

INTERVIEW

RANDALL CLEVELAND :

Hudson, Wisconsin

BEFORE :

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 2006-113

H-47

EXHIBIT 16

PAGE 1 OF 38 PAGE(S)

1 APPEARANCES:

2

3 On Behalf of Nuclear Management Company:

4 JONATHAN ROGOFF

5 General Counsel

6 700 First Street

7 Hudson, Wisconsin

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

2 INVESTIGATOR FAHEY: For the record this is
3 the interview of Randall D. Cleveland, spelled
4 C-l-e-v-e-l-a-n-d who is the access manager.

5 MR. CLEVELAND: Correct.

6 INVESTIGATOR FAHEY: For the Nuclear
7 Management Company, L.L.C. hereafter referred to as
8 NMC. Today's date is September 17, 2002. The time is
9 approximately 1:05 p.m. This interview is being
10 conducted at NMC offices located at 700 First Street,
11 Hudson, Wisconsin.

12 My name is Mary Kay Fahey. I'm a special
13 agent with the U.S. Nuclear Regulatory Commission
14 Office of Investigations in Region III.

15 Also present is Mr. Rogoff, R-o-g-o-f-f, who
16 is legal counsel for Mr. Cleveland. This interview is
17 being transcribed by a court reporter, Marlene
18 Halloway. The subject matter of this interview a
19 fitness for duty concern at Kewaunee Nuclear Power
20 Plant during a refuel outage in 2001. And this
21 incident was brought to the NRC's attention by the
22 licensee, NMC.

23 RANDALL CLEVELAND,
24 after having been first duly sworn, was
25 examined and testified as follows:

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1 INVESTIGATOR FAHEY: Okay. Mr. Cleveland,
2 it's your request that Mr. Rogoff be present here
3 today?

4 MR. CLEVELAND: Yes.

5 INVESTIGATOR FAHEY: Did you select him
6 personally or was he made available to you?

7 MR. CLEVELAND: Made available.

8 INVESTIGATOR FAHEY: Okay. Mr. Rogoff,
9 could you please introduce yourself for the record and
10 state who you work for?

11 MR. ROGOFF: I'm Jonathan Rogoff, general
12 counsel for Nuclear Management Company which employs
13 me here at 700 First Street, Hudson, Wisconsin.

14 INVESTIGATOR FAHEY: And besides
15 representing Mr. Cleveland personally do you represent
16 the corporation?

17 MR. ROGOFF: Yes, I do.

18 INVESTIGATOR FAHEY: Do you anticipate any
19 conflict of interest?

20 MR. ROGOFF: No, I do not.

21 INVESTIGATOR FAHEY: Have you represented
22 any other NMC employees in this matter?

23 MR. ROGOFF: No, I have not.

24 INVESTIGATOR FAHEY: Background information.

25 MR. CLEVELAND: Okay.

1 INVESTIGATOR FAHEY: Full name?

2 MR. CLEVELAND: Randall D. Cleveland.

3 C-l-e-v-e-l-a-n-d.

4 INVESTIGATOR FAHEY: Date of birth?

5 MR. CLEVELAND: [REDACTED]

6 INVESTIGATOR FAHEY: Social security number?

7 MR. CLEVELAND: [REDACTED]

8 INVESTIGATOR FAHEY: Home address?

9 MR. CLEVELAND: [REDACTED]

10 [REDACTED] zip code [REDACTED]

11 INVESTIGATOR FAHEY: And work telephone
12 number?

13 MR. CLEVELAND: Work telephone,
14 715-377-3402.

15 INVESTIGATOR FAHEY: Okay. And employment
16 history. How long have you been the access manager
17 for NMC?

18 MR. CLEVELAND: In the access management
19 frame since February of 2000.

20 INVESTIGATOR FAHEY: And prior to that?

21 MR. CLEVELAND: Prior to that I was the
22 access fitness for duty supervisor called the --
23 actually the formal title was personnel security lead
24 with Xcel Energy from 1993 up until coming here in
25 February of 2000.

1 INVESTIGATOR FAHEY: Okay. How many years
2 in the nuclear industry all together?

3 MR. CLEVELAND: In the nuclear industry I
4 have been working since 1989 so 13, about 13 years.

5 INVESTIGATOR FAHEY: Who do you report to?

6 MR. CLEVELAND: I report to Mark Findlay,
7 F-i-n-d-l-a-y. He is the director of security of the
8 Nuclear Management Company.

9 INVESTIGATOR FAHEY: Okay. When did you
10 first become aware of fitness for duty concerns at
11 Kewaunee?

12 MR. CLEVELAND: December 19, 2001.

13 INVESTIGATOR FAHEY: Why do you recall that
14 date?

15 MR. CLEVELAND: It's the date that I was
16 notified by the program manager of the employees'
17 concerns regarding fitness for duty concerns coming
18 out of an investigation that was ongoing.

19 INVESTIGATOR FAHEY: Okay. That manager
20 was?

21 MR. CLEVELAND: Aldo Capristo.

22 INVESTIGATOR FAHEY: What did he tell you?

23 MR. CLEVELAND: He just voiced the concern
24 regarding some workers, fitness for duty concern with
25 another worker, coworker, expressing concern with the

1 fitness for duty of a coworker.

