procedures do not allow for a full evaluation unless the MMPI falls "outside established norms", we were concerned that SMUD had failed to follow their own procedures or that it had tainted the evaluation process. Accordingly, I called you and requested a full disclosure of the MMPI results. To date, you have refused to provide such information. Instead, you told me that Steve Redeker was told by the psychologist that an evaluation was necessary and that Mr. Saum was not entitled to any additional information. Again, Estoban Nava had no knowledge that a psychologist requested an evaluation. He believed Steve Redeker had requested the evaluation, the same supervisor who you admitted had failed to follow procedure in his initial attempts to send Mr. Saum involuntarily to EAP counseling.

Obviously concerned with the situation presented, we requested the MMPI results from Behavior Data and the psychologist responsible for evaluating the MMPI. In my conversation with Dr. Carol Kirshnit, I learned that you told her she could not talk to us about the MMPI. I further learned that she apparently did not request the evaluation, but was contracted by SMUD through Estoban Nava to review the MMPI and conduct a clinical evaluation. She did not appear to have knowledge of the procedures referenced in the Site Security Plan.

Mr. Saum does not want to appear uncooperative, but, as indicated, he is concerned that he may have been referred to an evaluation that is unnecessary and/or tainted. Based on this discrepancy in what you have indicated as fact, and the reality indicated by Estoban Nava and Dr. Kirshnit, we demand that you cancel the psychological evaluation and/or produce sufficient proof that the evaluation was requested by the psychologist after

CONFIDENTIAL

reviewing the MMPI. If you cannot provide written confirmation of the psychologist's request for full a evaluation, it is unlikely that Mr. Saum will appear for the evaluation on October 8, 1998. We will address this matter through SMUD's grievance procedures.

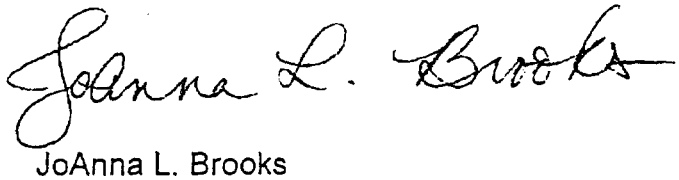
As I am sure you are also aware, Mr. Saum has filed on his own behalf a Complaint with the Department of Industrial Relations requesting injunctive relief and reinstatement based on his belief that SMUD has retaliated against him for reporting NRC violations. I intend to forward a copy of this letter for their review.

Please understand that, as always, Mr. Saum's actions do not constitute refusal of the full psychological evaluation, but merely reflect his attempt to make sure that SMUD is complying with its procedures set forth in the Site Security Plan. Considering that SMUD has failed at virtually every step of this process to follow its own procedures, we believe Mr. Saum is acting reasonably under the circumstances.

Your prompt attention in this regard would be greatly appreciated.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



JoAnna L. Brooks

JLB:tcm

BEHAVIORDATA, INCORPORATED

C O P Y

AUTHORIZATION FOR PSYCHOLOGICAL EVALUATION

I authorize SACRAMENTO MUNICIPAL UTILITY DISTRICT to have BEHAVIORDATA, INC. conduct a psychological evaluation of me, as part of the eligibility requirement for unescorted access to a nuclear power plant. This evaluation is in accordance with the security screening procedures and consistent with the recommendations of the ANSI/ANS 3.3 - "Security for Nuclear Power Plants". I understand that I will take the Minnesota Multiphasic Personality Inventory (MMPI). Following that I may be given a clinical interview, if more information is needed. By signing this form I give my informed consent to this evaluation. I understand that Behaviordata Incorporated will issue a recommendation as to my eligibility for unescorted access after careful review of my psychological report and, if necessary, my clinical interview. I also understand that my psychological file is subject to confidential audit review.

SIGNATURE: [illegible]

NAME: Jim Sa[illegible]

SOC. SEC: # [illegible]

DATE: 9-24-98

WITNESS: [illegible]

7C

EXHIBIT 10

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EMOTIONAL STABILITY CERTIFICATION FOR NUCLEAR FACILITY EMPLOYEES

In nuclear power facilities, an evaluation and certification of emotional stability is required under NRC guidelines (ANS 3.3) just as other agencies such as the Federal Aviation Administration do. In settings where the public safety is at stake, such emotional stability clearances have proven to be a valuable safeguard.

You will be administered the Minnesota Multiphasic Personality Inventory (MMPI) and the results will be interpreted by a very complex computer program. The MMPI Inventory is the most widely utilized and researched psychological inventory in existence. A narrative report on each person will be generated by the computer and will be carefully evaluated by a licensed psychologist. If further information is needed, an individual interview will be conducted by a licensed psychologist.

In as much as the evaluation you are participating in is a professional one, all information (MMPI report, interview notes, etc.) is privileged and confidential. The only way any material would be released is if you sign a written release form requesting the information be forwarded to a licensed psychologist or psychiatrist. The company receives a one page form indicating certification or non-certification. In addition, the MMPI results are maintained in secure, confidential files by Behaviordata. These documents are subject to confidential audit review.

Your attitude in participating in the evaluation is a very serious matter as it could determine whether or not you will be allowed unescorted access at a nuclear facility.

SMUD
SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

October 5, 1998
MPC&D 98-159

James Saum
[redacted] EX 7C

SUBJECT: SITE ACCESS AUTHORIZATION

Mr. Saum:

The purpose of this letter is to direct you to report for an evaluation pursuant to Site Access Screening Requirements. This is an element of the process which is required to grant unescorted access to the Rancho Seco site. The psychologist who reviewed the MMPI test data has determined that this evaluation is needed.

You are directed to report to the offices of Dr. C. Kirshnit at 610 Auburn Ravine Road, Suite C , Auburn, CA 95603 on Thursday, October 8, 1998 at 9:00 AM. A map is attached.

Sincerely,

Steve Redeker
Manager, Plant Closure & Decommissioning

EXHIBIT 10
PAGE 244 OF 325 PAGE

CBM CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

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RIGA, LATVI

October 6, 1998

JoAnna L. Brooks
Direct Dial: 916.558.630
joannab@cbmlaw.com

Carol Kirshnit, Ph.D.
610 Auburn Ravine Rd., #C
Auburn, CA 95608

Re: *James Saum* v. *SMUD*

Dear Dr. Kirshnit:

As discussed earlier today, I have been retained by Mr. Saum to assist him in the process that was initiated by his employer requesting him to take an MMPI, and a follow-up psychological evaluation, if necessary. Pursuant to the procedures set forth in SMUD's Method of Conducting the Psychological Evaluation 6.9.2.3:

> The District should use the Minnesota Multiphasic Personality Index (MMPI) as the basic evaluation tool. A clinical evaluation shall be required if *any of the indices fall outside the established norms*, as determined by the District Psychologist, or the psychologist administering the MMPI.

As you are aware, Mr. Saum took the MMPI a few weeks ago. He was recently informed by his employer that a follow-up evaluation was requested by the psychologist who analyzed the MMPI. On Mr. Saum's behalf, I requested the results of the MMPI from his employer and they refused to provide such information. Consequently, I called you and requested them directly from you in the hopes that we could clear up any confusion that existed.

Mr. Saum does not want to appear uncooperative but he is concerned that he may have been referred to an evaluation that is unnecessary and/or that the process may have been tainted by his employer. Mr. Saum has been informed by a SMUD security officer, Estoban Nava, that SMUD requested a full evaluation before Mr. Saum even took the MMPI. Accordingly, Mr. Saum would like full disclosure of his records before proceeding

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with the evaluation. A Release that he signed with Behaviordata, Inc. Prior to taking the MMPI entitled him to access to his records.

Although we briefly discussed Mr. Saums' concerns via telephone, you have indicated that SMUD has asked you to relay any of my questions to them and that you do not feel comfortable releasing any information at this time. You further indicated that you were contracted by SMUD through Estoban Nava to conduct a full evaluation and did not appear to have knowledge of the procedures described herein, and/or knowledge that SMUD was indicating that you had requested the follow-up evaluation.

Based on the foregoing, we are requesting additional time before Mr. Saum agrees to submit to a full evaluation in your offices. We have reason to believe that SMUD has violated its own procedures to the detriment and disregard of Mr. Saum.
In the event that it is determined that SMUD has violated its procedures, your clinical interview and evaluation would be moot.

As you can understand, we do not want to unnecessarily involve you in a battle between legal counsel. However, we will take steps to confirm or deny whether or not Mr. Saum fell "outside the established norms" of the MMPI and/or that you requested a follow-up evaluation based on his MMPI results.

If you have any questions, please feel free to call me at (916) 446-2222.

Very truly yours,

CARROLL, BURDICK & MCDONOUGH LLP

JoAnna L. Brooks

JoAnna L. Brooks

JLB:tcm

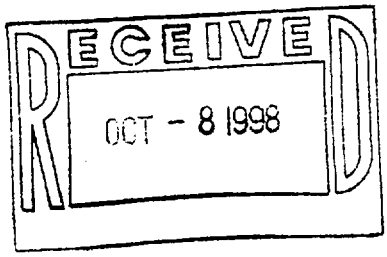
EXHIBIT 10
PAGE 246 OF 325 PAGE(S)

G:\Saum\Dr.Carol.L1~tcm~

Sent via facsimile and U. S. Mail

SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA



October 7, 1998
LEG 98-1460

Joanna Brooks
Carroll, Burdick & McDonough
400 Capitol Mall, Suite 1400
Sacramento, CA 95814-4407

Re: James Saum

Dear Ms. Brooks:

I am writing in as a follow-up to the voice mail message I left for you (at your request) this morning, wherein I informed you that I would look into your concerns about the District's application of the Rancho Seco Security Plan's site access requirements in Mr. Saum's case. I have done so and am confident the District has fully complied with the requirements of the plan. Your October 6, 1998, letter to Carol Kirshnit, Phd., was inappropriate, misleading and mischaracterized site access plan requirements.

In short, the District's management is responsible to ensure that all persons "badged" for unrestricted access to controlled areas within the Rancho Seco site (Mr. Saum held such a badge) meet certain standards under the "Continuing Behavior Observation Program." ("CBOP;" See generally §6.15) One of the concerns responsible managers are to look for is "behavior traits or patterns that reflect adversely on the employee's trustworthiness, or reliability." (§§6.15.1.2; 6.15.3.1.) The concern is over observable changes in behavior. (§6.15.2.)

In your October 6, 1998, letter to Dr. Kirshnit, you took the MMPI requirement of the site access screening criteria out of context and portrayed it to Dr. Kirshnit as the sole criteria upon which a psychological screening examination is based, whereas a thorough reading of §6.9 of the site access requirements clearly demonstrates that the MMPI is one of several criteria to be considered in reaching this conclusion. The initial provision of §6.9 provides that "[a]n evaluation by a licensed psychiatrist or psychologist professionally trained to identify aberrant behavior shall be completed prior to granting unescorted access to the Rancho Seco . . . Protected Area" (§6.9.1.) where "Aberrant Behavior" is defined as "[a] change from an individual's normal behavior or a deviation in behavior from that considered normal by conventional standards. The responsibility and authority for making this determination rests with the individual's supervisor." (§4.1.)

DISTRICT HEADQUARTERS ☐ 6201 S Street, Sacramento CA 95817-1899

When we last discussed this issue, I told you that the first step in the process was for Mr. Saum to take the MMPI. The MMPI was then sent by fax to the contractor for review and evaluation. (As it turns out, the MMPI is evaluated by a different provider under a separate contract from Dr. Kirshnit's.) Upon receipt of the MMPI results, the District sends the MMPI results along with any other pertinent information as set forth in the site security plan which, in this case, included a Security assessment and management's observations under the CBOP to the contract evaluator (Dr. Kirshnit) for review. It is my understanding that the decision to schedule Mr. Saum's appointment with Dr. Kirshnit was based on a review of each of these.

Mr. Redeker's direction that Mr. Saum report for a psychological review with Dr. Kirshnit at her 610 Auburn Ravine Road offices at 9:00 a.m. on October 8, 1998 (tomorrow), stands. Please be advised that if Mr. Saum fails to complete this examination, he will be considered insubordinate and will be subjected to disciplinary action, up to and including the termination of his District employment. This is a very serious matter; I suggest Mr. Saum not take Mr. Redeker's instructions lightly.

If would like to discuss these matters with me further, please do not hesitate to call me at 732-6122. Thank you.

Sincerely,

Bruce Notareus
Senior Attorney

/sr

cc: Dana Appling
Steve Redeker
Don Dungey
Corporate Files

SMUD
SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

October 8, 1998
MPC&D 98-166

[redacted]

EY
7C

Mr. James Saum
[redacted]

Dear Mr. Saum:

On October 6, 1998, you received a letter from me, which directed you to report for an evaluation at 9:00 am this morning at the offices of Dr. C. Kirshnit, 610 Auburn Ravine Road, Suite C, Auburn, California.

I have been informed that you deliberately failed to keep that appointment. Your failure to report for the evaluation as directed is insubordination under Section 12162 of the California Municipal Utility District ACT (Act). I am, therefore, recommending to the General Manager that your employment with the Sacramento Municipal Utility District be terminated. You will remain on administrative leave until you hear from the General Manager.

Sincerely,

Steve Redeker

Steve Redeker, Manager
Plant Closure & Decommissioning

SMUD
SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 732-6160
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

October 9, 1998
GM 98-328

Ex. 7c

Mr. James Saum
[redacted]

Dear Mr. Saum:

On October 8, 1998, your supervisor, Steve Redeker, Manager, Plant Closure & Decommissioning, sent you a letter stating that he was recommending to me that your employment with the Sacramento Municipal Utility District be terminated. I have considered and concur with Mr. Redeker's recommendation. This letter is formal notice that I am terminating your employment with the Sacramento Municipal Utility District effective at 5:00 p. m. on Friday, October 16, 1998. My decision is based on your failure to follow your supervisor's direct order that you appear for and complete a psychological fitness for duty review scheduled for 9:00 a.m. on Thursday, October 9, 1998. Your inaction in this regard is insubordination and inattention to public service under Section 12162 of the California Municipal Utility District Act (the "Act").

As required by the Act and the Standard District Procedures, I am setting forth in this letter a statement of charges. Please understand that the following factual information has been prepared from information supplied to me by others, and I am not personally familiar with the matters set forth herein.

On October 6, 1998, you received a certified letter from your Department Manager, Steve Redeker, directing you to attend an evaluation session with Dr. G. Kirshnit, 610 Auburn Ravine Road, Suite C, Auburn, California, at 9:00 a. m., on October 8, 1998. (Copy attached.) . Mr. Redeker was informed shortly after the session was to have occurred that you failed to keep that appointment. Your failure to attend and complete this session as ordered by your supervisor is insubordination and cannot be tolerated. Additionally, as an Electrical Engineer assigned to provide support to Nuclear Security, you are, as a condition of your employment, required to maintain site access, "badging," status which grants you unrestricted, unescorted access to controlled areas within the Rancho Seco site. The psychological fitness for duty review session which you failed to complete was

EXHIBIT 10

Jan Schori, General Manager
DISTRICT HEADQUARTERS ☐ 6201 S Street, Sacramento CA 95817-1899

required as a condition of granting such access under the Site Security Plan's Access Screening Requirements. (Copy enclosed.) Your failure to complete this requirement constitutes a refusal to work, which is inattention to public service under the Act.

