

# TRANSCRIPT OF PROCEEDINGS

UNITED STATES NUCLEAR REGULATORY COMMISSION  
OFFICE OF INVESTIGATION

In the Matter of: )  
 )  
INVESTIGATIVE INTERVIEW: )  
 )  
RICHARD P. KELLY )  
 )  
(CLOSED) )

CHANGES ON FOLLOWING  
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Pages: 1 through 107  
Date : August 18, 1987  
Place: Boston, Massachusetts

*RP Kelly*

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1 UNITED STATES NUCLEAR REGULATORY COMMISSION  
2 OFFICE OF INVESTIGATION

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4 In the Matter of: )  
5 INVESTIGATIVE INTERVIEW: )  
6 RICHARD R. KELLY )  
7 (CLOSED) )

8

Stone & Webster Engineering Corp.  
245 Summer Street  
Boston, Massachusetts

9

Tuesday,  
August 18, 1987

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The above-entitled matter came on for hearing,  
pursuant to notice, at 10:15 a.m.

15

APPEARANCES:

16

On behalf of the Nuclear Regulatory Commission:

17

DANIEL D. MURPHY  
LEN WILLIAMSON  
LARRY L. ROBINSON  
NRC - Region II  
101 Marietta Street, N.W.  
Atlanta, Georgia 30303

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On Behalf of the Interviewee:

22

EARL J. SILBERT, ESQ.  
Schwalb, Donnenfeld, Bray & Silbert  
Suite 300  
1025 Thomas Jefferson Street, N.W.  
Washington, D.C. 2007

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APPEARANCES: (Continued)

On behalf of Stone & Webster Engineering Corp.:

WILLIAM G. MESERVE, ESQ.  
Ropes & Gray  
225 Franklin Street  
Boston, Massachusetts 02110

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I N D E X

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WITNESS:

Richard B. Kelly

EXAMINATION:

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EXHIBITS:

None

PAGE

DESCRIPTION

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P R O C E E D I N G S

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MR. MURPHY: For the record, it is now 10:15 a.m., August 18, 1987. This is an interview of Mr. Richard B. Kelly who is employed by Stone & Webster Engineering Corporation. The location of the interview is 245 Summer Street, Boston, Massachusetts.

Present at the interview are Len Williamson, Larry Robinson and Dan Murphy.

As agreed, this interview is being transcribed by a court reporter.

The subject matter of this interview concerns TVA's March 20, 1986 letter to the NRC regarding their compliance with 10 CFR50, App.B.

Mr. Kelly, would you please stand and raise your right hand?

Whereupon,

RICHARD P. KELLY

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

MR. MURPHY: For the record, would counsel here today please state who you are, what firm you represent, and what your relationship is to Mr. Kelly?

MR. SILBERT: My name is Earl Silbert. That's S-I-L-B-E-R-T. I am an attorney with the law firm of Schwab, that's S-C-H-W-A-B, Donnenfeld, D-O-N-N-E-N-P-E-L-D, Bray &

1 Silbert in Washington, D.C.

2 I am here today representing in a personal capacity  
3 or individual capacity Mr. Richard Kelly and Mr. James Huston.

4 So far as any initial comments are concerned, I would  
5 simply like to express my appreciation for the comments made by  
6 Agent Murphy in our telephone conversation late last week in  
7 which in response to my inquiry he indicated that the Office of  
8 Investigation had no reason to doubt the forthrightness and  
9 honesty of Mr. Kelly's and Mr. Huston's responses to their  
10 inquiries, and that the purpose of this in the past, the  
11 purpose of this interview was to focus on some contradictions  
12 that had occurred with respect to testimony of others, and  
13 follow up and try to clarify the areas of inconsistency.

14 MR. MESERVE: My name is William G. Meserve,  
15 M-E-S-E-R-V-E. I am with the law firm of Ropes & Gray,  
16 R-O-P-E-S and Gray, G-R-A-Y, located here in Boston.

17 I am here today as counsel for the company, Stone &  
18 Webster Engineering Corporation. I do not appear as counsel  
19 for Mr. Kelly individually, but Mr. Kelly is an officer of  
20 Stone & Webster Engineering Corporation.

21 My only comment that I would like to make is to  
22 welcome the three of you back to Boston.

23 MR. ROBINSON: Thank you. Appreciate that.

24 MR. MURPHY: Let me say as my discussion with Mr.  
25 Silbert was in the past, the reason for this interview is

1 two-fold.

2 First off, we want to reaffirm testimony given by Mr.  
3 Kelly on two previous occasions, and second, to clarify some  
4 issues that have arisen since we last spoke to Mr. Kelly. Some  
5 of the reasons for this is testimony that we received from  
6 other witnesses.