2 INVESTIGATOR FAHEY: Okay. And was that an
3 action item for you? Were you to take some action on?

4 MR. CLEVELAND: It was a -- it was an
5 advisory that there was a potential fitness for duty
6 concern involving an investigation that was ongoing.

7 INVESTIGATOR FAHEY: Do you know what the
8 results of the investigation were?

9 MR. CLEVELAND: Yeah. The results of the
10 investigation concluded that there were four
11 individuals that had indicated they smelled alcohol on
12 a coworker and had failed to go forward to supervision
13 with that observation.

14 INVESTIGATOR FAHEY: Do you recall the names
15 of those four?

16 MR. CLEVELAND: Yes. It was [REDACTED]
17 [REDACTED] There was also
18 concern regarding the handling of concerns regarding
19 the same worker and the smell of alcohol by a site
20 supervisor named [REDACTED]

21 INVESTIGATOR FAHEY: And that concern came
22 out of the same investigation?

23 MR. CLEVELAND: Correct.

24 INVESTIGATOR FAHEY: Were these employees
25 all contract employees?

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1 MR. CLEVELAND: They were, yeah. Contract
2 through -- I'd have to review the records and get you
3 the name of the contractor they were working for at
4 the time.

5 INVESTIGATOR FAHEY: And just for the record
6 I have a copy of the licensee's investigative report.
7 So if you don't recall something you just be honest.

8 Let's go off the record for a minute.

9 (Off the record.)

10 INVESTIGATOR FAHEY: Okay. We're back on
11 the record.

12 Who did the internal investigation for NMC?

13 MR. CLEVELAND: It was -- well, by internal
14 investigation are you referring to the investigation
15 conducted by Hal Walker?

16 INVESTIGATOR FAHEY: Yes.

17 MR. CLEVELAND: Yes.

18 INVESTIGATOR FAHEY: Is he an NMC employee?

19 MR. CLEVELAND: No.

20 INVESTIGATOR FAHEY: Contractor?

21 MR. CLEVELAND: Contracted to NMC.

22 INVESTIGATOR FAHEY: Did you have
23 involvement in the investigation?

24 MR. CLEVELAND: My involvement dealt with
25 providing responses to the; some of the inquiries

1 regarding adequacy of the fitness for duty training.

2 I was asked to take a look at the fitness for duty
3 training over there to determine whether it accurately
4 described our expectations regarding alcohol issues,
5 concerns.

6 INVESTIGATOR FAHEY: What did you determine?

7 MR. CLEVELAND: I determined that it did
8 accurately establish what the expectations were with
9 respect to reporting the smell of alcohol. I took a
10 look at the training records for each of those
11 individuals to see if they had gone through the
12 training, if they successfully passed the training.
13 Those records indicated, yes, they had. I also
14 monitored the information being developed during the
15 investigation, reviewed that information to determine
16 the impact on individual liability, some of the things
17 I am responsible for with respect to managing the
18 fitness for duty program and the access authorization
19 program.

20 INVESTIGATOR FAHEY: Did you participate in
21 any of the interviews of these people yourself?

22 MR. CLEVELAND: The only interviews that I
23 participated in came later and after the report by Hal
24 Walker was drafted involving [REDACTED]
25 and [REDACTED]

1 INVESTIGATOR FAHEY: We'll go back to that.
2 We'll try to address this chronologically.

3 MR. CLEVELAND: Sure.

4 INVESTIGATOR FAHEY: And what is the time
5 frame here in which -- you said you were notified
6 December 19.

7 MR. CLEVELAND: Yeah. The interviews were
8 being done and as we identified information concerning
9 the four individuals that I initially referenced here,
10 they indicated a failure to meet fitness for duty
11 requirements. We placed what we call a hold on them
12 in the personnel access data system. Short pads is
13 what we call that system. That's an electronic data
14 base that is used, utilized by the industry for the
15 purposes of transferring access from site to site.
16 And what we did is we went out to that system and
17 flagged each of these individuals with what they call
18 a yes response in a field within that system.
19 Additional information subsequent determination. And
20 what that would do is alert any utility including any
21 of our own sites that there were issues or concerns
22 that needed to be addressed regarding these
23 individuals.

24 We then ultimately ended up dispositioning
25 four of the individuals as denied access for failure

1 to report the smell of alcohol to supervision.

2 INVESTIGATOR FAHEY: Okay. Which four?

3 MR. CLEVELAND: That would be [REDACTED]

4 [REDACTED] and [REDACTED]

5 INVESTIGATOR FAHEY: Okay. All for failure
6 to report specifically for this incident?

7 MR. CLEVELAND: Correct.

8 INVESTIGATOR FAHEY: What about [REDACTED] and

9 [REDACTED]

10 MR. CLEVELAND: [REDACTED] we -- he was
11 interviewed by one of my direct reports over at
12 Kewaunee Point Beach, Darlene Peters to determine
13 whether he had failed to act on the smell of alcohol.
14 They concluded that he did not. That he did not
15 observe, have sufficient observation upon which to
16 initiate for-cause testing. He was counseled, just
17 reminded of the program expectation and his access was
18 reinstated.