SDP 606-12 (Copy enclosed.) sets forth the procedure to be followed should you wish to appeal this termination. Additionally, you are entitled to appear before me to respond to the above charges, either orally or in writing, at any time prior to the effective date of your termination or within five working days of receipt of this letter, whichever is later. If you choose to attend, you may be represented by an agent of your choosing. It is your responsibility to contact any such agent. As a result of the meeting, I will determine whether or not your termination will remain intact, be modified, or rescinded. The meeting will not involve the examination or cross-examination of witnesses but will permit you to respond to the charges and explain why you believe the proposed action should not be imposed. If you wish to schedule a meeting with me prior to the effective date of your Friday, October 16, 1998 termination, please contact my secretary, Dorothy Johns, at (916) 732-5325.

Sincerely,

Jan Schori

JAN SCHORI
GENERAL MANAGER

Enclosures

cc: Steve Redeker
Personnel File

GORDON L. ULREY, Ph.D.
Clinical Psychology & Neuropsychology
Licensed Psychologist #PSY 7924
433 F Street
Davis, CA 95616
Phone: (530) 756-0276
FAX: (530) 758-1658

October 21, 1998

Jim Saum

Dear Mr. Saum:

As you request, I have received and

EX. 61
7C

Please consult me if additional information is needed.

Gordon L. Ulrey
/bas

Gordon L. Ulrey, Ph.D.
Associate Clinical Professor of Psychology
University of California at Davis
School of Medicine
Psychology License #PG7924

GLU:bas

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4/22/99
SAUM

George T. Mannen, Ph.D.

Clinical Psychology

Psy. 3079

9

Mr. Arlen Orchard
Assistant General Counsel
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817

RE: Mr. James Saum

December 14, 1998

As a result of

EX. 62
7c

George T. Mannen

George T. Mannen, Ph.D.

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4/2/99
SAUM

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Memo

To: Rancho Seco Staff

Date: 3/18/99

From: Colin Taylor

DPG 99-042

Subject: Site Atmosphere for Reporting Safety Concerns

In November of last year, Ranch Seco management engaged the firm Straight Ahead Management to conduct a safety-related study at Rancho Seco. Specifically, the contractor was to focus on the "site atmosphere for safety." In other words, to what extent is safety a high priority among employees and contractors alike?

The study consisted of a 46 item written questionnaire and follow-up interviews. 65 % of all personnel completed the questionnaire with the contractor personally interviewing 21% of the staff. Each question received a score of 1-5, with 1 being the least favorable and 5 the most favorable response.

The overall score was 3.66 for all questions. The survey emphasized four sub-categories:

1. *Site atmosphere for safety* (employees feel free and open to raise safety concerns): 3.92	2. *Safety attitudes* (people are aware of and conscientious about safety issues): 3.84
3. *Retaliation* (staff is free from discrimination or retaliation for raising safety concerns): 3.7	4. *Contractor awareness* (contractors are aware of safety and their right to raise safety concerns): 3.58

Areas mentioned in need of improvement include:

- ✓ Uniform policy for on-site hazards (barrier tape, hard hats, etc.);
- ✓ Dissemination of information to all departments regarding accidents, injuries and near misses;
- ✓ Streamlining of reporting procedures; and
- ✓ Clarification of safety chain of command.

The Rancho Seco Safety Committee will review the above areas, and will report regularly to all personnel any improvement efforts undertaken as a result of employee input.

Over-all, the consultant found that Rancho Seco management, employees and contractors are doing an effective job of creating an environment in which safety is a top priority, and creating a workplace which is free from retaliation or discrimination against those who raise safety concerns.

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EXHIBIT 4 1/2/99 JOB

SMUD RANCHO SECO COMMITMENT TRACKING SYSTEM

General CTS Report

17-Mar-99

CTS #:	51422 **REV:**	**STATUS:**	Closed
SYSDSC:	PSS	**PRIORITY:**	3
XREF: PDQ:	**DQ #:** 94-0008 **CCTS #:** **LRSL #**		
TITLE:	**ELEC MAINT DEVIATED FROM DRAWING W/OUT DOING A FPR IN VIOLATION OF RSAPs & RSQM**	**CTS STAGE:**	Closed
AGENCY:	SMUD	**STAGE DATE:**	5/7/97
RESP DEPT:	Maintenance	**STAGE DEPT:**	Maintenance
MANAGER:	Roberts, G.	**STAGE DUE DATE**	5/30/97
PHONE:	4570	**FINAL DUE DATE**	5/30/97
MAIL STOP:	N503	**ACTUAL FINISH**	5/7/97
ASSIGNED:	Zimmerman, N.	**REPORTBL:**	N
TRENDCD:	H1	**CCTS CLOSURE:**	
STORAGE BOX:	9344/1333	**HARDWARE/SOFTWARE**	S

DESCRIPTION: During construction implementation of DCP R93-0004, Electrical Maintenance deviated from drawing E-1010 1-2729 by installing a different cable than specified without writing a Field Problem Report in violation of RSAPs 0303 and 0305 and RSQM Section III.

REQUIREMENTS: TECH SERVICES is to revise RSAP-0303 and RSAP-0305 as described in the Remedial Action Section of the DQ Disposition. TECH SERVICES and MAINTENANCE personnel are to complete training on the revised procedures.

RESPONSE: Tech Services: (1) Revised RSAP-0303 (Revs. 13 and 14) and RSAP-0305 (Rev. 5) to address the problems encountered in the DQ; and (2) completed the required training on the revised procedures. Maintenance completed the required training.

COMMENTS: The CMRG reviewed this item on 01/31/94, determined it is a PDQ, and assigned a procedure change action to Tech Services to reflect field practice, due 03/31/94. As part of its discussion concerning DQ 93-0087 (CTS 51390), the CMRG decided to re-evaluate DQ 94-0008. Since PDQ/DQ 94-0008 resulted from a violation of procedures, the CMRG determined that this should be scored a DQ and not a PDQ. Therefore, the CMRG assigned an action to Tech Services to perform a DQ Disposition, due 04/08/94. The CMRG Chairman extended the due date for performing a DQ Disposition for this item on 05/06/94, from 04/08/94 to 07/08/94. The CMRG reviewed and approved the DQ Disposition on 07/25/94, and assigned actions to Tech Services and Maintenance, due 10/25/94. The CMRG Chairman extended the due date for this item on 03/25/97, from 10/25/94 to 05/30/97. Maintenance needs time to perform training on RSAPs since they were recently revised by Tech Services.

DOCUMENT	DOCUMENT CODE
MTC TRAINING ROSTERS (5)	Closure Document
RSAP.0303, REV. 13, PRO	Closure Document
RSAP.0303, REV. 14, PRO	Closure Document
RSAP.0305, REV. 5, PRO	Closure Document
TS TRAINING ROSTERS (5)	Closure Document
DRWNG E-1010 1-2729	Originating Document
RSAP-0303 PRO	Originating Document
RSAP-0305 PRO	Originating Document
RSQM SECTION III	Originating Document

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4/2/99 JB
SAUM

SMUD RANCHO SECO COMMITMENT TRACKING SYSTEM

General CTS Report

17-Mar-99

CTS #:	50972 **REV:**	**STATUS:**	Closed
SYSDSC:	CSP	**PRIORITY:**	3
XREF: PDQ:	**DQ #:** 92-0047 **CCTS #:** **LRSL #**		
TITLE:	**Telecommunication Maintenance Group Removed a 900 MHz Repeater (H5PRF1)**	**CTS STAGE:**	Closed
AGENCY:		**STAGE DATE:**	7/23/92
RESP DEPT:	Technical Services	**STAGE DEPT:**	Technical Services
MANAGER:	Field, J.	**STAGE DUE DATE**	12/31/92
PHONE:	4038	**FINAL DUE DATE**	12/31/92
MAIL STOP:	N302	**ACTUAL FINISH**	3/9/93
ASSIGNED:	Sheridan, M.	**REPORTBL:**	N
TRENDCD:	PT	**CCTS CLOSURE:**	
STORAGE BOX:	8819	**HARDWARE/SOFTWARE**	S

DESCRIPTION: On July 14, 1992 the Telecommunications Maintenance Group removed a 900 MHz repeater (H5PRF1) from service and from the power block. This was accomplished without proper authorization or documentation as required by RSAP-0301 (Configuration Management Program), RSAP-0302 (Configuration Identification), and RSAP-0303 (Plant Modifications).

REQUIREMENTS: REMEDIAL ACTION: None; communications with the offending organization will prevent short-term violations. PREVENTIVE ACTIONS: Training on RSAP-0301, RSAP-0302, and RSAP-0303 shall be given to the entire communications department of the downtown group. A DCO shall be done to show the existing condition.

RESPONSE: CLOSED: All items required to close DQ 92-047 have been completed. Training on the RSAPs has been completed on 2/11/93, the MEL change is complete 2/24/93, and drawings were updated on DCO # R-4158 2/25/93.

COMMENTS: DQ disposition assigned to Technical Services per CMRG on 07/23/92. CMRG extended the due date from 8/26/92 to 11/2/92 on 10/19/92. Training time should be allowed for the required RSAP training. CMRG extended the due date from 11/2/92 to 12/31/92 on 12/14/92. Training has not been completed on RSAP-0301 by the Telecommunications Maintenance Group.

DOCUMENT	DOCUMENT CODE
R-4158	Closure Document
RSAP.0301 PRO	Closure Document
RSAP.0302 PRO	Closure Document
RSAP.0303 PRO	Closure Document
TRAINING ROSTER	Closure Document
None	Originating Document

SMUD RANCHO SECO COMMITMENT TRACKING SYSTEM

General CTS Report

17-Mar-99

CTS #:	50972 **REV:**	**STATUS:**	Closed
SYSDSC:	CSP	**PRIORITY:**	3
XREF: PDQ:	**DQ #:** 92-0047 **CCTS #:** **LRSL #**		
TITLE:	**Telecommunication Maintenance Group Removed a 900 MHz Repeater (H5PRF1)**	**CTS STAGE:**	Closed
AGENCY:		**STAGE DATE:**	7/23/92
RESP DEPT:	Technical Services	**STAGE DEPT:**	Technical Services
MANAGER:	Field, J.	**STAGE DUE DATE**	12/31/92
PHONE:	4038	**FINAL DUE DATE**	12/31/92
MAIL STOP:	N302	**ACTUAL FINISH**	3/9/93
ASSIGNED:	Sheridan, M.	**REPORTBL:**	N
TRENDCD:	PT	**CCTS CLOSURE:**	
STORAGE BOX:	8819	**HARDWARE/SOFTWARE**	S

DESCRIPTION: On July 14, 1992 the Telecommunications Maintenance Group removed a 900 MHz repeater (H5PRF1) from service and from the power block. This was accomplished without proper authorization or documentation as required by RSAP-0301 (Configuration Management Program), RSAP-0302 (Configuration Identification), and RSAP-0303 (Plant Modifications).

REQUIREMENTS: REMEDIAL ACTION: None; communications with the offending organization will prevent short-term violations. PREVENTIVE ACTIONS: Training on RSAP-0301, RSAP-0302, and RSAP-0303 shall be given to the entire communications department of the downtown group. A DCO shall be done to show the existing condition.

RESPONSE: CLOSED: All items required to close DQ 92-047 have been completed. Training on the RSAPs has been completed on 2/11/93, the MEL change is complete 2/24/93, and drawings were updated on DCO # R-4158 2/25/93.

COMMENTS: DQ disposition assigned to Technical Services per CMRG on 07/23/92. CMRG extended the due date from 8/26/92 to 11/2/92 on 10/19/92. Training time should be allowed for the required RSAP training. CMRG extended the due date from 11/2/92 to 12/31/92 on 12/14/92. Training has not been completed on RSAP-0301 by the Telecommunications Maintenance Group.

DOCUMENT	DOCUMENT CODE
R-4158	Closure Document
RSAP.0301 PRO	Closure Document
RSAP.0302 PRO	Closure Document
RSAP.0303 PRO	Closure Document
TRAINING ROSTER	Closure Document
None	Originating Document

SMUD RANCHO SECO COMMITMENT TRACKING SYSTEM

General CTS Report

17-Mar-99

CTS #:	51960 **REV:**	**STATUS:**	Closed
SYSDSC:	PSS	**PRIORITY:**	3
XREF: PDQ:	**DQ #:** 95-0091 **CCTS #:** **LRSL #**		
TITLE:	**ISFSI ELEC. SERV. BLDG. NORTH WALL NOT CONSTRUCTED PER DESIGN DRAWING**	**CTS STAGE:**	Closed
AGENCY:	SMUD	**STAGE DATE:**	2/12/96
RESP DEPT:	Maintenance	**STAGE DEPT:**	Maintenance
MANAGER:	Roberts, G.	**STAGE DUE DATE**	2/15/96
PHONE:	4570	**FINAL DUE DATE**	2/15/96
MAIL STOP:	N503	**ACTUAL FINISH**	2/7/96
ASSIGNED:	Zimmerman, N.	**REPORTBL:**	N
TRENDCD:	H1	**CCTS CLOSURE:**	
STORAGE BOX:	9237/459	**HARDWARE/SOFTWARE**	S

DESCRIPTION: During implementation of DCP R91-0001AB, design changes were made without a Field Problem Report or DCN revision in violation of RSAP-0305. ISFSI Electrical Service Building north wall was not constructed per DCN M41.02-17, Sheet 1.

REQUIREMENTS: Maintenance to provide training on RSAP.0305 to Electrical Maintenance department. Maintenance to issue a FPR on DCP R91-0001AB as a Remedial Action.

RESPONSE: Maintenance issued FPR No. 3 and indluded a copy of the FPR as part of the DQ Disposition documentation, and Maintenance completed the required RSAP.0305 training.

COMMENTS: CMRG reviewed this item on 11/06/95, determined it is a DQ, and assigned an action to Maintenance to perform a DQ Disposition, due 12/06/95. The CMRG Chairman extended the due date for this item on 01/1/96, from 12/06/95 to 01/30/96. Maintenance personnel have been reminded to use FPRs if a design can not or should not be built per the approved DCP. The CMRG reviewed and approved the DQ Disposition on 01/22/96, and assigned an action to Maintenance, due 02/15/96.

DOCUMENT	DOCUMENT CODE
FPR NO. 3	Closure Document
MTC TRAINING ROSTER (1)	Closure Document
DCN M41.02-17, Sheet 1	Originating Document
DCP R91-0001AB	Cross Reference
RSAP.0305 PRO	Cross Reference

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EXHIBIT 10

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REVISION SUMMARY:

11-

1. Include reference to 10 CFR 72.75 reportability requirements.

2. Remove reference to non-existent procedure step 6.1.1.2.

3. Editorially update position titles and add Section 8, Attachments.

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6
4/2/99 JS
SAUM

THIS PROCEDURE / MANUAL IS MAINTAINED BY DOCUMENT CONTROL - PROCEDURE ... REFLECTS THE LATEST REVISION.
ASSIGNED TO MANUAL # 46

1.0 PURPOSE

1.1 To provide instructions on when and how to originate a Potential Deviation from Quality (PDQ). [Commitments 3.2.1, 3.2.2, 3.2.8]

1.2 To furnish a format for documenting conditions potentially adverse to quality as they are discovered. [Commitments 3.2.1, 3.2.2, 3.2.8]

1.3 To provide a means for reporting material plant hazards that are potentially adverse to personnel safety. [Commitments 3.2.1, 3.2.2, 3.2.8]

2.0 SCOPE

2.1 Applies to personnel performing work related to Rancho Seco.

2.2 Applies to identification of any condition which is not expected, is unsafe, does not meet requirements, or is not the result of normal wear.