7 Another issue is the fact that documents which we had  
8 requested early on in this investigation that were not  
9 furnished for whatever reason were given to us very recently.  
10 So we may ask Mr. Kelly to review some of these documents and  
11 make comments about the documents.

12 This interview is being conducted to clarify these  
13 issues and no way implies that during previous testimony Mr.  
14 Kelly hasn't been a truthful witness. We have no indication of  
15 that.

16 The copies of the previous testimony are available,  
17 and we may refer to some pages and ask you some questions about  
18 that. We would like you to take the time to review them.

19 If you decide that you would like to consult with  
20 counsel because of what is stated there in relationship to our  
21 questions, feel free to do so. If you would like this to be  
22 some type of a private meeting, that's fine. We would be glad  
23 to leave the room and let you discuss the issue.

24 MR. SILBERT: We appreciate your statement to that  
25 effect.

1 MR. MURPHY: Some of the areas that -- the first area  
2 we would like to talk about is a concurrence sheet that was  
3 attached to the cover letter, and we would like to go over some  
4 parts of that.

5 For the record, what I am going to discuss with Mr.  
6 Kelly is headed Concurrence Sheet, document name, Watts Bar,  
7 App.B, QA NRC Submittal; originating organization, Nuclear  
8 Safety and Licensing; document prepared by James A. Domer;  
9 date, 3-5-86; and it has a list of concurrences on there --  
10 R. L. Gridley, Wagner, R. Kelly, W. Drotleff, Kermit Whitt.

11 The signature of Mr. Gridley appears and is dated  
12 3-6-86. The signature of Mr. Wagner appears; it's dated 3-20-  
13 86. Signature of Mr. Kelly appears; it's dated 3-20-86. The  
14 signature of J. Kirkebo appears; dated 3-20-86. And the  
15 signature of Kermit Whitt, K. W. Whitt appears, and next to his  
16 signature is an annotation, "Signature attests that the letter  
17 was read by Whitt", and that's dated 3-20-86.

18 At this point we have no reason to believe that these  
19 signatures are not the signatures of those individuals who  
20 concurred with the letter.

21 Mr. Kelly, in your previous testimony we discussed  
22 the use of the words "pervasive" which appear on page 53 and  
23 54, your definition of pervasive, 53 and 54 of your first  
24 transcript. And we would like you to take a second and review  
25 that, and we would like to cover that issue a little bit with

1 you.

2 MR. SILBERT: Did you want him to attest to whether  
3 or not in fact that was his signature?

4 MR. MURPHY: No, not yet.

5 MR. SILBERT: Oh, I'm sorry.

6 MR. MESERVE: Let me just state for the record I  
7 think it was clear from your earlier comments, Dan, that Mr.  
8 Kelly has not had a chance prior to this moment to review any  
9 of the transcripts of the prior testimony.

10 MR. MURPHY: Yes, sir.

11 MR. MESERVE: And he is now looking at it for the  
12 first time only right now the pages that you directed him to.

13 (Pause while witness reviews document.)

14 THE WITNESS: All right, I have read those two pages.

15 MR. MURPHY: Okay. Let me put this on. I neglected  
16 to clarify this for the record.

17 For the record, this is a transcript of the testimony  
18 of Mr. Kelly on March 3, 1987, and Mr. Kelly was asked to look  
19 at pages 53 and 54 regarding the meaning of the word  
20 "pervasive".

21 EXAMINATION

22 BY MR. MURPHY:

23 Q Could you explain to us one more time what you  
24 interpret the word "pervasive" to mean in respect to the  
25 March 20, 1986 letter?

1           A     Yes. As I indicated to you before, the first time I  
2 recall having a discussion of the word "pervasive" with Mr.  
3 White, we struggled a little with what pervasive meant. He  
4 inquired as to what it meant. And I gave him an off the top of  
5 my head definition, which I don't recall verbatim, but it was  
6 virtually everything is wrong, something along those lines.

7                     And we went to the dictionary. We went to the  
8 dictionary on a secretary's desk right outside his office,  
9 looked up the word, and I read that to him, or Mr. Huston read  
10 it to him. We were in his office. And it was extending into  
11 every part is the definition that was given in Webster's  
12 Dictionary.

13                    We saw that definition of it and could accept that  
14 definition of it.

15                    Now there are other definitions of it that I became  
16 aware of subsequently. Perhaps I was aware of them to some  
17 extent before that, which were contained in various litigation  
18 such as the Diablo Canyon and the Callaway cases. I believe  
19 those definitions are slightly different, but not in great  
20 substance are they different.

21           Q     In your previous testimony Mr. Reinhardt went over  
22 some specific areas which tended to indicate that to have a  
23 pervasive breakdown every criteria of App.B, every aspect of  
24 the criteria would have to be violated. And in this in the  
25 testimony you agreed to that.