19 INVESTIGATOR FAHEY: How long would you say?

20 MR. CLEVELAND: I'd have to review the
21 record to get specific on that. I can do that and
22 provide that before you leave today.

23 INVESTIGATOR FAHEY: And you actually have a
24 printout.

25 MR. CLEVELAND: Yes, we do have a printout

1 of Mr. [REDACTED] pads report which would reflect that.

2 INVESTIGATOR FAHEY: Okay. And what about

3 [REDACTED]

4 MR. CLEVELAND: [REDACTED]

5 INVESTIGATOR FAHEY: And I didn't say this,

6 for the record I forgot a second concern with

7 Mr. [REDACTED]. He just filed a discrimination complaint

8 alleging that because he raised the fit for duty

9 concern he had his access denied.

10 MR. CLEVELAND: We placed a hold on him on

11 January 14, 2002 pads system based on information we

12 developed.

13 INVESTIGATOR FAHEY: And the reason?

14 MR. CLEVELAND: The reason for that is that

15 we were concerned he may have observed or had

16 observations concerning the coworker's fitness for

17 duty that had not been properly reported. So we

18 placed that hold and ultimately denied his access

19 based on inconsistent information provided to both,

20 primarily to NMC investigators and comparing that

21 information to the Walker Report.

22 INVESTIGATOR FAHEY: Okay.

23 MR. CLEVELAND: I do have copies of all of

24 the denial letters that I can provide which gives the

25 basis, the exact basis for each of the denials.

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1 INVESTIGATOR FAHEY: Okay. Were there other
2 investigators, NMC investigators besides Hal Walker?

3 INVESTIGATOR FAHEY: Yeah. The other
4 investigators we referenced in the [REDACTED]
5 denial letter would have been Darlene Peters and
6 myself.

7 INVESTIGATOR FAHEY: All right. And then
8 there were three other names that are mentioned. [REDACTED]
9 [REDACTED] who was actually the employee who was in
10 question about his fitness for duty.

11 MR. CLEVELAND: Yes.

12 INVESTIGATOR FAHEY: [REDACTED]
13 and [REDACTED] What was the disposition of their
14 access?

15 MR. CLEVELAND: On 12-19 [REDACTED] was,
16 placed a hold on him in pads. His access has remained
17 suspended since that date. And is currently
18 suspended.

19 INVESTIGATOR FAHEY: Okay. And [REDACTED]

20 MR. CLEVELAND: [REDACTED] access, his
21 access was never been denied or suspended. He is
22 currently badged.

23 INVESTIGATOR FAHEY: And [REDACTED]

24 MR. CLEVELAND: [REDACTED] Again access
25 never denied or suspended and he is currently badged.

1 INVESTIGATOR FAHEY: Okay. [REDACTED] was
2 reinstated?

3 MR. CLEVELAND: Correct.

4 INVESTIGATOR FAHEY: Or is he still?

5 MR. CLEVELAND: No. He was reinstated. I
6 am going to have to look at the records to get you an
7 answer on what the dates of his suspension exactly
8 were. I can get that before you leave today.

9 INVESTIGATOR FAHEY: So is it safe for me to
10 draw a conclusion that none of the employees that
11 we've mentioned here today were -- had their access
12 denied for any other disciplinary action other than
13 related to this fitness for duty concern?

14 MR. CLEVELAND: Correct. The basis for the
15 initial four denials was failure to report the smell
16 of alcohol in accordance with the fitness for duty
17 program. Again the foundation for that was review of
18 our program to make sure that expectations are
19 properly defined, communicated. And then information
20 from the Walker Report wherein they indicated making
21 that observation, smell of alcohol and then not
22 reporting it to supervision.

23 That failure to comply with the fitness for
24 duty program we deemed significant and warranted
25 denial of access.

1 INVESTIGATOR FAHEY: Okay.

2 MR. CLEVELAND: And that is stated in each
3 of their denial letters.

4 INVESTIGATOR FAHEY: Were you able to
5 ascertain a date on which [REDACTED] was suspected of
6 not being fit for duty?

7 MR. CLEVELAND: No.

8 INVESTIGATOR FAHEY: Okay. But this
9 December 19 when you first learned of it was would you
10 guess several months after the fact?

11 MR. CLEVELAND: Yes.

12 INVESTIGATOR FAHEY: Okay. And the outage
13 had actually been almost complete?

14 MR. CLEVELAND: Yeah. We were -- had
15 completed the SGR, steam generated replacement.

16 INVESTIGATOR FAHEY: So I was going to ask
17 you whether you knew if [REDACTED] had actually ever
18 been tested?

19 MR. CLEVELAND: Yes. He had been tested on
20 a random basis a number of times throughout his years.
21 Badged at the site. So again he would come and go as
22 the work was there for him. But across a number of
23 years he had been selected for random tests, testing
24 and we never had any issues with those tests. He had
25 passed all the tests.