Initiate a PDQ for the following conditions:

(1) Unplanned, unexpected or un-analyzed events, conditions or performance.

(2) Degradation, damage, failure, malfunction or loss of plant equipment which is unexpected or not the result of normal wear.

(3) Deviation from Licensing document requirements, State or Federal Regulations, Codes, Standards, Specifications, QA Requirements or Administrative Controls, including RSAPs and sub-tier procedures. [Commitments 3.2.6, 3.2.7]

2.3 This procedure recognizes that Work Requests are used to correct nonconforming conditions including the following (Reference Attachment 1):

(1) Degradation, damage, failure, malfunction or loss of plant equipment which is expected or is the result of normal wear. (Handle per RSAP-0803.)

(2) Past work that does not meet current requirements but can be made to conform to current requirements by rework or replacement. (Handle per RSAP-0803.)

2.4 Applicability

2.4.1 Attachments 1 and 2 contain examples of conditions requiring and not requiring PDQs.

3.0 REFERENCES AND COMMITMENT DOCUMENTS

3.1 References

3.1.1 Rancho Seco Quality Manual, Sections XV and XVI

3.1.2 RSAP-0306, Data Control for Master Equipment List

3.1.3 RSAP-1310, Deviation from Quality

3.1.4 RSAP-0311, Set Point Change Control

3.1.5 RSAP-0500, Rancho Seco Procedure Control

3.1.6 RSAP-0601, Nuclear Records Management

3.1.7 RSAP-0803, Work Request

3.1.8 RSAP-0808, QC Inspection

3.1.9 RSAP-1306, Audits and Surveillances

3.1.10 OAP-0064, Reporting/Notification

3.1.11 RSAP-0903, External Plant Reports

3.1.12 RSAP-0912, 10 CFR 21 Reporting of Nuclear Plant Defects or Noncompliances

3.1.13 SDP 501-1, Accident Notification, Investigation and Reporting

3.1.14 RSAP-1804, Safe Clearance Procedure

3.1.15 RSAP-0260, Commitment Tracking

3.2 Commitment Documents

3.2.1 NRC Inspection Report 86-21

3.2.2 LER 85-12

3.2.3 Deleted - does not apply in PDM.

3.2.4 CCTS Item No. 890418003

3.2.5 CCTS Item No. 890420001

3.2.6 CAR No. 89-003

3.2.7 ANI Recommendation 85-6

3.2.8 CCTS Item No. 880311006

4.0 DEFINITIONS

4.1 Conditional Release - An item released for installation prior to resolution of an identified deficiency. A nonconforming item may be conditionally released for installation and/or testing. A conditional release disposition cannot support operability, and it remains in effect until the discrepant condition has been resolved. (Reference 3.1.8)

4.2 Commitment Management Review Group (CMRG) - Senior management review group that functions in accordance with RSAP-0260. (Reference 3.1.15)

4.3 Non-conformance - A deficiency in characteristic, documentation, or procedure which renders the quality of an item (materials, parts, components or system) unacceptable or indeterminate.

4.4 Potential Deviation from Quality (PDQ) - The PDQ is the baseline document for the Rancho Seco Corrective Action Program. It is used to identify, document, evaluate, determine cause and extent, provide action to prevent recurrence, and provide management and external reporting of actual or potential deficiencies or discrepancies. [Commitment 3.2.6]

4.5 Deviation from Quality (DQ) - A PDQ for which cause, extent, remedial corrective action and action to prevent recurrence is required because it documents a significant condition adverse to quality.

4.6 Commitment Tracking System (CTS) - A data management software program used to catalog and track PDQs, LRSLs, and Licensing commitments. (Reference 3.1.15)

5.0 RESPONSIBILITIES

11 - - 5.1 Quality Assurance/Licensing/Administration Superintendent

Monitors the PDQ program and designates the PDQ Coordinator.

5.2 Supervisors/Superintendents

5.2.1 Review PDQs to ensure that problems identified warrant writing PDQs.

5.2.2 Perform actions assigned by CMRG to resolve the condition and initiate applicable process documents (Work Request, procedure changes, etc.) or return to CMRG with a justification for continued processing as a DQ.

5.4 PDQ Coordinator

5.4.1 Administratively control, process, and track PDQs and DQs using Commitment Tracking System (CTS).

5.4.2 Present PDQs to CMRG for screening.

5.4.3 Advise CMRG on procedural requirements and related PDQs.

5.5 Commitment Management Review Group (CMRG)

5.5.1 Administers the PDQ program.

5.5.2 Screens and assigns PDQs to departments for action.

5.5.3 Resolves disputes about PDQs.

6.0 PROCEDURE

NOTE

This procedure addresses initiation, CMRG screening, and processing of PDQs. Instructions for DQs are in RSAP-1310.

6.1 General

6.1.1 Use black ball point pen; make corrections by lining through, initialing and dating entry.

6.1.2 Use continuation sheet for additional space, and number entries to correspond to blocks on form.

6.1.3 Attach additional documentation (8-1/2" x 11"). Label using an alphabetic designator and page numbers.

6.1.4 Once a PDQ is written, work may proceed on hardware items if the work is not related to the nonconforming condition.

NOTE

Once a PDQ is initiated, it is essential to preserve evidence required to determine cause and corrective action.

6.1.4.1 Investigative work may be performed.

6.1.4.2 Work to correct the nonconforming condition may only be performed AFTER CMRG screens the PDQ and assigns actions.

6.2 Problem Identification

6.2.1 Anyone in the Nuclear Organization can originate a PDQ.

NOTE

Multiple problem occurrences, or variations on a single problem may be reported on a single PDQ.

6.2.2 The Originator shall:

6.2.2.1 Identify a problem and discuss it with his Supervisor. (If the Originator is a Supervisor, he can also complete the Originator's Supervisor block on the PDQ.)

6.2.2.2 Obtain his Supervisor's concurrence and signature. If his Supervisor is unavailable, use the chain of command through the Shift Supervisor to obtain a review. (The Supervisor shall review the PDQ for completeness, clarity, and to ascertain that a PDQ is warranted, using the guidelines in Attachment 1.)

6.2.2.3 Resolve any disagreements using the chain of command.

6.2.2.4 Fill out PDQ log using next sequential number and leave a copy of PDQ in "In-basket."

6.2.2.5 Verbally notify the Shift Supervisor (Ext. 4370) about the PDQ and deliver the PDQ to the Shift Supervisor's office for his review, within the time he specifies.

NOTE

See Attachment 4 for detailed instructions on filling out the PDQ form.

6.3 Shift Supervisor Action

6.3.1 Take any necessary immediate corrective actions upon notification of the problem.

6.3.2 Resolve unclear or incorrect PDQs with the Originator or his Supervisor.

6.3.3 Perform Reportability and Operability Review.

6.3.3.1 Use guidelines in OAP-0064 to determine whether the condition is potentially reportable under 10 CFR 20, 10 CFR 50.9(b), 10 CFR 50.72, 10 CFR 50.73, 10 CFR 72.75, 10 CFR 73.71, 10 CFR 100, or 10 CFR 140. [Commitments 3.2.4, 3.2.5]

6.3.3.2 If reportable, fill out Notification and Reportability Worksheet; attach to PDQ.

6.3.3.3 If NRC telephone notification is made, complete the NRC Telephone Notification form; attach to PDQ.

6.4 PDQ Coordinator Action

6.4.1 Newly Initiated PDQs

6.4.1.1 Check the PDQ log daily, pick up PDQs from the Control Room, and enter pertinent data into the Commitment Tracking System (CTS) for CMRG screening.

6.4.1.2 If PDQ is determined potentially reportable, send copy of PDQ, Notification and Reportability Worksheet, and NRC Telephone Notification forms to Licensing to process in accordance with RSAP-0903.

6.4.1.3 If the PDQ involves a violation of the plant Technical Specifications (the PDTS), provide a copy of the PDQ to the PRC Coordinator for PRC review.

6.4.2 PDQs Screened by CMRG

6.4.2.1 Enter pertinent data into CTS and issue a "Working Copy" to the responsible department for action.

6.4.3 Closed PDQs

6.4.3.1 Enter pertinent data into CTS.

6.5 CMRG Screening of PDQs

6.5.1 Screen PDQs and determine which one of the following applies:

6.5.1.1 The condition warrants a PDQ.

(1) Determine actions to resolve the condition identified in the PDQ.

(2) Document review and assign actions to responsible department by filling out CTS Cover Sheet.

(3) Supersede PDQ if another already covers the described condition.

6.5.1.2 The condition does NOT warrant a PDQ.

(1) Cancel it.

6.5.1.3 The condition warrants a DQ.

(1) Assign DQ disposition to Responsible Department to determine cause, extent, remedial corrective action, and action to prevent recurrence. (Process as a DQ; see RSAP-1310.)

NOTE

CMRG may determine that the condition is best resolved by another process. (Ref: Attachment 2)

6.5.2 Determine whether the PDQ is potentially reportable under 10 CFR 21. [Commitment 3.2.4]

6.6 Responsible Department Actions

NOTE

A department may elect to process an unscreened PDQ as if it were a DQ. The proposed disposition will be presented to the CMRG for concurrence along with the original PDQ.

6.6.1 Perform actions assigned by CMRG, initiate appropriate documents, and forward completed documentation and closure form to PDQ Coordinator.

NOTE

The Responsible Department Supervisor assures that actions taken resolve the problem, and that documentation is appropriate and complete.

6.7 Revising a PDQ

NOTE

Do NOT reopen a closed PDQ. Write a new one and reference the closed PDQ.

6.7.1 Identify revisions with a sequential revision number and revision bar in the right margin.

6.7.2 Forward revised PDQ to PDQ Coordinator, who will present the revision and original to CMRG for review.

6.8 Cancelling a PDQ

6.8.1 The Originator, the Supervisor who signed the PDQ, or the Shift Supervisor may cancel a PDQ before CMRG screens it.

6.8.2 The individual cancelling the PDQ shall:

(1) Notify the originator (if not the same).

(2) Notify the PDQ Coordinator, and forward documents completed to date.

6.8.3 The PDQ Coordinator shall cancel the PDQ in the Commitment Tracking System.

11-- 6.8.4 CMRG may cancel PDQs.

7.0 RECORDS

The following individual/packaged documents and related correspondence completed as a result of the performance or implementation of this procedure are records. They shall be transmitted to Records Management in accordance with RSAP-0601.

(1) Closed PDQs

(2) Cancelled PDQs

(3) Superseded PDQs

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8.0 ATTACHMENTS

1 Examples of Conditions Requiring PDQs

2 Examples of Conditions that do not Require PDQs

3 Potential Deviation from Quality Form and Completion Instructions

4 Typical Documentation used to Close a PDQ

EXAMPLES OF CONDITIONS REQUIRING PDQs

NOTE

THESE EXAMPLES are presented to assure PDQs are initiated when required. This list is NOT meant to be all inclusive or restrain an individual from writing a PDQ. "When in doubt, write it out."

- Material plant hazard which results in a potentially unsafe condition.
- Abnormal or unexpected wear
- Bypassing QC/ANII Hold Points
- Conditional release of nonconforming items
- Deficiencies found in design documents for installed items
- Discrepancies between as built and design documents
- Indeterminate conditions
- Items in the warehouse found to be nonconforming
- Items installed without required documentation
- Manufacturer defects or physical defects in material, components, or systems
- Potentially reportable events or conditions (NRC and State)
- Procedure or training violations
- Repetitive failures or adverse trends
- Technical Specification violations

EXAMPLES OF CONDITIONS REQUIRING PDQs (Continued)

- Test/Surveillance failures
- Occurrences which could have but did not result in a significant accident as defined in SDP 501-1.
- Violations of Administrative Limits
- Unplanned, unexpected, un-analyzed events, conditions or performance.
- 10 CFR 21 reported items or potentially reportable occurrences.

NOTE

Occurrences which result in a significant accident should also be handled per SDP 501-1, "Accident Notification, Investigation and Reporting."

EXAMPLES OF CONDITIONS THAT DO NOT REQUIRE PDQs

NOTE

The procedures listed provide an alternate means to resolve a problem.

- Conditions found during the implementation of WR that can be corrected within the scope of the WR. (Unplanned, unexpected, un-analyzed events or conditions must be documented on PDQs)
- Degradation of plant equipment which is expected or is the result of normal wear. (Handle per RSAP-0803)
- Past work that does not meet current requirements but can be made to conform to current requirements by rework or replacement. (Handle per RSAP-0803)
- Violations of purely administrative procedures like Daily Time Reporting, Information Service Request, etc. (i.e., procedures that have no impact on plant systems or equipment).
- Plant/Organizational Betterment/Preliminary Change Descriptions (Handle per RSAP-0260)
- Discrepancy between as-built and MEL. (Handle per RSAP-0306)
- Set point change. (Handle per RSAP-0311)
- Procedure changes/Procedure discrepancies. (Handle per RSAP-0500)
- Entry into Technical Specification LCO.
- Rancho Seco Safety Manual procedure violations. (Handle in accordance with District Safety Manual procedure 8-03).