1           Is that a reasonable definition in your mind?

2           A     That would qualify as a pervasive breakdown.  If  
3 every aspect of every criteria was violated, that certainly  
4 would be pervasive.

5           Q     Does that differ from -- first off, is that your  
6 signature on the concurrence sheet there?

7           A     Yes, it is.

8           Q     Okay.  In concurring with that letter, what  
9 definition in your mind was used?

10          A     The dictionary definition.

11          Q     Extending to all parts.

12          A     Yes.

13          Q     Would that imply that, as you have previously stated,  
14 you would have to have a breakdown and every aspect of all the  
15 criteria?

16               MR. SILBERT:  I'm sorry, I missed.  Did it say "did  
17 imply" or "require"?  I didn't --

18               MR. MURPHY:  Require.

19               MR. SILBERT:  Require?

20               THE WITNESS:  Let me answer that question.

21               The parts of the transcript you just had me read,  
22 pages 53 and 54 talk about one item out of a thousand being  
23 okay, would that be pervasive.

24               If what I had for information at the time indicated  
25 that 999 things were wrong and one was right, I would not have

1 signed to that concurrence sheet that pervasive -- that there  
2 would have been no pervasive breakdown, because 999 out of a  
3 thousand would qualify in my mind to being a pervasive  
4 breakdown. We're talking specific numbers.

5 If what I had for information at the time indicated  
6 that substantially everything was wrong, then I would not have  
7 accepted the statement that we had not had a pervasive  
8 breakdown.

9 BY MR. MURPHY:

10 Q Yes, but --

11 A I was not -- excuse me, let me go on.

12 Q Sure.

13 A I was not trying to be cute or overly precise in what  
14 was in my mind. I was trying to give a sense of realistic and  
15 reasonable sense of what we had for facts at the table. And if  
16 substantially everything had been wrong, then I would not have  
17 recommended that we sign that letter.

18 Q But short of everything being wrong, at what point do  
19 we now -- if I read your testimony right, it seems to me like  
20 you are indicating that every aspect of every criteria would  
21 have to be violated before you had a pervasive breakdown; is  
22 that correct?

23 A By the Webster's Dictionary definition, yes, that  
24 would be way you determine it. But as I say, I would not have  
25 recommended that if a few things were right and everything else

1 was wrong, I wouldn't have recommended that we rely on that  
2 language.

3 Now in fact the reviews that we did, even those that  
4 we -- on the 11 specific issues that we had as attachment to  
5 the letter, we found that substantial amounts of work had been  
6 done correctly; that adequate controls had been in place on  
7 substantial amounts of the activities that were being raised as  
8 indeterminate condition.

9 Therefore, I was a far different -- long way from  
10 having to rely on a dictionary definition of pervasive.

11 Q Well, first off, I don't think Webster ever heard of  
12 App.B, so I'm not sure when he issues findings pervasive,  
13 it --

14 MR. MESERVE: Fortunately.

15 MR. MURPHY: Yeah, probably. That he was referring  
16 to anything dealing with App.B.

17 THE WITNESS: Right, but in most law cases you -- it  
18 can reasonably be expected to be able to rely on definitions  
19 generally accepted in usage, and Webster's is a generally  
20 accepted usage.

21 MR. MURPHY: Sure.

22 BY MR. MURPHY:

23 Q This, as you probably recall, this area was discussed  
24 at some length during your previous interview, the one on March  
25 3rd, and at that time it was the, not only the impression of

1 the people conducting the interview but your testimony  
2 throughout this that the word "pervasive" really did mean a  
3 breakdown of all areas, and that -- and if you say extended to  
4 all parts, that's fine. And this definition was the definition  
5 that you indicated was accepted by Mr. White, discussed with  
6 and accepted by Mr. White; is that correct?

7 A To the best of my recollection, yes.

8 Now subsequent discussions with Mr. White after March  
9 20th, as I recall them, he also was aware and quite, quite  
10 aware of the Callaway definition and used that in some  
11 subsequent discussions with us.

12 Q Yeah, let me, because we are kind of discussing what  
13 took place before March 20th.

14 A Right.

15 Q And what was in your mind at the time you concurred  
16 with that letter.

17 What did your concurrence with that word "pervasive"  
18 mean to you when you signed this concurrence sheet?

19 A I was utilizing the definition from the Webster's  
20 Dictionary.

21 Q Extended to all parts.

22 A Right. But as I say if I had any information that  
23 indicated that it wasn't everything but it was virtually  
24 everything, you know, somewhat short but close to everything,  
25 then I would not have relied on that alone. But we were a long

1 way from having to rely on saying everything was wrong.

2 Q Did you not also state that if the word "pervasive"  
3 was not used in the sense that you viewed it, extended to all  
4 parts, that you would not have concurred with that letter?