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1 INVESTIGATOR FAHEY: Do you know if he was
2 tested in 2001 at Kewaunee?

3 MR. CLEVELAND: I'd have to review the
4 record again.

5 MR. ROGOFF: Do you want that information,
6 Mary Kay?

7 INVESTIGATOR FAHEY: Yes.

8 MR. ROGOFF: We can get you that.

9 INVESTIGATOR FAHEY: And the dates of
10 suspension for [REDACTED]

11 MR. ROGOFF: Do you want to pause here and I
12 can get them working on that?

13 INVESTIGATOR FAHEY: No. It's not that
14 important.

15 INVESTIGATOR FAHEY: During the conversation
16 I think you said you were involved in the interview
17 with [REDACTED] and [REDACTED]

18 MR. CLEVELAND: Yes.

19 INVESTIGATOR FAHEY: Did either of those two
20 men indicate or provide you with conflicting
21 information than what the NMC investigator had
22 provided in his report?

23 MR. CLEVELAND: [REDACTED] did, yes.

24 INVESTIGATOR FAHEY: Okay. What was the
25 difference, do you recall?

1 MR. CLEVELAND: Yeah. It involved, in the
2 Walker Report he had indicated that he had been
3 escorted into the protected area up to the collection
4 site to -- by [REDACTED] for a random test. This is
5 [REDACTED]

6 INVESTIGATOR FAHEY: [REDACTED] being his
7 supervisor?

8 MR. CLEVELAND: Yeah. The individual that
9 notified him of the test.

10 INVESTIGATOR FAHEY: Okay.

11 MR. CLEVELAND: And he had escorted him up
12 to the collection site where the technician was there
13 to conduct the random test on [REDACTED] And he
14 had made a reference to the technician, you should be
15 testing the messenger. And reported to Hal that the
16 technician had made the comment back to [REDACTED] that,
17 yeah, he was a little ripe.

18 We, in trying to corroborate that had traced
19 back through the time that [REDACTED] had been
20 random tested and were able to identify the technician
21 that conducted that testing. Those technicians were
22 interviewed regarding their knowledge of any such
23 conversation. Were unable to recall it.

24 Other technicians were interviewed as well
25 which would have been doing collections at the time

1 and again were unable to recall any such conversation.
2 That information was developed by Hal Walker on
3 January 11 of 2002 and detailed in the report.

4 INVESTIGATOR FAHEY: This was a report of an
5 interview with [REDACTED]

6 MR. CLEVELAND: Yes.

7 INVESTIGATOR FAHEY: Okay. [REDACTED] access
8 was denied after that date?

9 MR. CLEVELAND: Yes.

10 INVESTIGATOR FAHEY: Okay. And when were
11 you involved in [REDACTED]'s interview?

12 MR. CLEVELAND: We interviewed -- I
13 interviewed [REDACTED] along with Darlene Peters on June
14 12, 2002. There was some intervening information
15 here. On March 27 [REDACTED] was interviewed by Darlene
16 Peters at Point Beach and indicated -- well, he denied
17 at that time being escorted to the collection site by
18 a worker. Stated that he had been escorted onto the
19 security building from the site fabrication shop which
20 is located outside of the protective area. And that
21 he asked the worker escorting him, not the collector,
22 why they weren't testing the messenger, i.e., had
23 asked [REDACTED] why he wasn't being tested.

24 INVESTIGATOR FAHEY: Which is a little bit
25 different than what he told --

1 MR. CLEVELAND: Right. Which is different.
2 On June 12 the interview with myself and Darlene
3 Peters he again denied being escorted by a worker at
4 the collection site. Stated that he asked the
5 collector why they weren't testing the messenger. So
6 again the recollection had changed and three different
7 versions here.

8 Getting back to your original question as to
9 what the basis of the denial was for [REDACTED]
10 again he indicated to Hal Walker on January 11, 2002
11 detailed in the Walker Report that Mr. [REDACTED] was
12 loaded every morning. In an interview with Point
13 Beach personnel Darlene Peters, stated that he didn't
14 know anything about Mr. [REDACTED] being drunk which
15 conflicted with the January 11.

16 Based on that information, conflicting
17 information he was providing NMC investigators, his
18 access was denied. He was sent a letter detailing
19 exactly what had occurred here, afforded the
20 opportunity to request a review of that decision.
21 Did not exercise that right. He had 30 days to do
22 that and we did not receive a request for review.

23 INVESTIGATOR FAHEY: Did each of the
24 employees that we have talked about here today have
25 that same right of appeal?

1 MR. CLEVELAND: Yes.

2 INVESTIGATOR FAHEY: Did anybody take
3 advantage of it as far as you know?

4 MR. CLEVELAND: Yes. The other four
5 individuals submitted requests for reviews. Those
6 reviews were conducted in accordance with our program
7 and the denial decision in each case upheld.

8 INVESTIGATOR FAHEY: What is the suspension
9 period, do you know?

10 MR. CLEVELAND: The suspension, normal
11 suspension period is one year. In the case of the
12 initial four individuals that we denied we -- they
13 were informed by letter of their denial. They
14 requested the review. The reviews again were upheld.
15 We sent a letter regarding that. And in that letter
16 we informed them that they would be eligible for
17 reconsideration on or after 9-1 of 2002.