POTENTIAL DEVIATION FROM QUALITY FORM AND COMPLETION INSTRUCTIONS

POTENTIAL DEVIATION FROM QUALITY FORM

PAGE ___ OF ___

PDQ# _____
REV# _____

PROBLEM IDENTIFICATION
ORIGINATOR

1. DATE OF OCCURRENCE: / / TIME OF OCCURRENCE: _____ AM PM
2. DATE OF IDENTIFICATION: / / TIME OF IDENTIFICATION: _____ AM PM
3. TIME SS NOTIFIED: _____ AM PM 4. DEADLINE ASSIGNED BY SS: _____ AM PM
5. SS NAME: _____
6. SYSTEM: _____ 7. EQUIPMENT ID: _____
8. EQUIPMENT NAME: _____ 9. QUALITY CLASS: _____
10. PROBLEM DESCRIPTION:

11. ASSOCIATED DCR, WR OR OTHER DOCUMENTS: _____
12. AFFECTED DRAWINGS: _____ 13. P.O./CONTRACT: _____
14. ORIGINATOR NAME: _____ EXT: _____ MAILSTOP: _____
ORIGINATOR SIGNATURE: _____ DEPT: _____ DATE: _____
15. EQUIPMENT OPERATES IN PRESENT CONFIGURATION (FOR CONFIGURATION DISCREPANCIES): ☐Y ☐N
SUPERVISOR NAME: _____ EXT: _____ MAILSTOP: _____
SUPERVISOR SIGNATURE: _____ DATE: _____

OPERATIONS REVIEW

16. POTENTIALLY REPORTABLE CONDITION: ☐Y ☐N PURSUANT TO: _____
17. TECH SPEC VIOLATION: ☐Y ☐N OPERABLE: ☐Y ☐N ☐NA CLEARANCE TAG REQ'D ☐Y ☐N
JUSTIFY IF NO TER REQUIRED: _____
18. SS NAME: _____
SS SIGNATURE: _____ DATE: _____ TIME: _____ AM PM

ADM-103 REV 10 (RSAP-1308)

TYPICAL

POTENTIAL DEVIATION FROM QUALITY FORM AND COMPLETION INSTRUCTIONS (Continued)

POTENTIAL DEVIATION FROM QUALITY FORM

PAGE ___ OF ___

CONTINUATION SHEET	PDQ # _____ REV # _____
BLOCK NO.	CONTINUATION

TYPICAL

ADM-129 REV 10 (RSAP-1308)

POTENTIAL DEVIATION FROM QUALITY FORM AND COMPLETION INSTRUCTIONS (Continued)

BLOCK NUMBER	COMPLETED BY	INSTRUCTIONS
********** PROBLEM IDENTIFICATION SECTION **********		
1	Originator	Enter the date and time the occurrence actually happened. If unknown, enter "N/A".
2	Originator	Enter the date and time the deficiency was identified.
3	Originator	Enter time Shift Supervisor was verbally notified of the problem.
4	Originator	Enter the deadline given by the SS for delivery of the PDQ to the on duty SS.
5	Originator	Enter the name of the individual notified.
6	Originator	Enter the System Designator Code from the Master Equipment List (MEL). If not applicable, enter "N/A".
7	Originator	Enter the Equipment Identification Numbers for all affected equipment from the MEL. If not applicable, enter "N/A".
8	Originator	Enter the Equipment name as identified in the MEL. If not applicable, enter "N/A".
9	Originator	Enter the Quality Class of the Equipment identified in block 7 from the MEL. If there is no Quality Class enter "N/A".
10	Originator	Provide a complete and detailed description of the problem.
11	Originator	Identify the associated procedure, DCP or WR related to the problem description. If not applicable, enter "N/A"

POTENTIAL DEVIATION FROM QUALITY FORM AND COMPLETION INSTRUCTIONS (Continued)

BLOCK NUMBER	COMPLETED BY	INSTRUCTIONS
********** PROBLEM IDENTIFICATION SECTION **********		
12	Originator	List affected drawings. If drawing are not affected, then enter "N/A".
13	Originator	List affected P.O./Contract Numbers. If P.O. numbers are not affected, then enter "N/A".
14	Originator	Print Name and provide required information. Enter date that this form was completed.
15	Originator's Supervisor	For configuration discrepancies indicate if the equipment operates under present configuration. Print Name and provide the required information. Enter the date that this form was signed.
********** OPERATIONS REVIEW SECTION **********		
NOTE:	Originator or PDQ Coord.	Enter the PDQ Number from the PDQ Log
16	Shift Supv	If the problem identified is a Potentially Reportable Condition in accordance with OAP-0064, then check the "Y" box, otherwise check the "N" box. If the "N" box is checked then provide justification for this determination.
17	Shift Supv	Indicate if the condition is a Technical Specification violation, Operable, Clearance Tag, and LER not required justification.
18	Shift Supv	Print name, sign and provide required information.

TYPICAL DOCUMENTATION USED TO CLOSE A PDQ

The following documents are typical of those adequate to close PDQs.

1. Work Request (RSAP-0803)
2. Master Equipment List (MEL) Input Sheet (RSAP-0306)
3. Drawing Change Only (DCO) Transmittal (TSAP-4112)
4. Set Point Change Request (with SPCR Number) (RSAP-0307)
5. Plant Label Request Form (RSAP-0307)
6. Preliminary Change Description (PCD) (RSAP-0260)
7. Design Change Package (DCP) (RSAP-0303)
8. Corrective Action Request (CAR) (RSAP-1305)
9. Licensee Event Report (LER) (LDAP-0008)
10. Approved procedure or procedure change (RSAP-0500)

EFFECTIVE DATE:
2-19-98

REVISION SUMMARY:

Added DCN revision requirements to Section 6.11, Revisions.

Added DCN revision requirements to Section 6.15, Minor Modification.

Revised step 6.3.3.6 to add E-800 drawings to the DCP Control Room Package .

THIS PROCEDURE MANUAL IS MAINTAINED ON DOCUMENT
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EXHIBIT
7
4/2/99 18 SAUM

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1.0 PURPOSE

This procedure establishes a structured process for the design, development and implementation of plant modifications. [Commitments 3.2.3, 3.2.5]

2.0 SCOPE

2.1 This procedure applies to the configuration items and documents specified in RSAP-0302, Configuration Identification.

2.2 This procedure applies to all organizations involved in the plant modification process.

2.3 Switchyard/Communications Building modifications generated by SMUD Engineering (non-nuclear) shall be initiated and controlled in accordance with SMUD Engineering procedures. These modifications shall be reviewed by Technical Services for impact on Rancho Seco structures, systems and components.

2.4 Configuration changes that result from a DQ disposition in accordance with RSAP-1310, Deviation from Quality, shall be handled in accordance with this procedure.

2.5 This procedure provides the method for evaluating Nonconforming and Field Problem Reports for incorporation into DCPs.

2.6 Plant modifications associated with QA Class 4 (Non Configuration items) equipment removal will be handled in accordance with RSAP-1900 or RSAP-0803.

3.0 REFERENCES/COMMITMENT DOCUMENTS

3.1 References

3.1.1 Rancho Seco Quality Manual Section III

3.1.2 RSAP-0106, Plant Review Committee (PRC)

3.1.3 RSAP-0302, Configuration Identification

3.1.4 RSAP-0305, Field Problem Report (FPR)

3.1.5 RSAP-0306, Data Control for the Master Equipment List

3.1.6 RSAP-0311, Setpoint Change Control (SPCR)

3.1.7 RSAP-0409, Procurement Program for Defueled Plant

3.1.8 RSAP-0500, Review, Approval and Changes of Procedures

3.1.9 RSAP-0505, Document Control

3.1.10 RSAP-0601, Nuclear Records Management

3.1.11 RSAP-0703, Supplier Disposition Request (SDR)

3.1.12 SAP-0707, Processing New Part Add/Change Requests

3.1.13 RSAP-0803, Work Request

3.1.14 RSAP-0901, Safety Review of Proposed Changes, Test, and Experiments

3.1.15 RSAP-1308, Potential Deviation From Quality (PDQ)

3.1.16 RSAP-1310, Deviation From Quality (DQ)

3.1.17 RSAP-0260, Commitment Tracking System

3.1.18 RSAP-1607, Special Testing Program

3.1.19 RSAP-1804, Safe Clearance Procedure Danger Tags

3.1.20 RSAP-1803, Test Authorization Procedure

3.1.21 RSAP-1900, Incremental Dismantlement Control

3.1.22 TSAP-4112, Drawing Change Notice (DCN)

3.1.23 TSAP-4113, Design Basis Report (DBR)

3.1.24 TSAP-4114, Design Verification Report (DVR)

3.1.25 TSAP-3016, Special Testing (STP)

3.1.26 TSAP-4601, ALARA Design Review

3.1.27 RSAP-1501, Controlled Software Change Request (CSCR)

3.1.28 RSAP-1009, Safeguards Information

3.2 Commitment Documents

3.2.1 NRC Inspection Report 86-37

3.2.2 CCTS T880926001, Control Over Design Process

3.2.3 CCTS T880429011, Identification of Spare Parts in the Design Process

3.2.4 CCTS T870301202, Proceduralize Design Process

3.2.5 LER 89-01

4.0 DEFINITIONS

4.1 Configuration Change - Any change to the fit, form or function of a configuration item.

4.2 Configuration Items - Those items whose configuration is considered important to the operation, safety, or integrity of the Station. Configuration Item categories are delineated in RSAP-0302, Configuration Identification.

4.3 Conceptual Design - Determines a description of the modification and design review requirements.

4.4 Design Basis Report (DBR) - A detailed design report which describes the modification, the design criteria used and the impact of the changes on the plant. It includes or references supporting calculations.

4.5 Design Change - Any change to the function of a Configuration Item.

4.6 Design Verification Report (DVR) - An in-depth report utilizing a preprinted form and checklist that documents the Design Review process.

4.7 Design Definition Documents - Documents which present the design, installation, testing, operation, fabrication, and inspection requirements for a Plant Modification such as DCNs and specifications.

4.8 Design Implementation Documents - Documents which verify that the design presented by the Design Definition Documents are correct. Included in this group of documents are the Design Basis Report (DBR), Design Verification Report (DVR), Safety Analysis Report (SAR), Calculations.

4.9 Other Baseline Documents - All documents which must be developed or revised to complete the Plant Modification, other than Design Definition or Implementation Documents.

4.10 Drawing Change Notice (DCN) - A copy of a drawing affected by a modification which is marked up and altered to show the configuration necessary for the modification. A DCN is an interim document which is incorporated into the drawing following closure of the Design Change Package. There is a one-to-one correspondence between drawings and DCNs.

4.11 Specification - An engineering document describing special criteria for procurement, fabrication, installation, or test of equipment and material.

4.12 Modification Test - Modification tests include those activities conducted to demonstrate structures, systems or components have been installed properly. Modification tests are normally conducted during the installation process in accordance with Technical Services or Maintenance Procedures. Typical modification tests include:

(1) Cable and equipment insulation tests.

(2) Hydro/leak test of piping, tubing and vessels.

(3) Concrete stress tests.

(4) Non-destructive tests (e.g.; radiographic, magnetic, particle, ultrasonic, liquid penetrant, eddy current tests).

4.13 DCP Control Room Package - A set of pink working drawings maintained in the Control Room to status in-process DCP work. The working drawings reflect plant configuration from commencement of plant tie-in work until the DCP release is accepted by Operations. The package should contain the following documents as applicable:

(1) Piping and Instrumentation Diagrams (P&IDs)

(2) Electrical Single-Line Diagrams

(3) Electrical Elementary Diagrams

4.14 DCP Software Work - DCP software work includes plant procedures or documents requiring deletion, revision or preparation, personnel training necessitated by the DCP.

4.15 Design Change Package (DCP) - The Design Change Package consists of specifications, reports, notices, transmittals, checklists and other forms that are used to describe, control and document a Plant Modification. This package is the basic authorizing document to initiate a plant modification.

4.16 Interim Release - Interim releases are implemented to permit equipment to be placed in service by the Operations Department prior to release of the entire DCP. Interim releases do not preclude the necessity of performing a formal DCP Release.

4.17 Functional Test - Functional tests include those activities conducted to demonstrate systems, equipment or components function in accordance with design, regulatory, USAR or other requirements. Operability tests can generally be classified as component tests or system tests.

4.17.1 Component Test - Component tests include those activities conducted to demonstrate proper function of a device, a piece of equipment, or an integral assembly of devices. Typical component tests include calibrations, control or meter and relay circuit tests, relay or circuit breaker test, MOV tests, relief valve tests, etc. Component tests are normally conducted in accordance with Maintenance Procedures or Surveillance Procedures after the installation process.

4.17.2 System Test - System tests include those activities conducted to demonstrate proper function of several different pieces of equipment and/or components. System tests primarily differ from component tests in terms of scope of equipment tested and procedures utilized. System tests are normally conducted in accordance with Special Test Procedures (STP) TSAP-3016

4.17.3 Integrated System Test - Systems Integrated Tests include those activities conducted to demonstrate proper function of one or more systems integrated with the primary system being tested. Systems integrated tests primarily differ from system tests in terms of scope of systems tested and procedures utilized. Systems integrated tests are normally conducted in accordance with Special Test Procedures (STPs).

4.18 Plant Modification - The integration and control of activities to implement plant design changes. Implementation includes the integration of changes to affected plant procedures, drawings and documents; updating of training material and/or completion of personnel training; the physical changes in the plant; and testing of modified structures, systems or components.

4.19 Incremental Dismantlement Modification - A simplified modification package prepared in accordance with RSAP-1900 to assure essential reviews and permit simplified documentation of removal of QA Class 4 "Abandoned" plant equipment.

4.20 Asset Recovery: Asset Recovery is the removal of Quality Assurance Class 4 components for reuse, sale or scrap as controlled by RSAP-0803.

4.21 Turnover - The transfer of administration of a DCP from Maintenance to Technical Services.

4.22 Interim Turnover - Interim turnovers are implemented when only a portion of the structures, systems or components installed or modified by a DCP are being turned over to Technical Services. Interim turnovers do not preclude the necessity of performing a formal DCP turnover.

4.23 Turnover Exception - Incomplete or deficient modification work identified prior to, or during the turnover and release process. Turnover exceptions are used as the basis for determining turnover and release acceptance/rejection of the package.

4.24 Turnover Package - A documentation package used to administer DCP turnovers. The package contains, but is not limited to, the following:

4.24.1 DCP Turnover and Release Exception Form, Attachment 6.

4.24.2 Copies of open deficiency or problem reports issued against the DCP (e.g., PDQ, FPR, etc.).

4.24.3 Copies of open Work Requests and open Danger Tag Clearances issued against the DCP.

NOTE:

Maintenance procedures, maintenance training, etc. still open at the time of release will be carried on the Turnover and Release Exception Form but will not hold up release of a DCP.

4.25 Release - The transfer of administration of a DCP from Technical Services to Operations. Prior to DCP release, required installation, testing and design of the modification shall be complete. It is also intended that required software work (i.e., required training, required procedure changes, etc.) be complete, as defined by the responsible department. As a minimum, the following required software work shall be complete before DCP release, as applicable:

(1) Required licensed and nonlicensed operator training.

(2) Required operating procedures updated.

(3) Required surveillance procedures updated.

(4) Required security plans and procedures updated.

(5) Controlled Software Change Request Closure.

4.26 Release Exception - Those items required for the release of a DCP but are still open at the time of release shall be noted on the DCP Turnover and Release Exception Form, (Attachment 6).

4.27 Release Package - A documentation packaged used to administer DCP releases. The Release Package index contains in order the following documents:

(1) DCP Release Authorization Form

(2) Copy of the DCP Conceptual Design

(3) DCP Release Review

(4) DCP Work and Test Record

(5) Copy of DCP Test Outline (TSAP-3016, Special Testing)

(6) DCP Turnover and Release Exception Form

5.0 RESPONSIBILITIES

5.1 Technical Services (TS) - The Technical Services Engineer is completely accountable for system design modifications to support plant operations. Responsibilities include:

(1) Development of conceptual and detailed plant design.

(2) Coordinating and scheduling DCP walkdowns.

(3) Initiating a Material/Contract Service Request (CSR), in accordance with RSAP-0409, Procurement Program for Defueled Plant, for items added by the DCP which are not available from stock.

(4) Initiating a New Part Add/Change Request for warehouse inventory in accordance with RSAP-0707, Processing New Part Add/Change Requests if applicable.

(5) Maintaining DCP Control Room Packages.

(6) Initiating changes to the Master Equipment List (MEL) data base to reflect the plant modification.

(7) Implementing identified testing and resolving test associated problems.

(8) Establishing/maintaining the DCP Punchlist.