5 A I may have stated that, but I was -- I think we were  
6 in -- at some point here we were discussing the word,  
7 substituting the word "widespread" for pervasive.

8 Q Yes, sir.

9 A And I said I would not have agreed with substituting  
10 the word "widespread" for pervasive, and I still would not  
11 agree with the substitution, widespread for pervasive. And  
12 that has little to do with the specific conditions that existed  
13 on March 20th because my recollection was that we didn't  
14 discuss widespread.

15 But if it had been raised then, as it was  
16 subsequently raised, I would still not concur because  
17 widespread is a qualitative and is not a quantitative term. It  
18 has no specific connotation. And it would be difficult for me  
19 to rely on other people having the same understanding of what  
20 widespread meant as what I might mean to the words.

21 If 20 percent of the activities we reviewed were  
22 wrong, somebody could say that's widespread. Somebody else  
23 might say that it doesn't become widespread until over half the  
24 activities are wrong. That's totally a philosophic argument  
25 that I don't think we could rely on common understanding of the

1 word "widespread".

2 Q And you feel much more comfortable with the word  
3 "pervasive"?

4 A Yes, because it has a specific meaning in general  
5 connotation meaning all.

6 Q Extended to all parts.

7 A Right. And therefore it's not argumentative in that,  
8 at least I didn't think it was argumentative when we were using  
9 it. Subsequently I obviously -- there is some basis for other  
10 opinions.

11 Q You have stated, if you would review page 71 of your  
12 transcript, that this idea of extended to all parts was that  
13 definition agreed upon by Mr. White; is that correct?

14 A Let me read 71, all right?

15 Q Please do.

16 (Pause while witness reviews document.)

17 A Okay, I have read 71.

18 Q Is that your view of the situation at the time you  
19 concurred, did you feel that Mr. White had not only agreed upon  
20 but the definition that you thought was being used in that  
21 letter was the definition that you gave?

22 A To the best of my recollection, yes.

23 Q Let's go on to another term, "overall compliance".

24 BY MR. ROBINSON:

25 Q My only question is if pervasive has a very specific

1 connotation from a dictionary definition, why doesn't  
2 widespread have a very specific connotation from a dictionary  
3 definition?

4 A Maybe it does. I have never looked at the meaning of  
5 widespread in the dictionary.

6 Q To me, and I'm reading from Webster's Collegiate  
7 Dictionary the definition of widespread. "Widely extended or  
8 spread out, widely diffused or prevalent."

9 Pervasive means "extending into all parts".

10 It seems to me that there is a very, very narrow  
11 shade of difference between the dictionary differences of those  
12 two words. So I am unclear as to why there was such an  
13 acceptance on your part of using the word "pervasive" and why  
14 it would have been so difficult to use the word "widespread".

15 A Because based on what you have just read of  
16 widespread, it relies on generalities such as the word "wide"  
17 which is an indeterminate term. I don't now how wide wide is,  
18 20 percent, or 50 percent, or 80 percent. I just don't know  
19 how to defend that term when I have a specific set of  
20 circumstances and a set of circumstances that we generally were  
21 dealing with we had found a number of things that were wrong,  
22 and we acknowledged that they were wrong, and we found a number  
23 of things that were right, and we called them as having been  
24 found to be acceptable.

25 Now I know now -- I can say that not everything is

1 wrong. That much I could say. I could say I found a lot of  
2 good things, a lot of bad things. I could say that as long as  
3 I didn't have to say in answer to a question specifically how  
4 much. But with the term "wide", I get automatically into the  
5 question of in the eye of the beholder; how much is widespread,  
6 when does it become widespread.

7 Certainly different because the word "pervasive" has  
8 in its definition all, and the word "all" means everything.  
9 Widespread has none of those terms in its definition.

10 Q Well, widespread uses the term "prevalent".

11 A Prevalent is another qualitative type term, meaning  
12 prevailing, predominating. Predominating, if you want to talk  
13 in the NRC jargon, talk to a statistician about the word  
14 "prevalent" and you will get a dozen definitions.

15 Q Well, let me just ask you this one question. At the  
16 time of concurrence on the letter were you comfortable in  
17 concurring on that letter, or did you have reservations?

18 A No, I was comfortable in concurring in that letter.  
19 I did not feel it was precisely what I would have said, but I  
20 felt comfortable that he had reflected what we had for  
21 information.

22 MR. ROBINSON: Okay.

23 BY MR. MURPHY:

24 Q And you also are of the opinion that White fully  
25 understands that your concurrence with this letter, what the

1 word "pervasive" meant to you and what he was willing to  
2 accept, in your mind. I'm not asking you to tell me what Mr.  
3 White thought. We have asked Mr. White about that.