18 INVESTIGATOR FAHEY: Have any of the four
19 had their access reinstated?

20 MR. CLEVELAND: No.

21 INVESTIGATOR FAHEY: Have they requested to
22 have it reinstated?

23 MR. CLEVELAND: We have had one inquiry from
24 [REDACTED] which is currently under review.

25 INVESTIGATOR FAHEY: Okay. Have any of the

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1 employees taken any other action, legal action against
2 the company?

3 MR. CLEVELAND: Not that I'm aware of.

4 INVESTIGATOR FAHEY: Between December and
5 June when all this internal investigation was going
6 on, how far up the chain of command had this issue
7 gone? Would you say you're the highest or had it gone
8 above that?

9 MR. CLEVELAND: No. The original four
10 denials went all the way up to the site VP.

11 INVESTIGATOR FAHEY: Okay. But at the time
12 of the outage when this incident occurred, you can't
13 give me an exact date, but nobody within NMC
14 management was actually aware of the issue at that
15 time?

16 MR. CLEVELAND: No.

17 INVESTIGATOR FAHEY: As far as you know?

18 MR. CLEVELAND: Not from what our
19 investigation developed, no.

20 INVESTIGATOR FAHEY: Was -- do you know if
21 there were any interviews with any of the NMC managers
22 who would have had oversight of the contractors?

23 MR. CLEVELAND: At the time?

24 INVESTIGATOR FAHEY: Yes.

25 MR. CLEVELAND: And I think (b)(7)(C) is

1 the name that has been mentioned.

2 MR. CLEVELAND: Again, are you talking about
3 at the time the estimated time that all this was
4 occurring or as part of our investigation?

5 INVESTIGATOR FAHEY: Actually I'll ask you
6 both questions.

7 MR. CLEVELAND: Okay. I'm not aware of
8 anything at the time that the incident occurred. I'd
9 have to go back I guess to really answer that and
10 review the Walker Report. I know the individual you
11 mentioned, [REDACTED] was interviewed as part of the
12 investigation.

13 INVESTIGATOR FAHEY: So any knowledge you
14 have would basically be what's in the report?

15 MR. CLEVELAND: Correct. And we did, again
16 like I said, we did some interviews subsequent to the
17 receipt of the Walker Report.

18 INVESTIGATOR FAHEY: Was [REDACTED] one of
19 those people?

20 MR. CLEVELAND: We did interview -- again my
21 direct report Darlene Peters did interview [REDACTED]
22 I'd have to check on the timing of that. That was
23 either just concurrent with the Walker investigation
24 or shortly thereafter.

25 INVESTIGATOR FAHEY: And was there -- there

1 was an original report then there was a supplemental
2 report.

3 MR. CLEVELAND: Uh-huh.

4 INVESTIGATOR FAHEY: Which came to us I
5 think both in the January 2002 time frame. And you
6 said there was a number of interviews then in March
7 and June?

8 MR. CLEVELAND: Yeah. I had my direct
9 report interview Mr. [REDACTED] in the March time frame.
10 That was in response to inquiries regarding his access
11 status. We had concerns that we wanted to disposition
12 regarding his reporting of -- about concerns.

13 INVESTIGATOR FAHEY: And as far as
14 responding to the NRC in Region III, I know there's an
15 outstanding issue asking for information about the
16 welding issue. And I don't want to get into that.
17 But is there anything that's owed the NRC in response
18 to this issue, do you know, to the staff?

19 MR. CLEVELAND: Boy! Not to my knowledge.
20 I'm not aware of anything.

21 INVESTIGATOR FAHEY: And of course some of
22 the outstanding concerns were referred to the Office
23 of Investigations.

24 MR. CLEVELAND: Yes.

25 INVESTIGATOR FAHEY: Sometimes the technical

1 concerns then staff handles them. All right. Let's
2 talk generally about training. I'm probably going to
3 ask you the same questions perhaps Mr. Walker asked.
4 Does every contract employee receive general employee
5 training when they arrive on the site?

6 MR. CLEVELAND: Yes.

7 INVESTIGATOR FAHEY: We are talking about
8 NMC sites in case I'm not specific. And was that
9 training provided by NMC or by the contractor?

10 MR. CLEVELAND: NMC.

11 INVESTIGATOR FAHEY: My records, I have the
12 contractor is Dave Zimmerman.

13 MR. CLEVELAND: Correct.

14 INVESTIGATOR FAHEY: All right. And each
15 employee is required to take a test?

16 MR. CLEVELAND: Correct.

17 INVESTIGATOR FAHEY: And the training
18 material?

19 MR. CLEVELAND: Yes.

20 INVESTIGATOR FAHEY: And are fitness for
21 duty issues provided in the training material?

22 MR. CLEVELAND: Yes.

23 INVESTIGATOR FAHEY: And who provides that
24 specific block of training, do you know?

25 MR. CLEVELAND: It would be NMC trainers.

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1 INVESTIGATOR FAHEY: Not necessarily
2 somebody from your office?