(9) Maintaining jurisdictional control of equipment to ensure untested equipment and components are not placed in-service prior to release.

(10) Identifying testing requirements in accordance with RSAP-1607, Special Testing Program.

(11) Coordination of plant tie-in work.

(12) Verify that the as-installed modification meets the DCP requirements and all the required open work on the DCP Punchlist has been completed or documented on the DCP Release Exception Form.

(13) Identifying required maintenance procedure changes or additions and insuring their completion.

(14) Initiating vendor manual updates in support of plant modifications.

(15) Verifying required design drawings are updated prior to release.

(16) Prepare and coordinate turnover and release packages.

(17) Ensures designs related to Nuclear Safety are reviewed and approved by individuals not having direct responsibilities for the design.

(18) Ensures CSCR closure prior to release.

5.2 Nuclear Maintenance - The Maintenance Superintendent is responsible for:

(1) Participating in planning walkdowns for assigned DCPs.

(2) Perform facility modifications as described in DCPs.

(3) Preparation of DCP Work Requests.

(4) Prepare DCP Turnover Packages.

(5) Participating in DCP release

(6) Providing support, as required, for DCP testing.

5.3 Nuclear Operations

(1) Participating in all planning walkdowns.

(2) Identifying required operating procedure requirements and insuring their completion.

(3) Provide support to the TS Engineer during Functional Testing, as required.

(4) Reviewing and Accepting DCP release from the Technical Services Engineer.

(5) Updating training material as needed.

(6) Verifying completion of required training for modification release.

5.4 Nuclear Quality

(1) Participating in walkdowns for 10CFR 71/72 Important To Safety, Quality Class 1, Fire Protection and Radwaste DCPs.

(2) Review of release packages for 10CFR 71/72 Important To Safety, Quality Class 1, Fire Protection and Radwaste DCPs.

5.5 Site Document Control (DC)

(1) Maintaining the DCP Table of Contents.

(2) Distribution and control of DCPs, DCNs, FPRs, and other plant modification documents.

(3) Establishing the DCP Control Room Package.

5.6 Nuclear Quality Assurance, Licensing - Reviews releases and interim releases for potential reportability to the Nuclear Regulatory Commission, and updates the Technical Specifications, DSAR, Decommissioning Plan, and ISFSI SAR.

6.0 PROCEDURE

NOTE:
Documentation requirements for all phases of the plant modification process are summarized in Attachment 1.

6.1 Identification and Approval to Commence Conceptual Design

During this phase of the DCP process a proposed modification is identified, reviewed for technical validity, analyzed for cost and benefit, prioritized, scheduled and approved for commencement of Conceptual Design.

6.1.1 A proposed modification may be identified by any Rancho Seco Employee and is submitted to the TS Engineer.

6.1.2 The identification, review and approval of a proposed modification is delineated in RSAP-0260, Commitment Tracking System.

6.2 Conceptual Design

During this phase of the DCP process a determination of design review requirements and a description of the modification is documented.

6.2.1 A Design Change Package number shall be obtained from Document Control, by the CTS Coordinator, by submitting a Commitment Cover Sheet marked Approved for Design or Implementation by the Commitment Management Review Group (CMRG). The Preliminary Change Description (PCD) form, which provides additional information about the modification, should also be attached.

6.2.2 Technical Services shall complete and perform Conceptual Design (Attachment 2) activities. If it is identified that the USAR, Technical Specifications, or other Licensing Basis Documents will be affected by the change, that fact should be brought to the attention of the Technical Services Superintendent prior to proceeding further.

6.2.3 The TS Engineer shall obtain the required reviews and approvals in Attachment 2.

6.2.4 The approval of the Conceptual Design by the Superintendent, Technical Services and the Plant Closure Manager shall authorize commencement of the Detailed Design Phase.

6.3 Detailed Design

During this phase of the DCP process the design of the modification is developed, a Planning Review meeting and walkdown of the modification's physical location is performed and design documents are approved, if adequate information was unavailable during the conceptual walkdown.

6.3.1 Design Development

6.3.1.1 The TS Engineer shall prepare the following items:

(1) Design Definition Documents (e.g., DCNs and Specifications).

(2) Design Implementation Documents (e.g., Design Basis Report and Design Verification Report).

(3) DCP Constructability Review and Walkdown

(4) ALARA Evaluation Sheet prepared per TSAP-4601.

6.3.1.2 A copy of setpoint change requests per RSAP-0311 should be included in the DCP Package with the original sent to the Technical Services Superintendent for entrance into the database.

6.3.1.3 A copy of MEL additions/changes per RSAP-0306 should be included in the DCP Package with the original sent to the Superintendent, Technical Services for entrance into the database. The copies shall be distributed with the DCP Package (for information) but are not required to be maintained as part of the permanent DCP records.

6.3.1.4 The TS Engineer shall initiate Material/Contract Service Requests per RSAP-0409 and New Part Add/Change Requests per RSAP-0707, as required.

6.3.1.5 Controlled software changes (RSAP-1501) may be made and authorized as part of the DCP Process provided that:

(1) The 50.59 Determination for the DCP shall include the review of the software change.

(2) The DBR for the DCP should include a description of the software change.

(3) The affected software documentation is revised (Ref: RSAP-1501). If a new digital system/device is added which requires controlled software, then RSAP-1501 shall be revised to include a reference to this system and its associated software documentation.

(4) Testing of the software should be included in post modification DCP testing.

(5) "HISTORY ONLY" CSCR shall be submitted to the CSCR Coordinator per RSAP-1501 for documentation and software configuration control purposes. The CSR shall reference the DCP, testing, software documentation, and implementing work request. A description of the change shall be included. A copy of this CSCR shall be submitted to SDC as part of required DCP documentation.

6.3.2 Constructability Review Meeting and Walkdown (White Review)

6.3.2.1 The TS Engineer shall determine participants in the Constructability Review meeting and walkdown. Operation and other participants shall be listed on Attachment 3.

6.3.2.2 The TS Engineer should transmit the originals of the Design Definition Documents, Design Basis Report (DBR) and the DCP Constructability Review, Attachment 3, to DC using the DCN Transmittal Form, Attachment 4.

As a minimum, DCP Packages submitted to SDC for constructability review (white copy issuance) shall contain the following:

(1) Conceptual Design coversheet - completed

(2) Design Basis Report (DBR) - draft

(3) Design Change Notices (DCNs) and DCN transmittal - draft

(4) DCP Constructability Review

(5) Test outline.

NOTE:

The TS Engineer may expedite distribution (of white review copies) by making copies and performing the distribution function; in which case Document Control need not get involved in distribution.

6.3.2.3 Document Control shall distribute copies (white review copies) of the DCP, Design Definition Documents, Design Basis Report, and the Constructability Review to individuals identified on the Constructability Review List. Document Control shall return the originals of these documents to the TS Engineer.

NOTE:

The Operations Division shall always be included in all Constructability Review Meetings and Walkdowns.

6.3.2.4 The TS Engineer shall coordinate the Constructability Review meeting and walkdown.

6.3.2.4.1 All comments shall be reviewed and submitted to the TS Engineer at the meeting.

6.3.2.4.2 Individuals not in attendance at the meeting shall enter their comments on the Constructability Review and submit the form to the TS Engineer by the meeting date.

6.3.2.5 The TS Engineer shall resolve all comments and then initiate Work Requests in accordance with RSAP-0803.

6.3.3 Document Completion

6.3.3.1 The Superintendent, Technical Services, shall approve the DBR and DVR.

6.3.3.2 The Superintendent, Technical Services, shall approve the Constructability Review.

6.3.3.3 The TS Engineer shall prepare and process a 10 CFR 50.59/72.48/71.107 Determination in accordance with RSAP-0901, Safety Review of Proposed Changes, Tests and Experiments.

6.3.3.4 The 10 CFR 50.59/72.48/71.107 Determination and the Constructability Review shall be submitted to the Plant Review Committee in accordance with RSAP-0106, Plant Review Committee (PRC).

6.3.3.4.1 If question 1.1, 1.2.1, 1.2.2 or 1.2.3 of the 10 CFR 50.50/72.48/71.107 determination are marked "yes", the Plant Closure Manager shall approve the Constructability Review.

6.3.3.5 Technical Services shall transmit the Conceptual Design and all Design Definition and Design Implementation Documents to Site Document Control using the DCN Transmittal.

> NOTE:
>
> A DCP scope change may occur anytime after issuance of Approved for Work copies of the DCP and prior to Turnover.

5→← 6.3.3.6 Document Control shall issue a DCP Control Room Package which shall consist of all M-500, E-100, E-200 and E-800 series drawings stamped "Control Room - Start Up".

6.4 Implementation/Installation Test

During this phase of the DCP process the modification is installed and verified. Work documents are completed. Testing is conducted to ensure that the modification has been installed properly.

6.4.1 Nuclear Maintenance Department Activities

6.4.1.1 The Nuclear Maintenance Division shall implement the DCP Work Requests in accordance with RSAP-0803.

6.4.1.2 Problems encountered during implementation may be resolved in accordance with RSAP-0305, Field Problem Report (FPR).

6.4.1.3 Danger and Test tags shall be controlled in accordance with RSAP-1803, Test Authorization Procedure.

→ 6.4.1.4 All construction work shall be performed in accordance with approved DCNs or FPRs only. Variances from approved configuration documents are not permitted.

6.4.2 Interface Planning

Due to the different organizations that may be involved with implementing a DCP, the following section is provided. Exceptions to this section should be identified on a case-by-case basis during walkdowns. This section is not intended to be all inclusive, but rather address areas requiring clarification and coordination.

6.4.2.1 Coordination of Plant tie-in work is the responsibility of the TS Engineer. This includes both connect and disconnect tie-in work.

6.4.2.2 Prior to performance of tie-in work, the TS Engineer may be requested by Operations to assist in determining isolation boundaries.

6.4.2.3 For DCPs that are 10 CFR 50.59/72.48/71.107 YES on Sections 1.1 and 1.2 tie-in requires NRC approval. The TS Engineer and Licensing shall review safety analysis documents to resolve any identified tie-in restrictions. Restrictions shall be noted on the work request/constructability review or as field notes on affected drawings if tie-in restrictions exist.

6.4.2.4 Prior to commencement of tie-in work, the TS Engineer has SDC forward any additional drawings required for the DCP Control Room Package to the Control Room and statuses the package.

6.4.2.5 The TS Engineer, in addition to the responsible job supervisor, shall sign on the clearance issued to perform the tie-in work.

6.4.2.6 Piping and tubing should not be connected to the permanent plant until flushes or blowdowns are complete and/or verified clean. (This should be part of the work request).

6.4.2.7 Electrical tie-ins should not be connected until insulation resistance testing is complete. (This should be part of the work request).

6.4.2.8 Clearances taken to perform tie-in work shall be maintained until appropriate testing is complete (i.e., untested components are not to be placed in-service).

6.4.3 Construction Testing and Post Installation Activities

These individual activities are performed under the direction of the TS Engineer.

6.4.3.1 The Maintenance Group performs system pressure testing under the direction of the TS Engineer.

6.4.3.2 The Maintenance Group should perform in-service leak testing under the direction of the TS Engineer. In-service leak testing is performed when the associated system can be placed in-service to meet the requirements of the applicable industry codes and standards.

6.4.3.3 Cable megger testing should be performed by Maintenance.

6.4.3.4 Insulation testing of electrical equipment is performed by Maintenance.

6.4.3.5 Non-destructive testing should be performed prior to any system or integrated testing.

6.4.3.6 Insulation and thermal lagging should be completed prior to Release. The extent of completion will be determined by the status of hydrostatic or in-service leak testing, or may not be completed until after release and carried as a release exception.

6.4.3.7 Preliminary alignment of rotating equipment and final alignment and coupling is performed by Maintenance.

6.4.3.8 Maintenance is responsible for bumping motors to ensure proper rotation under the direction of the TS Engineer.

6.4.3.9 Flushing or blowdowns of piping and tubing will be coordinated by the TS Engineer.

6.4.3.10 If a permanent plant component must be temporarily removed to support plant modification work and must be evaluated for operability impact to the affected system. The removal and reinstallation of the interference should be coordinated through the TS Engineer.

6.4.3.11 Component testing of electrical and instrument components and circuits is usually performed by Maintenance.

6.4.4 Field Problem Report (FPR)

Problems encountered during implementation may be resolved by use of a Field Problem Report (FPR) in accordance with RSAP-0305 or by issuing revised DCNs. If the nature of the problem and the proposed resolution may be clearly communicated verbally, the TS Engineer may simply issue revised DCNs to effect resolution. However, if the nature or complexity of the problem is such that written documentation is appropriate to assure communication, an FPR should be initiated. In either case, all field work must be in strict accordance with approved DCNs or FPRs and problems must be resolved prior to proceeding with the work.

6.4.5 Work Requests

Field work is conducted in accordance with RSAP-0803. Work Requests shall be work complete prior to DCP turnover or listed as an exception on the DCP Turnover and Release Exception Form (Attachment 6).

NOTE:

Danger tags issued to perform DCP work are released by the responsible Construction Group at DCP turnover to the TS Engineer.

6.4.6 Danger and Test Tags

Danger and Test Tags are controlled in accordance with RSAP-1803, Test Authorization Procedure.

6.4.7 Scope Change

A scope change may arise from a DCP and/or DCN revision or FPR. The scope change may involve additional work to be performed or deletion of work already identified.

6.4.8 Control Room Package

The DCP Control Room Package is updated to show current installation and testing status by the Technical Services Engineer. The TS Engineer may request additional specific drawings to be placed in the Control Room by DC. The Technical Services Engineer uses the following steps to status drawings.

6.4.8.1 If additional drawings are requested, DC shall prepare the requested drawings on pink paper and stamp them "Control Room Startup". The TS Engineer shall sign below the stamp.

6.4.8.2 Balloon or verify the drawings are ballooned to indicate components being added, deleted or modified.

6.4.8.3 Highlight the drawings as installation and/or removal work progresses to reflect actual status. This should be done as work progresses.

6.4.8.4 Signs and dates the drawing and notes "Work Complete" when installation and/or removal work and associated testing is complete.

6.4.8.5 If a DCN is revised, transfer the status information to the new DC copy.

6.4.9 Turnover and Release Exception Form

The DCP Turnover and Release Exception Form is used and controlled by the TS Engineer for tracking open items or questions to be resolved before DCP Closure.

6.5 DCP Turnover

During this phase the responsibility for a DCP is transferred from Maintenance to Technical Services.

NOTE:
Additional personnel as determined by the TS Engineer are included to support the Turnover.

6.5.1 The TS Engineer shall schedule and coordinate a joint walkdown of the DCP prior to turnover. The following personnel should participate in the walkdown:

6.5.1.1 The Discipline Maintenance Supervisor, as applicable.

6.5.1.2 Nuclear Quality Representative (required for Quality Class I, Fire Protection and Radwaste DCP).

6.5.2 During the Walkdown, Technical Services prepares a DCP Turnover and Release Exception Form, Attachment 6. The form is prepared to the following requirements:

6.5.2.1 Each exception is clearly defined and not expressed in general terms.

6.5.2.2 Incomplete hardware work resulting from PDQs and/or FPRs is identified as an exception.

6.5.2.3 Each exception has an estimated completion date with an assigned responsible organization.

6.5.2.4 Exceptions required to be completed prior to turnover acceptance are noted by the TS Engineer. The following Guidelines should be used when evaluating exceptions:

NOTE:
Attachments may be used in conjunction with the DCP Turnover and Release Exception Form without transcribing information. In this case, an entry is made referencing the attachment (e.g., Work Requests, PDQs, FPRs, etc.).