4 MR. SILBERT: Yeah, I was wondering which way you  
5 were going, because he can't read Mr. White's mind.

6 MR. MURPHY: No, no, none of us are in that mode.

7 BY MR. MURPHY:

8 Q But I mean were you ever of the opinion at the time  
9 you concurred with that letter that White fully understand that  
10 your concurrence meant that the word "pervasive" meant  
11 extending to all?

12 A To the best of my recollection, that would be what I  
13 recall of the situation.

14 Q Okay.

15 A Now, White is a very difficult man to read. He  
16 signed the letter so I assume that he was satisfied with it and  
17 his questioning of me, and he questioned me extensively about  
18 lots of the things that were contained in that letter.  
19 Pervasive was only one.

20 Q No, we're merely asking you about at this point. We  
21 may get into a few of the others as we go along, but as far as  
22 pervasive is concerned.

23 A Well, to the best of my recollection, but now I would  
24 like to just reiterate how we got to that letter and those  
25 terms specifically. You are asking me what was in my mind.

1 Q Yes.

2 A And I have told you what was in my mind, and I have  
3 told you that if virtually everything was wrong, I wouldn't  
4 have gone along with it even though some few things might have  
5 been right.

6 But I would like to just go back through how we got  
7 to that specific term and why I concurred in it. I'm not sure  
8 that in any place in the previous testimony I've gone through  
9 this scenario, this specific time table of the preparation of  
10 that letter. But quickly, let me run through.

11 On January 3rd the NRC wrote a letter which required  
12 an answer. Within a few days the TVA board of directors  
13 requested an extension and got an extension. White showed up.  
14 People were working on the letter, various drafts with the TVA  
15 organization, and subsequently with some people that were -- he  
16 and his consultants from Stone & Webster and other places.

17 On February the 13th I took over as director of  
18 quality assurance for TVA on loan. That was the first time I  
19 had any direct responsibility for concurring in or providing  
20 any input to these letters although I had reviewed some facts  
21 prior to that.

22 On February 13th I wrote a draft of a proposed  
23 response to the App.B letter, the same day I received that  
24 responsibility, and I think you have a copy of that draft.  
25 That was done the afternoon that I started my job with the TVA

1 system. That letter was --

2 MR. SILBERT: Was that done with Huston, or just you  
3 by yourself?

4 THE WITNESS: It was done with Huston and I in  
5 concert did it. That was done by writing some words and  
6 cutting and pasting words that were already in a previous draft  
7 prepared by others. I don't know specifically who. That was  
8 on February the 13th.

9 Some time between then and February the 20th a draft  
10 was sent to an attorney, Mr. Edgar, who returned some suggested  
11 words and some advice on how to respond to the NRC request.  
12 That was a rather extensive rewrite of what I had drafted on  
13 February the 13th.

14 So in seven days a revised draft, proposed draft  
15 appeared, and we had the letter to go on February the 20th, and  
16 it was held, it was not sent that day because there were some  
17 other issues raised coincident with it being ready.

18 Now on February the 20th I was asked to concur in a  
19 letter which was basically the draft letter prepared by Mr.  
20 Edgar. I read it, I looked at it, there were some things in it  
21 that were substantially different in wording from what I had  
22 proposed, but I did not read them to be substantially different  
23 in meaning. That's where the pervasive came in. It was not  
24 used in any of the proposed language I offered.

25 I was asked to concur. That's about the time that

1 the definition was sought out of the dictionary. That  
2 definition was read to Mr. White. He and I, I think, clearly  
3 understood what we were reading out of Webster's Dictionary.  
4 And on February the 20th we satisfied with the meaning of that  
5 term. I was satisfied that the draft available on February  
6 20th, which turned out to be almost the exact draft sent on  
7 March the 20th, was an adequate response, because the factual  
8 content of it was about what I had offered.

9 I had suggested not including the attachments because  
10 of the potential for misleading or being incomplete in the  
11 response office of the NRC through a semantics problem, because  
12 it's difficult to digest a lot of factual data in a very brief  
13 summary. So I proposed not to send the attachments. They  
14 were -- it was deemed to be useful to send them. So they were  
15 attached, and I looked at them and they were factually correct  
16 and complete to the best of my knowledge, so I concurred in  
17 them.

18 Now I had no issue with the letter. I had what I  
19 deemed to be, and I personally knew Mr. Edgar from past  
20 experiences, so I knew his credentials, I knew his capability.  
21 I had been involved in certain cases -- a certain case previous  
22 so I knew him to rely on, and I relied on him.

23 So did White and I understand on March the 20th?  
24 Well, on February the 20th we had to have because that was  
25 basically the only information that I had offered to him, that

1 he didn't tell me to the contrary. So I assume he understood  
2 the meaning of the term the same way I understood.