3 MR. CLEVELAND: Correct. That would be the
4 training organization that does that. My staff does
5 not provide the training on fitness for duty.

6 INVESTIGATOR FAHEY: Do you provide the
7 portion of the manual that's used for the training?

8 MR. CLEVELAND: We -- my staff has with the
9 rewrite of the program provided all of the content.
10 At the time I would have to go back and ascertain that
11 as to what degree my staff had input into what the
12 fitness for duty training was.

13 INVESTIGATOR FAHEY: Okay. In 2001 had the
14 fitness for duty policy been established for many
15 years or had --

16 MR. CLEVELAND: Yes. It had been long
17 established.

18 INVESTIGATOR FAHEY: And each employee is
19 required to pass this test for general employee
20 training?

21 MR. CLEVELAND: Correct.

22 INVESTIGATOR FAHEY: In order to get access
23 to the site?

24 MR. CLEVELAND: Correct.

25 INVESTIGATOR FAHEY: And I think we already

1 stated earlier on the record each of the people that
2 we mentioned here today has passed that?

3 MR. CLEVELAND: Yes.

4 INVESTIGATOR FAHEY: And you verified those
5 records?

6 MR. CLEVELAND: I did verify those records.

7 INVESTIGATOR FAHEY: And the copies of their
8 records are in that original report that we received?

9 MR. CLEVELAND: Yep.

10 INVESTIGATOR FAHEY: I'm putting you on the
11 spot here. Do you recall in 2001 what the training
12 was if any employee suspects another as being unfit
13 for duty?

14 MR. CLEVELAND: Report that to their
15 supervisor or security.

16 INVESTIGATOR FAHEY: Supervisor or security?

17 MR. CLEVELAND: Uh-huh.

18 INVESTIGATOR FAHEY: Okay. If you're a
19 contractor does that mean --

20 MR. CLEVELAND: Same.

21 INVESTIGATOR FAHEY: Contractor supervisor
22 or NMC supervisor?

23 MR. CLEVELAND: A supervisor.

24 INVESTIGATOR FAHEY: Could be either?

25 MR. CLEVELAND: Yeah.

1 INVESTIGATOR FAHEY: And has the policy
2 changed now?

3 MR. CLEVELAND: The policy has remained the
4 same. To report the observation to your supervisor or
5 security.

6 INVESTIGATOR FAHEY: Okay. And in this
7 case, can I assume that you didn't feel the policy was
8 followed?

9 MR. CLEVELAND: Correct. Yes.

10 INVESTIGATOR FAHEY: And this is a general
11 question. Does an employee have any authority to ask
12 another employee to go get fitness tested?

13 MR. CLEVELAND: No.

14 INVESTIGATOR FAHEY: Okay.

15 MR. CLEVELAND: It would have to be --

16 INVESTIGATOR FAHEY: -- raise it to a
17 supervisor?

18 MR. CLEVELAND: Correct..

19 INVESTIGATOR FAHEY: And the supervisor has
20 the authority?

21 MR. CLEVELAND: Yes.

22 INVESTIGATOR FAHEY: Okay. And you know
23 that [REDACTED] has been fitness for duty tested in the
24 past but you don't know whether he was tested during
25 this 2001 outage time frame.

1 MR. CLEVELAND: No. I know we looked at --
2 in trying to ascertain the general fitness of
3 Mr. [REDACTED] we had reviewed his past test history to
4 see if there were any issues there. Did not find
5 any. I know there was tests in the recent past, that
6 being the last three years, the specific dates we'll
7 provide to you.

8 INVESTIGATOR FAHEY: And were you able to
9 tell from those records whether an employee was
10 randomly tested or tested for cause?

11 MR. CLEVELAND: Yes.

12 INVESTIGATOR FAHEY: Would it be clear?
13 Okay. That would be something I'd be interested in..
14 Do you know if anyone documented this fitness for duty
15 concern in any sort of condition report or problem
16 report?

17 MR. CLEVELAND: We did open up a condition
18 report regarding the failure to report the smell of
19 alcohol.

20 INVESTIGATOR FAHEY: When was that written?

21 MR. CLEVELAND: I'd have to get you the
22 exact date. It was, I want to say early January of
23 2000 or late December. I'd have to pull the dates.

24 INVESTIGATOR FAHEY: 2002?

25 MR. CLEVELAND: Yeah. Late December 2001 or

1 early January 2002.

2 INVESTIGATOR FAHEY: Upon learning what had
3 previously happened?

4 MR. CLEVELAND: Yeah.

5 INVESTIGATOR FAHEY: As far as you know,
6 nothing done at the time by any employee, no
7 documentation?

8 MR. CLEVELAND: Not by any employee.

9 INVESTIGATOR FAHEY: How about the fitness
10 for duty?

11 MR. CLEVELAND: No.

12 INVESTIGATOR FAHEY: At the time it
13 occurred. And back to the access denial. A number of
14 witnesses have indicated they were precluded from
15 working in the nuclear industry at all --

16 MR. CLEVELAND: Okay.

17 INVESTIGATOR FAHEY: -- because of the entry
18 in pads apparently. Can you just tell me one more
19 time what the pads reference, what the, yes,
20 indicates?