(1) If the DCP does not require testing, then no exceptions should be permitted.

(2) Turnover exceptions should not be permitted if materials are available to complete the work.

(3) Unacceptable construction or component testing should not be permitted.

(4) Open deficiency or problem reports (e.g., PDQs, FPRs, etc.) should be permitted only if the report has been processed to the point of determining hardware impact.

(5) The modification can be effectively tested with the outstanding exceptions.

6.5.3 The responsible Maintenance Group completes the following actions on or before the turnover:

6.5.3.1 Completes required exceptions including associated inspections, documentation review, and approvals.

6.5.3.2 Updates the DCP Turnover and Release Exception Form to show current status of each exception.

6.5.3.3 Prepares a Turnover Package.

6.5.3.4 Closes Work Requests issued against the DCP or identifies any open Work Request as an exception.

6.5.3.5 Obtains required signatures on the DCP Turnover and Release Exception Form, Attachment 6.

6.5.3.5.1 Any exceptions are listed on the DCP Turnover and Release Exception Form.

6.5.3.6 Submits the Turnover Package to the TS Engineer.

6.5.4 The TS Engineer shall review the Turnover Package for accuracy and content. Any problems or questions are resolved with responsible maintenance personnel. This review is intended to ensure:

6.5.4.1 DCP Turnover and Release Exception Form is updated and is properly signed.

6.5.4.2 Turnover package contains required documentation.

6.5.5 The TS Engineer shall sign the DCP Turnover and Release Exception Form and submits the Turnover Package to Site Document Control.

6.5.5.1 Required turnover exceptions are complete.

6.5.6 When the turnover is accepted, the TS Engineer verifies the DCP boundary isolation devices are under clearance to TS Engineer.

6.6 DCP Interim Turnovers

If it is necessary that only a portion of the structures, systems or components modified by a DCP be turned over to TS Engineer, the following steps shall be performed:

6.6.1 The TS Engineer shall notify the responsible Maintenance Group of the equipment (i.e., schemes, equipment, instruments, etc.) needed for interim turnover. The TS Engineer shall also perform the following:

6.6.1.1 Prepare and submit a DCP Interim Turnover Form, Attachment 7, to the Maintenance Group.

6.6.1.2 Schedules and coordinates an interim turnover walkdown.

6.6.2 The TS Engineer and the Maintenance Representative jointly perform the walkdown. During the walkdown, exceptions required to be complete for the interim turnover are identified in the Remarks/Comments section of the DCP Interim Turnover Form.

6.6.3 Any required exceptions are completed and the responsible Maintenance Supervisors sign the DCP Interim Turnover Form.

6.6.4 The TS Engineer signs to indicate Technical Services Acceptance.

6.6.5 The TS Engineer shall ensure isolation boundary devices are under clearance to Technical Services and places turnover Tags, if desired.

6.7 Operational Testing

6.7.1 The TS Engineer shall perform the Operational Test of the Modification in accordance with testing defined in the Test Outline prepared in accordance with TSAP-3016.

6.7.2 The TS Engineer shall verify that all related work is complete and that the equipment is ready for release to the Nuclear Operations Division.

6.7.2.1 If temporary modifications are required to facilitate testing, then the requirements of RSAP-1606, Temporary Modification Control are implemented.

6.7.2.2 Testing may be completed using approved Maintenance Procedures, Special Test Procedures, Routine Test Procedures or Surveillance Procedures. The TS Engineer shall determine the testing to be performed on each DCP.

6.7.2.3 Design deficiencies encountered are described and resolved on a Field Problem Report (FPR) in accordance with RSAP-0305.

6.7.2.4 A DCP Work and Test Record shall be prepared for each DCP by the TS Engineer and all testing to be performed should be identified. The completed form is included in the release package, Attachment 5.

6.8 Interim Release

Interim Releases permits equipment to be placed in service by Plant Operations prior to release of the entire DCP. An Interim Release does not preclude the necessity of performing a formal DCP Release.

6.8.1 Operations notifies the TS Engineer of the required Equipment to be placed under operation jurisdiction by initiating and submitting a DCP Interim Release Form. Operations indicates on the Interim Release Form, Attachment 10, if the equipment is to be declared operable per plant Technical Specifications.

6.8.1.1 If yes, Operations completes a 10 CFR 50.59/72.48/71.107 Determination per RSAP-0901. Operations then forwards the completed Interim Release request and the 50.59 to the TS Engineer.

6.8.2 Upon receiving an Interim Release form, the responsible TS Engineer shall verify or complete the following:

6.8.2.1 Perform a walkdown of the requested equipment with Operations. During the walkdown, work required to be complete for the interim release is identified.

6.8.2.2 If a DCN revision is required, the TS Engineer processes the revision. A DCN revision is required if the configuration of the equipment differs from the DCN.

6.8.2.3 Requiring work is completed including inspections and testing.

6.8.2.4 Ensure danger, and test tags are not issued against the equipment prior to submitting the interim release to Operations.

6.8.2.5 Document equipment status relative to installation, outstanding testing, software (procedures, documents, training, etc.), operating restrictions and open Field Problem Reports on the DCP Interim Release Form.

6.8.2.6 Verify any temporary modifications are restored to design configuration or identified as an open item on the DCP Interim Release Authorization Form.

6.8.2.7 The TS Engineer ensures the DCP Control Room Package drawings are updated to reflect current installation and testing status for requested interim release equipment.

NOTE:

Copies of the DCP Turnover and Release Exception Form, DCP Test Record or other records may be attached to the DCP Interim Release From if there is insufficient space on the form to define status of equipment. In this case, an entry is made on the form referencing the attachments.

6.8.2.8 Attach copies of any open deficiency or problem reports (e.g.; PDQs, FPRs, etc.) to the DCP Interim Release Authorization Form.

6.8.3 The TS Engineer and operation representative shall perform a walkdown of the modification to identify work required to be completed prior to the Interim Release.

6.8.4 The TS Engineer shall ensure the completion of the DCP Interim Release Authorization.

6.8.5 The Technical Services Superintendent shall sign the DCP Interim Release Authorization to approve its issue.

6.8.6 The TS Engineer signs the Interim Release Form indicating the plant can be safely operated in the interim configuration.

6.8.7 Operations reviews the Interim Release and any questions or problems are resolved with the TS Engineer. Operations signs the Interim Release and forwards it to Document Control.

6.9 Release/Acceptance

During this phase of the DCP process the modification is verified to satisfy the DCP requirements prior to the transfer of responsibility from Technical Services to Nuclear Operations.

6.9.1 The TS Engineer shall prepare a DCP Release Package. This is used to ensure design, installation and testing of the DCP are complete. Exceptions to the installation or testing of a DCP shall be listed on the DCP Turnover and Release Exception From, Attachment 6, in DC. The TS Engineer also insures the Release Review, Attachment 8, and the Design Closure Checklist, Attachment 9, are complete.

6.9.2 The Release Form is submitted to Document Control. DC reviews their files and:

6.9.2.1 Signs the Release Form to acknowledge no DCNs issued against the DCP are out of revision or are awaiting SDC processing and FPRs have been incorporated into DCNs and closed.

6.9.2.2 Places a hold on the DCP and all related DCNs to prevent any further revision. No new FPRs or DCNs shall be issued.

6.9.2.3 To remove the DCP package from "Hold" Status, the TS Engineer shall return the DCP Release Authorization Form to DC.

6.9.2.4 Returns the signed form to the TS Engineer.

6.9.3 The TS Engineer signs the Release Authorization indicating installation and testing is complete and authorizes issuance of yellow drawings.

6.9.4 Upon receipt of the DCP Design Closure Checklist and the DCP Release Authorization from Technical Services, DC shall status the DCP "Work Complete" and issue yellow copies of the DCNs.

6.9.5 Once a DCP is statused "Work Complete", additional FPRs on DCNs shall not be issued from this point through closure of the DCP.

6.9.6 The TS Engineer shall obtain signatures on the Release Authorization Form, Attachment 11, from the following department representatives.

NOTE:

Signatures except Quality and Training indicate required software work for the department is complete (i.e., required plant procedures and/or documents updated, or required training, etc. complete).

(1) Operations Representative

(2) Training Representative

(3) TS Engineer

6.9.7 Operations reviews the release for acceptance and will make a determination that the required for release exceptions as listed on the Release Exception Form Punch list are acceptable. If the release is not acceptable, the Release Form is returned to the TS Engineer with an explanation of the reason for return. Operations verifies required Operations procedures are issued and indicates acceptance by signing the Release Form and returning it to the TS Engineer.

6.9.8 The original Release Package should be sent to Document Control and controlled by them until all open exceptions are complete.

6.10 Closure

During this phase of the DCP process all original DCP documentation is transmitted to DC and the modification is closed.

6.10.1 The TS Engineer shall verify all open items on the DCP Turnover and Release Exception Form are completed prior to closure of the DCP.

6.10.2 The TS Engineer shall submit all original DCP forms and all associated documentation to DC using a DCP Transmittal.

6.10.3 The TS Engineer's signature on the DCP Turnover and Release Exception Form authorizes closure of all DCP documentation.

6.10.4 Once a DCP package is closed by DC no additions, changes or deletions can be made.

6.11 General

6.11.1 Revisions

6.11.1.1 Revisions to design documents shall be performed in accordance with their respective procedures.

6.11.1.2 A change, other than editorial, to any form shall require a revision to the entire form.

15→ 6.11.1.3 Revisions to the original DCN Package shall be acknowledged by the Operations and Radiation Protection/Chemistry Supervisors (or designated representatives). This acknowledgment shall be documented on the DCN transmittal.

5← 6.11.1.3.1 Revisions to the DCNs shall be done in accordance with TSAP-4112.

6.11.1.4 The TS Engineer shall transmit any revised Design Definition or Design Implementation documents to DC.

6.11.1.5 DC shall incorporate the Design Definition and Design Implementation documents into the DCP. DC shall revise the DCP Table of Contents and distribute the required changes in accordance with RSAP-0505.

6.11.1.5.1 Superseded document revisions shall be marked by DC and left in the package. The new document revisions shall then be added to the package.

6.12 Voiding

6.12.1 A DCP may be voided prior to or during the Implementation Planning Phase.

6.12.2 Voiding a DCP prior to the Implementation Planning Phase:

6.12.2.1 The TS Engineer shall prepare a memorandum stating the DCP is to be voided.

6.12.2.2 The TS Engineer shall obtain the Discipline Supervisors concurrence on the memorandum.

6.12.2.3 The memorandum shall address the reason for voiding and the follow up actions required as a result of the voiding.

6.12.2.4 The TS Engineer shall forward the memorandum to DC to freeze the design.

6.12.3 Voiding during the Implementation/Planning Phase:

6.12.3.1 If the work has started, consideration should be given to revising the DCP rather than voiding.

6.12.3.2 The TS Engineer shall prepare a memorandum to DC recommending that the DCP be voided.

6.12.3.3 The memorandum shall address the reason for voiding and the follow up actions required as a result of the voiding.

6.12.3.4 The TS Engineer signs the memorandum indicating that all modification activities have been stopped.

6.12.3.5 The memorandum shall be forwarded to the Discipline Supervisor for concurrence.

6.12.3.6 The Technical Services Superintendent shall approve the voiding memo if the justification is adequate, and there is evidence the CMRG (per RSAP-0260) will concur with the voiding.

6.12.3.7 Upon approval the TS Engineer shall route the memorandum to DC for processing.

6.12.3.8 The TS Engineer shall assure that all design changes related to the DCP are brought back to the original conditions or, for systems being downgraded or abandoned in accordance with the SAFSTOR program, Drawing Change only DCNs are issued to document any modifications actually completed that would affect P&IDs, Elementary Diagrams or Electrical One Lines. All follow up actions identified in the memorandum shall be completed by the TS Engineer prior to submittal of the memorandum.

6.13 Switchyard/Communications Building Modifications

Modifications to the Rancho Seco switchyard or Communications Building which are generated by Technical Services shall be controlled by the DCP process, as outlined in this procedure and in RSAP-0303. Switchyard or Communications Building modifications generated by non-nuclear engineering (downtown) shall be controlled by their own (downtown) procedures with Technical Services interface as detailed below.

6.13.1 The originating department shall prepare a proposed design basis including initiating reason, change description, justification, and criteria. The engineering department (non-nuclear) shall prepare the Design Change Notice (DCN) per their procedure ESDP-202 (Downtown DCN Procedure) an obtain Technical Services review and approval by routing the DCNs through SDC

6.13.1.1 Switchyard or Communications Building drawings that are part of the Rancho Seco Plant Drawing System, and are included in Downtown DCN Packages, shall be prepared, checked, approved and revised per TSAP-4112.

6.13.2 Using the DCN package and proposed design basis, Technical Services shall review the package as follows:

6.13.2.1 Perform 10 CFR 50.59/72.48/71.107 evaluation per RSAP-0901. In addition, review any studies or calculations that may relate to or impact Rancho Seco due to the proposed changes.

6.13.2.2 Prepare a design basis report per TSAP-4113.

6.13.2.3 Perform a design verification report per TSAP-4114 if required.

6.13.2.4 Route the above documents (50.59/72.48/71.107 determination, DBR, DVR) for review and approval per applicable procedures.

6.13.2.5 Evaluate the DCN Package to determine if any documents or drawings contain Safeguards Information. Documents determined to contain Safeguards Information shall be identified, handled and distributed in accordance with RSAP-1009.

6.13.3 Following the approvals, the DCN cover sheet (Reference ESDP-202) can be signed and the package including the above documents is routed back to the non-nuclear engineering (downtown) through Site Document Control (SDC) for implementation.

6.13.4 Prior to modification closure, non-nuclear engineering (downtown) shall provide as-built DCNs to Technical Services for review and approval to ensure the requirements of 50.59/72.48/71.107, DBR and DVR are met.

6.13.5 During modification closure the TS Engineer shall transmit, using a memo, the original 50.59/72.48/71.107 Determination and the DBR to SDC. Copies of the DBR and 50.59 shall be included in the package.

6.14 <u>DCP Closure for Abandoned Systems</u>

6.14.1 This section applies to DCPs with plant modification work completed, on systems being abandoned in accordance with the SAFSTOR program.

6.14.2 If the work necessary to complete some or all of the following documents and perform full closure was not complete, and the system or affected equipment is abandoned in accordance with the SAFSTOR Program, DCP closure may be accomplished by memo from the Technical Services Superintendent to DC.

(1) DCP Release Authorization

(2) DCP Design Closure Checklist

(3) DCP Release Review

(4) DCP System Baseline Checklist

(5) Test Outline

(6) DCP Work and Test Record

(7) Punchlist

(8) DCP Turnover Form

(9) DCP Release Authorization

(10) DCP Transmittal (closure)

6.14.3 When DCP closure is requested in accordance with this section, DC shall issue the yellow drawings to reflect the completed work.