3 Now I do know that later, and I don't know when  
4 later, but I believe it was after March 20th when discussing  
5 the word "pervasive", his first reliance was on Callaway, on  
6 words more like could have significant doubt about the quality  
7 of the plant. That was what he later talked about it as his  
8 first definition, and recall the dictionary definition.

9 So on March the 20th what he had specifically in his  
10 mind as his favored definition, I don't know.

11 BY MR. MURPHY:

12 Q But he never discussed Callaway with you prior to  
13 March 20th as the definition?

14 A Not that I recall.

15 Q When you had this initial discussion with Mr. White  
16 about the definition of pervasive, in previous testimony you  
17 indicated that Mr. Huston and Mr. Gridley may have been  
18 present.

19 Do you recall if they were present or not?

20 A I recall that somebody was present, because I don't  
21 think I got the dictionary myself. I think somebody went out  
22 and got it. But exactly who was there I don't know. I don't  
23 recall.

24 That's what you just had me read in page 71 said  
25 that?

1 Q Yes, sir.

2 A And I still don't recall anything different.

3 Q I am merely asking if your recollection is -- you  
4 know, you indicated that it may have been Mr. Huston or Mr.  
5 Gridley.

6 A It could have been. I think it was but I couldn't be  
7 certain.

8 Q Sure. When you said you didn't want the attachments  
9 to go with the letter but someone deemed it appropriate, who  
10 deemed it appropriate?

11 A I can't give you a specific name because I'm not sure  
12 I ever knew specifically who. I attributed it to Bill Wegner,  
13 and I would still attribute it to Bill Wegner, but I'm not  
14 certain that that's where it came from.

15 It could have been from George Edgar. It could have  
16 been from somebody in the licensing organization.

17 Q I guess the reason why I wonder why they didn't  
18 accept your proposal was that, one, you were the quality  
19 assurance manager, director of quality assurance for TVA at the  
20 time. I don't think anyone has questioned your credential,  
21 your expertise in this area, and this was a quality assurance  
22 matter as we view it.

23 Do you know of any specific reason why they would not  
24 have accepted your proposal as opposed to sending of documents?

25 A Although I was looked on by Mr. White as his

1 consultant on QA, and I think he did rely on me and consulted  
2 me on all QA matters, I'm not sure this was deemed to be only a  
3 technical QA problem. I think it was also deemed to be a  
4 political problem in the perceptions that rested within the  
5 NRC, and I think the judgment as to how specifically to handle  
6 the response to the letter was taken hold not to only handle  
7 the QA issues, but to handle the apparent perception that had  
8 been created in the minds of some of the NRC people during the  
9 December presentation.

10 The reason I say that is because there is discussion  
11 in the letter about, or question as to what is the TVA  
12 corporate position. So obviously there is differences of  
13 opinion and I think it was felt that this was a sensitive  
14 issue, and it should be handled with as much <sup>CLARITY</sup> ~~clarify~~ and X  
JSC  
15 precision as possible.

16 Q In your view, though, would the January 3rd letter  
17 from NRC have been responded to correctly without attaching the  
18 attachments and enclosures?

19 A It would not have been complete unless we had also  
20 referred to the existence of full documentation which was  
21 available to the NRC which contained all of the information  
22 about -- I don't recall the words, but about discrepancies and  
23 the corrective actions taken.

24 MR. SILBERT: Well, did you make any preparation with  
25 respect to that documentation?

1           THE WITNESS: Yes, we had accumulated a lot of  
2 documentation, and sometime late February, early March, I  
3 requested that all of that documentation be compiled so it  
4 would be available to the NRC which is the normal practice.  
5 The NRC inspectors would normally arrive on the scene after  
6 receipt of an answer to a violation or any letter, and verify  
7 the content of the basis of the claims made by the licensee.  
8 And so that's normal. And it's very difficult to digest  
9 sizeable volumes of documentation and facts into a few  
10 paragraphs and make sure that it cannot be misinterpreted or  
11 misread in some way.

12           BY MR. MURPHY:

13           Q     What I would like you to take a look at, Mr. Kelly,  
14 is since our last visit we have been given a series of draft  
15 letters, actually six of them, and the sixth being the final  
16 letter that went out. I have also inserted a copy of the  
17 letter that Mr. Huston gave us that was drafted either by you  
18 or himself, right, in what we think is the appropriate area.

19                     But what I would like you to do is look at these  
20 drafts and tell us which of these you had any hand in. I mean  
21 at what point in time did you kind of enter the picture as far  
22 as drafting these letters are concerned, and what input you had  
23 into the final series of letters, if you would do that.

24                     And let me identify these things as being, the first  
25 one is listed as ROR1, which I think means revision 0, revision

1 1. I'm not certain of that.