21 MR. CLEVELAND: I'm -- at this point --

22 INVESTIGATOR FAHEY: And is it located in
23 the same spot on each person's form?

24 MR. CLEVELAND: Yes. At this point I am
25 pointing to ~~(REDACTED)~~ security report out of

1 pads. It's a multi-paged report. And what we call
2 the security one screen, plan access report there is a
3 column labeled additional info post-term. If there is
4 a date there it will indicate if there's additional
5 information held by that respective licensee which in
6 this case is WPS Kewaunee.

7 The expectation in the industry is that the
8 site that the individual would go to would contact WPS
9 or Kewaunee and find out what the issue is. The issue
10 can be any number of things stemming from, yeah, the
11 utility was unable to get an employment check done.
12 They need more information from the worker all the way
13 up to the most significant of which would be the
14 individual's denied access.

15 The expectation for that utility that the
16 individual would be traveling to would be to obtain a
17 release from the worker and then fax that back to
18 Kewaunee and obtain details as to why that hold is out
19 there. And then it's up to that licensee to make its
20 own decision with respect to access based on their
21 review of that information.

22 INVESTIGATOR FAHEY: Okay. And then the
23 other areas where it's blank, if there's no date in
24 that post-term column that indicates that the person
25 worked there, was laid off successfully upon

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1 completion of the job and there were no problems?

2 MR. CLEVELAND: Right.

3 INVESTIGATOR FAHEY: So it's only the
4 addition of an entry that makes it a questionable
5 entry?

6 MR. CLEVELAND: Correct.

7 INVESTIGATOR FAHEY: Okay. All right. I
8 think that's it. Let's go off the record for a
9 minute.

10 (Off the record.)

11 INVESTIGATOR FAHEY: Okay. We are back on
12 the record. It's approximately 2:03, 2:04 p.m. A
13 couple of follow-up questions. While we were off the
14 record we had a little discussion. Mr. Cleveland, you
15 said that [REDACTED] -- I'm sorry, [REDACTED]
16 has been in touch with you in the last couple of
17 weeks?

18 MR. CLEVELAND: Yes --

19 INVESTIGATOR FAHEY: By telephone. Can you
20 tell us again for the record about those
21 conversations?

22 MR. CLEVELAND: Yes. Approximately three or
23 four weeks ago I was contacted by Mr. [REDACTED]
24 requesting the status of his reinstatement at any of
25 the NMC sites. I informed Mr. [REDACTED] that I would be

1 getting back to him within the next couple of weeks to
2 let him know what that status is.

3 He called approximately two Sundays ago and
4 left a message, voice message on my work number
5 indicating his frustration with my failure to respond
6 to his request for an update on his status and he
7 became verbally abusive toward the end of the
8 conversation using obscenities and stating that if I
9 did not respond within 24 hours to his initial request
10 he would contact Investigator Mary Fahey out of
11 Region III.

12 INVESTIGATOR FAHEY: And you said that you
13 recently reviewed his appeal?

14 MR. CLEVELAND: Yes. We did complete the
15 review of his case and he was informed at this time
16 he's not eligible for reconsideration. And we
17 received a follow-up request from Mr. [REDACTED] stating
18 or asking for an explanation and that is currently
19 under review.

20 INVESTIGATOR FAHEY: Okay. You stated while
21 we were off the record what your reasoning is for
22 continuing the hold on his access.

23 MR. CLEVELAND: Yes. And the basis for that
24 is, the foundation for that is the original basis for
25 the denial. That he provided inconsistent information

1 to NMC investigators.

2 INVESTIGATOR FAHEY: All right. And then
3 back to Mr. [REDACTED]'s discrimination complaint. Was
4 his access originally denied in retaliation for
5 raising a fitness for duty concern?

6 MR. CLEVELAND: No.

7 INVESTIGATOR FAHEY: Did you know at the
8 time his access was denied that [REDACTED] had raised a
9 fitness for duty concern?

10 MR. CLEVELAND: Yes.

11 INVESTIGATOR FAHEY: So you knew on or about
12 January 15 of 2002 that [REDACTED] had raised a
13 fitness for duty concern about [REDACTED]?

14 MR. CLEVELAND: That, I'd have to go back
15 and take a look at the record of the timing of that.
16 I knew at the time that we did the denial, we issued a
17 denial deny letter to Mr. [REDACTED] that he had come
18 forward with some concerns regarding fitness for duty
19 concerning Mr. [REDACTED]. I'd have to go back and
20 research the dates for you.

21 INVESTIGATOR FAHEY: Okay. I'll need to
22 know that because that will be key to his
23 discrimination complaint.

24 MR. CLEVELAND: Okay. Also while we were off
25 the record you spoke about correspondence from an

1 attorney about one of the employees. Do you recall
2 who that -- which attorney had made that inquiry to
3 you?

4 MR. CLEVELAND: No. I would have to again
5 go back and review. It was one of the -- actually it
6 was -- I'm not certain as to which of the four. I
7 think it was two of them that we had received
8 inquiries regarding the status of the review request.