6.15 Minor Modifications

6.15.1 Minor Modifications may be made to configuration items using this process subject to the following limitations:

6.15.1.1 Affected equipment cannot be Quality Assurance Class 1 or 10CFR71/72 Important to Safety, Category A or design of protective shielding required by the Radiation Protection Program.

6.15.1.2 Estimated material cost for the modification is less than $75,000.

6.15.1.3 Estimated craft labor for implementation is less than 300 hours.

6.15.1.4 Acceptance testing is simple enough to be conducted by Work Request instructions or existing Surveillance or Routine Test Procedure.

6.15.2 The responsible engineer initiates a Minor Modification by completing a Preliminary Change Description (ADM-219), noting under type of change that it is a Minor Modification and submitting it to the CMRG as described in RSAP-0260.

6.15.3 Site Document Control (SDC) issues a DCP number for approved PCDs.

6.15.4 The responsible engineer develops Drawing Change Notices (DCNs) in accordance with TSAP-4112 and a DCN Transmittal (ADM-165).

6.15.5 The responsible engineer solicits and resolves input from affected work groups.

6.15.6 The responsible engineer prepares a Design Basis Report (ENG-038).

6.15.7 The responsible engineer completes a Design Change Checklist (ADM-189), noting any baseline documents to be changed in Section VI of the Design Basis Report.

6.15.8 The responsible engineer prepares a 10CFR 50.59/72.48/71.107(c) determination.

6.15.9 The engineer obtains approvals on the prepared documents and delivers the Minor Modification package to SDC. If the 10CFR5059/72.48/71.107(c) determination has a "Yes" response in Section 1.1 or 1.2, the Plant Manager's approval must be obtained on the Design Change Checklist prior to proceeding.

6.15.10 SDC issues the DCNs pink including a DCP Control Room Package in accordance with Step 6.3.3.7 of this procedure.

6.15.11 The responsible engineer assures that adequate steps for acceptance testing are included in the Work Request Plan.

6.15.12 Field problems are to be resolved using Section 6.4.4 of this procedure.

6.15.13 The responsible engineer and Technical Services Superintendent documents DCP completion by issuing a Commitment Closure Form (ADM-258) to the CTS Coordinator with a copy to SDC. The closure form shall identify all actions taken on baseline documents listed on the DBR Form.

6.15.14 SDC closes the Minor Modification package and issues yellow drawings upon receipt of the Commitment Closure Form.

5→ 6.15.15 Revisions to a Minor Modification DCN Package

6.15.15.1 Revisions to the original DCN Package shall be acknowledged by the Operations and Radiation Protection/Chemistry Supervisors (or designated representatives). This acknowledgment shall be documented on the DCN transmittal.

5← 6.15.15.1.1 Revisions to the DCNs shall be done in accordance with TSAP-4112.

7.0 RECORDS

The following individual/packaged documents and related correspondence completed as a result of the performance or implementation of this procedure are records. They shall be transmitted to Records Management in accordance with RSAP-0601, Nuclear Records Management.

(1) The Design Change Package including all documents completed as a result of this procedure.

(2) Documents that result from a DCP but are normally transmitted to Records Management separately are referenced in the package. However, DC has the authority to remove superfluous copies from the DCP package if the document is properly referenced.

8.0 ATTACHMENTS

(1) DCP Documentation Requirements

(2) DCP Conceptual Design

(3) DCP Constructability Review and Walkdown

(4) DCN Transmittal

(5) DCP Work and Test Record

(6) DCP Turnover and Release Exception Form

(7) DCP Interim Turnover Form

(8) DCP Release Review

(9) DCP Design Closure Checklist

(10) DCP Interim Release Authorization

(11) DCP Release Authorization

(12) DCP Table of Contents

DCP DOCUMENTATION REQUIREMENTS

ATTACH NO	FORM NAME	FORM NO	REQUIRED FOR DCP	ASSET RECOVERY DCP	REQUIRED FOR CONFIG CHANGE PDQ	
2	DCP CONCEPTUAL DESIGN	ADM-084	X	X	N	DCP CONCEPT DESIGN
3	DCP CONSTRUCTABILITY WALKDOWN	ADM-210	X		N	CONSTRUCTABILITY WALKDOWN
4	DCN TRANSMITTAL	ADM-165	X	X	X	DCN TRANS
5	DCP WORK AND TEST RECORD	ADM-090	X		X	WORK & TEST RECORD
6	DCP TURNOVER & RELEASE EXCEPTION FORM	ADM-214	X			TURNOVER FORM
7	DCP INTERIM TURNOVER FORM	ADM-216	**		N	INTERIM TURNOVER FORM
8	DCP RELEASE REVIEW	ADM-091	X		N	RELEASE REVIEW
9	DCP DESIGN CLOSURE CHECKLIST	ADM-211	X		N	DESIGN CLOSURE CHECKLIST
10	DCP INTERIM RELEASE AUTHORIZATION	ADM-092	**		N	INTERIM RELEASE AUTHORIZATION
11	DCP RELEASE AUTHORIZATION	ADM-093	X	X	N	RELEASE AUTHORIZATION
12	DCP TABLE OF CONTENTS	SEE RSAP-0505	X		N	TABLE OF CONTENTS
*	DESIGN BASIS REPORT	SEE TSAP-4113	X		X	DBR
*	DESIGN VERIFICATION REPORT	SEE TSAP-4114	**		N	DVR
*	DRAWING CHANGE NOTICE	SEE TSAP-4112	**		**	DCN
*	SPECIFICATION	SEE TSAP-4201	**		**	SPEC
*	10 CFR 50.59 DETERMINATION	SEE RSAP-0901	X	X	X	10 CFR 50.59 DET
*	SETPOINT CHANGES	SEE RSAP-0311	**		**	SETPOINT CHANGE REQUEST
*	MEL CHANGES	SEE RSAP-0306	**		**	MEL CHANGES
*	TEST OUTLINE	SEE TSAP-3016	X		**	TEST OUTLINE
*					X	ALARA CHECKLIST
*					X	DQ FORM
*					X	DQ DESIGN CHANGE CHECKLIST
*	ALARA REVIEW FORM	ENG-009	X			
*	CONTROLLED SOFTWARE CHANGE REQUEST	SEE RSAP-1501	**			
*	MEL PRINT OUT (CLASS 4)			X		

* Item requirements under another procedure. See Form the column above

** Unused

DCP CONCEPTUAL DESIGN

FORM REVISION FOR THIS DCP _____

DCP Conceptual Design
PHASE - CONCEPTUAL DESIGN

DCP NO. _____
SHEET: ____ OF ____
QUALITY CLASS _____

ACCOUNT NO. _____ TECHNICAL SERVICES ENGINEER _____ EXT. _____
(PRINT NAME)

REVIEW AND DESIGN PARTICIPANTS REQUIRED (CHECK APPLICABLE BLOCKS)

☐	OPERATIONS	☐	QUALITY ASSURANCE
☐	MAINTENANCE	☐	_____
☐	ELECTRICAL	☐	_____
☐	RAD PROTECTION	☐	_____
☐	MECH/PIPING	☐	_____

ASSET RECOVERY MODIFICATION ☐ YES ☐ NO

ENGINEERING CHANGE DESCRIPTION:

TYPICAL

TECHNICAL SERVICES ENGINEER _____ DATE _____

PORTION OF DESIGN TO BE DONE BY:

OTHER:

_____

_____

APPROVALS:

TECHNICAL SERVICES SUPERINTENDENT _____ DATE _____

PLANT CLOSURE MANAGER _____ DATE _____

ADM-084 Rev. 4

DCP CONSTRUCTABILITY REVIEW

CONSTRUCTABILITY REVIEW

DCP NO.	QUALITY CLASS
TECHNICAL SERVICES ENGINEER:	DATE:
DOCUMENT TITLE:	

1. PLEASE REVIEW ATTACHED DOCUMENT AS IT APPLIES TO YOUR DISCIPLINE OR SPECIALTY. THIS IS NOT MEANT TO IMPLY THAT REVIEWERS MAY ONLY COMMENT ON AREAS OF THEIR SPECIALTY. IF A REVIEWER OBSERVES AN ITEM(S) THAT APPEAR TO REQUIRE CHANGE OR CORRECTION SUCH COMMENTS SHOULD BE INCLUDED AS MARK-UP OF THE DOCUMENT.
2. IF APPROVED, WRITE NO COMMENTS IN THE REVIEWER REMARKS SECTION.
3. IF NOT APPROVED, UNDER REVIEWER'S REMARKS IDENTIFY THE PAGE AND/OR DRAWING NO. OF DISAPPROVED ITEMS, OR FURNISH AN ACCEPTABLE REWRITE.
4. *COMPLETE REVIEW, RETURN TO ORIGINATOR BY THE MEETING DATE.*

REVIEWER			COMNTS. RECVD.		REVIEWER			COMNTS. RECVD.	
DEPT	M.S.	NAME	YES	NO	DEPT	M.S.	NAME	YES	NO
OPS									

REVIEWERS REMARKS (CHANGES TO DOCUMENTS SHOULD BE MADE ON DOCUMENT):

_____

_____

APPROVED, ALL COMMENTS HAVE BEEN REVIEWED AND RESOLVED. CONSTRUCTABILITY REVIEW COMPLETE:

TECHNICAL SERVICES ENGINEER _____ DATE _____

DVR REQUIRED [ ] YES [ ] NO

SUPERINTENDENT, TECHNICAL SERVICES _____ DATE _____

PLANT CLOSURE MANAGER _____ DATE _____
(for 50.59 YES Questions) _____

ADM-210 REV. 2

DCN TRANSMITTAL

DCN TRANSMITTAL

IDP [ ] DCP [ ] DCO [ ] IDP/DCP DCO# _____

RELEASE # _____

PREPARED BY _____ DATE _____ SHEET _____ OF _____

DCN#	DRAWING NUMBER	DWG SHEET #	DWG REV	APERTURE CARD #	ACTION TO BE TAKEN
					RELEASE FOR REVIEW (WHITE) _____
					ISSUE FOR WORK (PINK) _____
					OPERATIONS _____
					RP/CHEM _____
					ISSUE DCO _____ (YELLOW DRAWING CHANGE ONLY)
					REFERENCES
					CLOSES FPR #(S) _____
					PDQ #(S) _____
					OTHER REFERENCES/ COMMENTS

	FOR DC USE ONLY

NEW DCN #S BY SDC (DM-165 REV 1) (RS AP-0303 [illegible]) F NEW DWG WRITE NEW

Attachment 4

Page 1 of 1

EXHIBIT 10
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DCP WORK AND TEST RECORD

DCP # _____

DCP WORK AND TEST RECORD
PHASE - INSTALLATION & FUNCTIONAL TEST

Sheet _____ of _____

WORK AND TEST SUMMARY
TECHNICAL SERVICES ENGINEER: _____ DATE_____

TURNOVER REVIEW

Construction Testing Required	YES [ ] NO [ ]	(Identify Incomplete construction tests as punchlist items)
Component testing Required	YES [ ] NO [ ]	(If YES, complete Component Test Index, identify testing performed prior to turnover and testing to be performed).
System Testing Required	YES [ ] NO [ ]	(IF YES complete SYstem Testing Index).

RELEASE REVIEW

Construction Testing Complete	YES [ ]	NO [ ]	N/A [ ]
Component Testing Complete	YES [ ]	NO [ ]	N/A [ ]
System Testing Complete	YES [ ]	NO [ ]	N/A [ ]

DESCRIPTION OF TESTING INTERFACE COMPLETE [ ]

SYSTEM TESTING INDEX

WORK REQUEST INDEX

WR NUMBER	COMPLETE/DATE	WR NUMBER	COMPLETE/DATE

PROCEDURE NUMBER	PROCEDURE TITLE	TEST COMPLETE	TECH.SERV.ENG. DATE

NOTE: (1) Form initially prepared by Technical Services Engineering at the time of turnover

(2) Form updated by Technical Services Engineering as testing progresses.

(3) Form completed at time of release and included in Release Package.

(4) Test Complete includes review and approval of test results.

ADM-090 REV. 4 Page 1 of 2

DCP WORK AND TEST RECORD

(Continued)

DCP # _____

DCP WORK AND TEST RECORD
PHASE - INSTALLATION & FUNCTIONAL TEST

Sheet _____ of _____

COMPONENT TEST INDEX

COMPONENT TYPE/ID	TEST DESCRIPTION	TESTING COMPLETE TECH. SERV. ENGINEER	DATE

NOTE: Testing complete signature requires review of Work Request and/or associated test procedures.

Short technical description of the testing performed (i.e. Component, Functional and Special Testing.)

Briefly describe why this modification testing was sufficient to demonstrate the correct operation of the system and affected systems. (Testing should be conducted which demonstrate all functions and controls work as designed and no functions are left untested i.e. Trips, Alarms, Backup Power Supplies, Automatic Initiation).

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EXHIBIT 10
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REQUIREMENTS FOR COMPLETING TURNOVER AND RELEASE EXCEPTION FORM

1. Each exception is clearly defined and not expressed in general terms.
2. Incomplete hardware work resulting from PDQs and/or FPRs is identified as an exception.
3. Each exception has an estimated completion date with a responsible organization.
4. Exceptions required to be completed prior to acceptance are noted by the Technical Services Engineer.

Note: Attachments may be used in conjunction with the Exception Form without transcribing information. In this case, an entry is made referencing the attachment. (i.e. Work Requests, PDQs, FPRs, etc.)

a) If the DCP does not require testing then no exceptions should be permitted.

b) Turnover exceptions should not be permitted if materials are available to complete the work.

c) Unacceptable construction, component testing should not be permitted.

d) Open deficiency or problem reports (e.g. PDQs, FPRs, etc.) should be permitted only if the report has been processed to the point of determining hardware impact.

e) The modification can be effectively tested with the outstanding exceptions.

DCP TURNOVER AND RELEASE EXCEPTION FORM

(Continued)

DCP Turnover And Release Exception Form

DCP NO. _____ QUALITY CLASS _____ SHEET _____ OF _____

DISCIPLINE: CIVIL _____ ELEC _____ INSTR _____ MECH _____ WELDING _____ FACILITIES _____

PREPARED BY: _____ DATE: _____

EXCEPTION NO.	EXCEPTION DESCRIPTION	*T/R	DOCUMENT ID	COMPLETION GROUP	COMPLETION DATE	SIGNATURE

*T/R PLACE A T IN THE COLUMN FOR TURNOVER AND R IN THE COLUMN FOR RELEASE TO DISTINGUISH THE PHASE OF THE EXCEPTION.