2 The second one is R2, the third one is R3, then is  
3 the one that has the heading Jim Huston which I believe is the  
4 revision that you furnished us. And then R4, R5, and then what  
5 appears to be the March 20th final letter. And unfortunately,  
6 not all of these letters are dated. So I would hope that you  
7 would look at them and if they are sequenced as they have been  
8 designated by TVA as correct, this is the way the draft should  
9 have flowed, but I have absolutely no guarantee of that.

10 MR. MESERVE: Are the R designations yours or were  
11 they --

12 MR. MURPHY: No, they were on the letters when we  
13 received them. So we would think that that's --

14 MR. MESERVE: Do you know whether they were put on at  
15 the time they were made or when they produced the documents to  
16 you?

17 MR. MURPHY: No idea. This is one of the documents  
18 that we had asked for I guess eight months ago, and just kind  
19 of showed up the day we interviewed Mr. White. And so we have  
20 some difficult in -- you know, we have conducted a lot of  
21 interviews in the interim, and maybe people who had been  
22 involved in this if they had had the opportunity to look at  
23 could identify them. Let's see how Mr. Kelly will do.

24 THE WITNESS: Okay, point of clarification.

25 The one designated by headed Huston was not furnished

1 to you by me. You had it in your possession when we first  
2 talked about it.

3 MR. MURPHY: Fine. I think Mr. Huston gave it to us.

4 And I guess the questions I would like you to ask is  
5 look them over, tell us if you had any input into these letters  
6 at all, or if you have even seen them before.

7 THE WITNESS: Let me answer the first question before  
8 I read them.

9 My first answer is I saw several drafts, maybe more  
10 than several drafts on this subject in the period February,  
11 maybe early March 1986, which is about 18 months ago.

12 I don't know whether I will be able to tell you  
13 whether I saw a specific draft, but I saw numerous drafts. So  
14 that's the first answer.

15 BY MR. MURPHY:

16 Q Well, I guess we are just asking what --

17 MR. SILBERT: All you can do is your best.

18 MR. MURPHY: Give it your best shot.

19 MR. SILBERT: Sure.

20 MR. WILLIAMSON: Also, we have a document that was  
21 provided to us by Mr. Edgar, and it's information for Dick  
22 Gridley and Bill Wegner. It was included I think probably the  
23 original draft letter sent by Mr. Edgar. Look this document  
24 over too if you will.

25 THE WITNESS: All right.

1 MR. WILLIAMSON: It probably would fit in the bottom  
2 of that stack, and see if you have seen that and if it is in  
3 fact a letter that came back -- the draft letter that came back  
4 from Mr. Edgar.

5 MR. ROBINSON: For the record, those documents were  
6 received from Mr. Edgar.

7 MR. MESERVE: Just the last one that was just  
8 referred to.

9 MR. ROBINSON: Yes, sir. The other ones --

10 MR. MESERVE: The other ones came from TVA except for  
11 the one marked Huston.

12 THE WITNESS: Could I suggest that maybe we go off  
13 the record for a couple minutes while I read all this stuff?

14 MR. MURPHY: Surely, take a break.

15 We are off the record at 10:58 a.m.

16 (Whereupon, a recess was taken.)

17 MR. MURPHY: We are back on the 11:16.

18 BY MR. MURPHY:

19 Q Mr. Kelly, you have had a chance to look at these  
20 draft responses to the NRC. Would you please tell us as best  
21 you can which ones you have seen and if any, which one you had  
22 any hand in preparing or concurring with?

23 A Okay. When I read them, as best I could I put them  
24 in the order I believe they came in, including Mr. Edgar's  
25 input as to when I think that came into being.

1 Q Sure.

2 A The ones designated R0, R1, which is the same  
3 document, and R2, I can't recollect seeing. I may have seen  
4 them, but I did not have any input to them as far as I  
5 recollect.

6 The first one, for instance, is January 17th and I  
7 had only been there, that was my third day in the valley of the  
8 Tennessee, and if I saw it, it was a passing.

9 Q Sure. And let me clarify it. Even though it has a  
10 date on there, we have no way of relying on that date as we  
11 don't know who prepared the document.

12 A Well, I don't recall the first two, those designated  
13 R0, R1, R2.

14 The one dated R3, I believe I saw. I believe this  
15 was the one which was the basis of the redraft I did on  
16 February 13th. I believe R3 was what I was given as a draft on  
17 February 13th which I cut and pasted and rewrote sections of to  
18 come up to the draft that has Mr. Huston's name on the top.

19 Q Okay.

20 A I believe at that point that the document which was  
21 titled Information for Gridley, Dick Gridley and Bill Wegner  
22 came into being. I had no input into that but I remember  
23 seeing that, and that contains a redraft of the letter and some  
24 advice as to how to develop a response.

25 Q Have you seen the sheet there with the advice?

1           A       Yes. I believe it was in that time period, I can't  
2 be certain. I have since seen it, I know, and I think I saw it  
3 on or about the 20th of February, maybe prior to that.