9 INVESTIGATOR FAHEY: From attorneys?

10 MR. CLEVELAND: Yes. And again I can get
11 you that today. I'd just have to look at the files.

12 MR. ROGOFF: One of them the Cross Law Firm
13 out of Milwaukee was the name of the law firm. I
14 can't remember the lawyer's name.

15 INVESTIGATOR FAHEY: Okay. And do you
16 recall either of the attorneys who made the inquiries
17 providing information contained in an affidavit from

18

19 MR. CLEVELAND: No.

20 INVESTIGATOR FAHEY: To you? Are you aware
21 of this alleged affidavit?

22 MR. CLEVELAND: Yes.

23 INVESTIGATOR FAHEY: And how do you know
24 about it?

25 MR. CLEVELAND: Was provided a copy of it by

1 [REDACTED] on -- or during our interview on June
2 12, 2002. An unsigned copy of an affidavit.

3 INVESTIGATOR FAHEY: Did you have occasion
4 to question [REDACTED] about that?

5 MR. CLEVELAND: Yes.

6 INVESTIGATOR FAHEY: And do you remember
7 when you interviewed him?

8 MR. CLEVELAND: Yes. That would have been
9 on June 13, 14.

10 INVESTIGATOR FAHEY: What did he tell you
11 about the affidavit?

12 MR. CLEVELAND: He indicated that he had
13 gone to [REDACTED]'s apartment requesting an update
14 on the status of his access at the sites and there was
15 some conversation regarding the Walker investigation
16 status of the other folks.

17 We asked him specifically if he had heard
18 from [REDACTED] where [REDACTED] had made the
19 statement to him that Mr. [REDACTED] and [REDACTED] had come to
20 him with the smell of alcohol. And Mr. [REDACTED] denied
21 having heard [REDACTED] make that statement. So to that
22 end contradicted what was in the affidavit.

23 INVESTIGATOR FAHEY: Did [REDACTED] explain how
24 the affidavit came about to be prepared?

25 MR. CLEVELAND: No, he did not.

1 INVESTIGATOR FAHEY: Okay. And also while
2 we were off the record we talked about the status of
3 [REDACTED] s fitness for duty evaluation.

4 MR. CLEVELAND: Yes.

5 INVESTIGATOR FAHEY: You said it has now
6 been completed?

7 MR. CLEVELAND: Yes. An evaluation has been
8 complete in accordance with the Point Beach fitness
9 for duty program. We concluded that his current state
10 is considered fit for duty.

11 INVESTIGATOR FAHEY: Okay. And that
12 evaluation was done, completed and approved by the
13 Medical Review --

14 MR. CLEVELAND: Medical Review Officer.
15 Under the guidance of the Medical Review Officer.

16 INVESTIGATOR FAHEY: And is [REDACTED]
17 back on the NMC site right now?

18 MR. CLEVELAND: He is back on site right now
19 awaiting reinstatement and that it being reviewed.
20 The decision to reinstate his access is under review.

21 INVESTIGATOR FAHEY: And are you the
22 reviewing official?

23 MR. CLEVELAND: Yes.

24 INVESTIGATOR FAHEY: Okay. The ultimate
25 reviewing official?

1 MR. CLEVELAND: Yes.

2 INVESTIGATOR FAHEY: And one other question.
3 Were there any other employees involved in this
4 incident that were interviewed by you or by NMC or by
5 their investigator that we haven't mentioned here
6 today?

7 MR. CLEVELAND: I'd have to review the
8 record to answer that.

9 INVESTIGATOR FAHEY: Okay. Would they not
10 necessarily be included in the NMC reports that I
11 have?

12 MR. CLEVELAND: Correct.

13 INVESTIGATOR FAHEY: Okay. There could be
14 some additional --

15 MR. CLEVELAND: There could be some
16 additional interviews.

17 INVESTIGATOR FAHEY: And certainly Darlene
18 Peters has been mentioned?

19 MR. CLEVELAND: Yes.

20 INVESTIGATOR FAHEY: What about
21 Mr. Capristo, did he do any interviews outside of
22 the report?

23 MR. CLEVELAND: I don't believe so. I think
24 he did some interviews along with Mr. Walker. But to
25 my knowledge he did not do any independent of

1 Mr. Walker or us.

2 INVESTIGATOR FAHEY: All right. I don't
3 think I have any other questions. The other
4 information that we're waiting for doesn't have to
5 necessarily be provided on the record.

6 Mr. Cleveland, have I threatened you in any
7 manner or offered you a reward in return for your
8 statement?

9 MR. CLEVELAND: No.

10 INVESTIGATOR FAHEY: Have you given your
11 statement freely and voluntarily?

12 MR. CLEVELAND: Yes.

13 INVESTIGATOR FAHEY: Is there anything
14 further that you want to add for the record?

15 MR. CLEVELAND: No.

16 INVESTIGATOR FAHEY: Okay. We're concluded
17 at approximately 2:12 p.m.

18

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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
Randall Cleveland
Docket Number: N/A
Location: Hudson, Wisconsin

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