Turnover Approval _____ Maintenance Superintendent

Turnover Acceptance _____ Technical Services Engineer

Final Submittal of Documents:

DCP can be closed _____ Technical Services Engineer _____ Date: _____

ADM-214

EXHIBIT 10
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DCP INTERIM TURNOVER FORM

DCP INTERIM TURNOVER FORM

DCP NO. _____ QUALITY CLASS _____

EQUIPMENT REQUESTED AND REASON: _____

REQUESTED BY: _____ DATE _____
TECHNICAL SERVICES ENGINEER

DCP TURNOVER AND RELEASE EXCEPTION FORM ATTACHED. [ ] YES [ ] NO

REMARKS/COMMENTS _____

APPROVED BY: _____ DATE _____
MAINTENANCE SUPERINTENDENT

ACCEPTED BY: _____ DATE _____
TECHNICAL SERVICES ENGINEER

NOTE: (1) FORM INITIATED BY TECHNICAL SERVICES ENGINEER FOR INTERIM TURNOVER REQUESTS

ADM-216 Rev. 1

DCP RELEASE REVIEW

DCP RELEASE REVIEW

PHASE - FUNCTION TEST

DCP NO:_____
SHEET___ OF___

REVIEW QUESTIONS

YES	NO	N/A		
☐	☐	☐	(1)	WORK REQUESTS COMPLETELY SATISFY DCP SCOPE?
☐	☐	☐	(2)	ALL WORK REQUESTS FOR DCP CLOSED PER DCP WORK AND TEST RECORD? (ATTACH A LIST OF WRs FOR DCP)
☐	☐	☐	(3)	ALL PROBLEM/DEFICIENCY REPORTS ISSUED AGAINST THE DCP DISPOSITIONED AND INCORPORATED INTO DESIGN DOCUMENTS?
				(A) POTENTIAL DEVIATION FROM QUALITY (PDQ).
				(B) FIELD PROBLEM REPORTS (FPRS)
				(C) OTHERS REVIEWED:_____
				NOTE: IF THE DCP WAS PREPARED AS A RESULT OF A PDQ ETC., THESE WILL NORMALLY NOT CLOSE UNTIL AFTER THE DCP IS COMPELTE.
☐	☐	☐	(4)	TESTING COMPLETE PER DCP WORK AND TEST RECORD?
☐	☐	☐	(5)	REQUIRED OPEN WORK COMPLETE PER DCP PUNCHLSIT?
☐	☐	☐	(6)	PLANT DANGER AND/OR TEST TAG CLEARANCES RELEASED?
☐	☐	☐	(7)	*DCNs UPDATED/REVISED AND ISSUED (INCLUDING FPR INCORPORATION) TO REFLECT AS-BUILT CONFIGURATION?

NOTE: IF THE ANSWER TO ANY OF THE PRECEDING QUESTIONS IS NO, ALL WORK IS NOT COMPLETE. PREPARE PRIOR TO OPERATIONAL RELEASE AND INCLUDE COMPLETED FORM IN DCP RELEASE PACKAGE.

* CANNOT BE PUT ON THE RELEASE EXCEPTION LIST. MUST BE COMPLETE FOR DCP RELEASE.

TECHNICAL SERVICES ENGINEER: _____ DATE_____

ADM-091 Rev.3

DCP DESIGN CLOSURE CHECKLIST

FORM REVISION FOR THIS DCP _____

DCP DESIGN CLOSURE CHECKLIST

DCP NO: _____
SHEET: ___ OF ___

THE TECHNICAL SERVICES ENGINEER SHALL ASSURE COMPLETION OF THE FOLLOWING CHECKLIST ACTIVITIES. THE CHECKLIST SHALL BE COMPLETED (ALL ITEMS INITIALED COMPLETE OR MARKED "N/A") BEFORE THE TECHNICAL SERVICES ENGINEER SIGNS THE DCP RELEASE AUTHORIZATION AND THIS FORM. THE DCP DESIGN CLOSURE CHECKLIST SHALL BE FORWARDED TO DOCUMENT CONTROL WHEN COMPLETE AND APPROVED.

AS-BUILT REVIEW OF DCP

1. DBR IS CORRECT, CONSIDERING ALL DESIGN AND FIELD CHANGES (TSAP-4113). _____
2. DVR IS CORRECT, CONSIDERING ALL DESIGN ALL FIELD CHANGES (TSAP-4114). _____
3. SA IS CORRECT, CONSIDERING ALL DESIGN AND FIELD CHANGES (RSAP-0901). _____
4. PDQs RELATED TO THE MODIFICATION HAVE BEEN DISPOSITIONED AND INCORPORATED INTO DESIGN DOCUMENTS. NOTE: PDQs WHICH RESULTED IN THE DCP WILL NOT CLOSE UNTIL AFTER COMPELTION OF THE DCP (RSAP-1308). _____

PROCUREMENT

5. ALL VENDOR SUBMITTALS ARE ON FILE AS STATUS 1 OR 4(TSAP-4203 AND RSAP-0309) _____

DCP RELATED DOCUMENTATION

6. MEL CHANGES HAVE BEEN ENTERED IN THE DATA BASE PER (RSAP-0306). _____
7. ASME CODE DESIGN REPORTS ARE COMPLETE. _____
8. ALL CALCULATIONS REQUIRED BY THE DCP ARE APPROVED/ACCEPTED(TSAP-4106). _____
9. FIRE PROTECTION DOCUMENTATION IS COMPLETE. _____
10. DCP ALARA EVALUATION COMPLETE WITH ALARA DESIGN REVIEWS COMPLETE AS APPLICABLE (TSAP-4601). _____
11. ALL ASSOCIATED SOFTWARE CHANGES REQUESTS (CSCRs) COMPLETED (RSAP-1501). _____
12. DCP 10 CFR 50.59 "NO" DETERMINATIONS HAVE BEEN REVIEWED BY PRC/MSRC AND FORWARDED TO DOCUMENT CONTROL OR ATTACHED (RSAP-0901). _____
13. ALL RESULTING SETPOINT CHANGES HAVE BEEN ENTERED IN THE DATA BASE (RSAP-0311). _____
14. BASELINE IMPACT RECORDS CHANGES ARE COMPLETE _____

SPECIAL STUDIES

15. ALL RELATED ENGINEERING STUDIES AND REPORTS ARE ON FILE (TSAP-4122). _____

_____ DATE _____
TECHNICAL SERVICES ENGINEER

_____ DATE _____
TECHNICAL SERVICES SUPERINTENDENT

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DCP INTERIM RELEASE AUTHORIZATION

FORM REVISION FOR THIS DCP ____

DCP INTERIM RELEASE AUTHORIZATION

DCP NO: ____
SHEET: ___ OF ___

EQUIPMENT REQUESTED AND REASON:

_____

_____

_____

TO BE DECLARED OPERABLE PER TECHNICAL SPECIFICATIONS: [ ] YES [ ] NO
(IF YES, ATTACH COMPLETED 10 CFR 50.59 SCREENING FORM RSAP-0901 ATTACHMENT 3, ADM-0003.)

REQUESTED BY: _____ DATE _____
PLANT CLOSURE MANAGER

INCOMPLETE TESTING:

_____

_____

INCOMPLETE INSTALLATION:

_____

_____

OPEN DEFICIENCY/PROBLEM REPORTS:

_____

_____

INCOMPLETE SOFTWARE (PROCEDURES, TRAINING, ETC.):

_____

_____

OPERATING RESTRICTIONS:

_____

_____

RELEASE APPROVAL: _____ DATE _____
TECHNICAL SERVICES ENGINEER

_____ DATE _____
TECHNICAL SERVICES SUPERVISOR

RELEASE ACCEPTANCE: _____ DATE _____
OPERATIONS SUPERINTENDENT

NOTES: (1) OPERATIONS INITIATES PROCESSING OF FORM TO REQUEST INTERIM RELEASE

(2) COMPLETED FORMS ARE INCLUDED IN DCP RELEASE PACKAGE BY TECHNICAL SERVICES ENGINEER

ADM-092 Rev. 5

DCP RELEASE AUTHORIZATION

DCP RELEASE AUTHORIZATION

DCP NO: _____

SHEET: ___ OF ___

ALL FPRS CLOSED AND NO OUTSTANDING DCNs TO BE ISSUED

_____
DOCUMENT CONTROL REPRESENTATIVE / DATE

AUTHORIZE ISSUANCE OF ISSUED FOR INCORPORATION (YELLOW) DRAWINGS DCP CLOSURE CHECKLIST COMPLETE AND ATTACHED

_____
TECHNICAL SERVICES ENGINEER / DATE

RELEASE WALKDOWN

PROCEDURES UPDATED
(REQUIRED OPERATIONS PROCEDURES ISSUED)

_____
OPERATIONS REPRESENTATIVE / DATE

OPERATOR AND OTA TRAINING COMPLETE

_____
TRAINING REPRESENTATIVE / DATE

QUALITY REVIEW

_____
QUALITY REPRESENTATIVE / DATE

RELEASE ACCEPTANCE

_____
OPERATIONS SUPERINTENDENT / DATE

NOTE: TECHNICAL SERVICES ENGINEER INITIATES PROCESSING OF FORM WHEN DCP WORK IS COMPLETE AND INCLUDED IN RELEASE PACKAGE. QUALITY SIGNATURE IS REQUIRED ONLY FOR QUALITY CLASS I, ENVIRONMENTAL QUALIFICATION, FIRE PROTECTION, AND RADWASTE DCPs.

ADM-093 Rev. 5

DCP TABLE OF CONTENTS

DCP TABLE OF CONTENTS

DCP NO. _____
SHEET ____ OF ____

DOCUMENT NAME/NUMBER	REVISION/DATE			SHEET *

*NOTE: # OF SHEETS AT CLOSURE

ADM-082 REV. 2

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It is my opinion that Jim Saum conducts business in a professional manner and that we have a good working relationship.

Jim Loy	Jim Loy 2-10-99
Walter Partridge	
Ken Hill 2-10-99	Ken Hill
Susan Meidinger	
Luana Holst	Luana Holst 2/10/99
PAUL EASLEY	Paul Easley
Bennie Chun	Bennie Chun
Timothy R Shaw	Timothy R Shaw
Stephen C. York	Stephen C. York 2/10/99
L. Sturgeon	Lori Sturgeon 2-10-99
R. A. Fraser	R.A. Fraser 2/10/99
G. J. Irwin	Jim Irwin 2-10-99
Stella M. Poole	
RICHARD R. PEDDINGHAUS	R. Peddinghaus 2-10-99
Gabriel J. Eder Gabriel	J. Eder 2-10-99
Don Wiese	
Anthony Brown	ANTHONY BROWN 2/11/99

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EXHIBIT 8 SAUM 9/2/99 JS

Subject: Character reference
Date: Thu, 18 Feb 1999 20:01:34 -0800
From: Gary Sprung
To:

EX 6 7C

To whom it may concern:

I have worked closely with Jim Saum on various SMUD projects for many years, starting around 1992 with a Security system at Rancho Seco for which he was Project Engineer and for which I provided the software. Jim immediately impressed me with his desire to do the best job possible and was constantly looking for ways to improve his performance and the performance of all who worked on his project. He researched his assignments thoroughly, expressing his opinions and preferences clearly, while soliciting suggestions from his co-workers. He realized that the final decisions were his alone to make, and never shrank from his responsibility to make them, utilizing everything that he had learned. His integrity, motivation to achieve excellence, and professional attitude were in marked contrast to the demoralized state that settled over Rancho Seco Nuclear Generating Station following the voter initiative that shut it down. His sense of mission, honed by his Navy Nuclear program experience, was refreshing in the SMUD management vacuum that outside management consultants characterized as "lacking a common sense of mission." His integrity, evidenced by his unwillingness to compromise safety, quality, and regulatory compliance, often puts him at odds with the long-standing SMUD culture of "shoot the messenger" or bearer of bad news. His professionalism is usually able to overcome any doubts of self-defensive co-workers, as they realize that his motives are pure, and differences of opinion are only that, and not value judgements. Indeed, Jim subjects himself to the same careful scrutiny to ensure his decisions and actions are justified and not self-serving evasions. Jim's unique talents and assets are largely wasted in an environment that rewards cronyism and punishes critical analysis, as evidenced by the many regulatory violations and costly NRC fines that could have been avoided had Jim's documented warnings to his management been heeded. Each carefully reasoned warning of a potential problem is greeted by his management, not with gratitude and appreciation for a job well done and a problem avoided, but rather, with disdain, derision, and dismissal until the eventual violation gives cause for renewed disdain. My own acclimation to the SMUD culture in 1974, after striving for excellence in the Navy Nuclear program, can be summed up in the phrase "you find it, you fix it," a prescription for disaster in the nuclear power business. Anyone who still finds problems after taking the short course is branded a 'trouble-maker" and ostracized from the company of "blind" team-players. SMUD, and more especially, its rate payers, have reaped a bitter harvest from these weeds that have been allowed to take root in the company culture. Jim's proven ability to complete his assignments and perform his duties in co-operation with his co-workers in this caustic environment is unassailable proof of his professionalism, integrity, and decency. In any other environment, he would be recognized for the treasure he is, and honored as a hero.

Sincerely,

Gary Sprung

EX 6 7C

EXHIBIT 10
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CONFIDENTIAL

2.0 Employee

James N. Saum (Sr. Electrical Engineer). I have worked as an engineer at the Rancho Seco Nuclear Power Plant for approximately the last 15 years. I am a registered professional engineer in the state of California. I served six years in the U.S Navy as a Nuclear Reactor Operator. I have 15 years of engineering experience and expertise in radiological effluent controls, radiation monitoring, physical security systems, plant instrumentation, nuclear regulatory and procedural compliance.

I have a strong commitment to ensure the health and safety of the public and a strong sense of duty to public service while serving 6 years in the US Navy as a Nuclear Reactor Operator and my 15 years of public service with SMUD.

3.0 Protected Activities Engaged In

I have worked at the Rancho Seco Nuclear Power Plant for the last 15 years. I have reported numerous safety and health concerns to my employer over this period of time. After being reassigned to my current supervisors, I began receiving threats of discharge and was charged with being inflexible and resistant to change for not following their instructions that were against federal law and for reporting safety and health concerns and violations of the law by my employer.

On 7/9/98 and 8/20/98, I contacted the NRC and filed an allegation of safety and health concerns, violations of law by my employer, and retaliation, intimidation and harassment by my employer against me. I have reason to believe that my employer is aware that I contacted the NRC. I reported many instances of safety and health concerns including but not limited to the mishandling of radioactive materials (violation of Tech. Spec D6.11), violations of federal regulations (10 CFR 50.73) such as not reporting license violations as required, falsification of official plant documents including calibration documents used for calibrating liquid waste monitoring instrumentation, not reporting fire hazards, various procedural violations, (violations of 10 CFR 50.5), etc.

On 7/14/98, I provided a memo to my supervisor describing his bias against me and the backlash I had received for having reported plant problems to my employer. (Violations of 29 CFR 24 and 10 CFR 50.7))

On 8/25/98, I provided a memo to my supervisors discussing my concerns over the way they had suppressed my ability to report safety concerns and violations. (Violations of 29 CFR 24 and 10CFR50.7).

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EXHIBIT 9 SAUM 4/2/99

Attachment

(As handed to Jim during meeting of 3/22/99 on Safety Concerns)

5 1. *Violations of 10CFR 50.5 – or procedural violations?*

4 2. *Not reporting fire hazards.*

3 3. *Falsifying documents related to liquid waste monitoring instrumentation.*

2 4. *Not reporting violations that should be LERs.*

1 5. *Violations of Tech Spec D6.11 – mishandling of radioactive materials.*

Cc: Bruce Notareus; Steve Redeker

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