4           Q       Okay.

5           A       The ones designated R4 and 5 and the one finally sent  
6 I saw, and I think I suggested changes to the -- although I  
7 don't recall having input to R4, I believe I commented and  
8 suggested changes to R4 which were made. They were deletions  
9 of some extraneous sentences, I believe.

10                    So I both read and probably had some input to the  
11 drafts that are designated R5 in the front.

12           Q       Okay. But you've stated previously that this was not  
13 how you would have written a response if you would have been  
14 say the author of the letter going to the NRC.

15           A       That's correct.

16                    I also stated I didn't have any strenuous objection  
17 to the final form of the letter.

18           Q       Sure.

19                    In the final letter they talk about a --

20                    MR. MURPHY: Do we have any other questions about --

21                    MR. ROBINSON: Yes.

22                    MR. MURPHY: Go ahead.

23                    BY MR. ROBINSON:

24           Q       In my examination of the documents, especially the  
25 drafts that were prepared after the receipt of Mr. Edgar's

1 draft, there is one specific area that I am going to ask you to  
2 comment on to see if you have any knowledge of.

3           When Mr. Edgar returned his draft, he -- when he  
4 referred to the NSRS perceptions, he referred to them as an  
5 item, the NSRS perceptions. And I notice that as you said  
6 earlier Mr. Edgar's draft was if not almost verbatim, pretty  
7 much verbatim, accepted as being the basic final letter.

8           But in the drafts after Mr. Edgar's draft, there  
9 seemed to be a further narrowing of the scope of the response  
10 from the NSRS perceptions to the bases for the NSRS  
11 perceptions.

12           Are you following what I am saying?

13           In other words, I will give you an example of a  
14 couple of the NSRS perceptions. They were very general. The  
15 as constructed welding program is indeterminant. That was the  
16 first NSRS perception. Subsequently, NSRS provided some  
17 additional documentation to show what their basis was for that  
18 perception. And apparently that additional documentation was  
19 pretty much what was responded to in the technical analysis of  
20 those perceptions.

21           A     Yes.

22           Q     And going back to my question, it appears that in the  
23 cover letter, the transmittal letter that finally went to the  
24 NRC on March the 20th, it was not the NSRS perceptions that  
25 were referred to. It was the issues identified in the NSRS

1 perceptions.

2 Are you aware of a conscious narrowing of the scope  
3 from the general perceptions to the bases of the perceptions?

4 A I don't recall -- I don't recall specifically how  
5 that came to be. But it could have come from me. It  
6 probably -- it should have if it didn't because that's  
7 something I through experience learned to be as precise as I  
8 could be about what I was answering.

9 Those perceptions were broad generalities with no  
10 facts, no specific issues to deal with. In order to  
11 investigate them they had to be narrowed down to what was the  
12 problem, and NSRS -- some individuals within NSRS provided  
13 input. I believe that there was -- there were not -- it is not  
14 fair to say that these were NSRS perceptions as much as they  
15 were -- there was a group of people who worked for NSRS that  
16 had some perceptions.

17 We asked for the background for those. That was  
18 prior to my involvement at all in the App.B issue. That's  
19 reflected in my first meeting when those documents were  
20 available when I first reviewed them. What was the basis for  
21 the perception, and we were trying to answer those items,  
22 because we found that those -- the specific factual basis was  
23 changing from day to day.

24 NSRS was developing -- its people within NSRS were  
25 developing their rationale and adding to it constantly during

1 the period from my first involvement, late in January sometime,  
2 to and after March 20th.

3 So we had to try and define what the things were we  
4 were examining, and responding to them.

5 Q Okay, I understand what you are saying, and I want to  
6 make sure that my question is crystal clear to you.

7 There are two issues. One identifying the specific  
8 items that NSRS used as a basis for their perceptions, and two,  
9 the changing of the wording in the cover letter to specifically  
10 indicate that that was all that was looked at.

11 So my question is, regarding the changing of the  
12 wording of the cover letter after it was received from Mr.  
13 Edgar.

14 A I may have done that. I don't recall specifically,  
15 but it would be something I would have been inclined to do, to  
16 change that wording and to try and pin it to specific, a  
17 listing of specific technical issues. And I probably changed  
18 those words in one of the drafts although I don't recall  
19 specifically doing it.

20 Q Okay. One other question I have, and I think it's  
21 appropriate at this time.

22 MR. MURPHY: Go ahead.

23 MR. ROBINSON: Are you getting ready to go to a  
24 different area, Dan?

25 MR. MURPHY: Sure.

1 BY MR. ROBINSON:

2 Q Going back to when we had the secretary -- when at  
3 TVA you looked up the dictionary definition of pervasive, do  
4 you recall, Mr. Kelly, if that event happened at the time of  
5 final concurrence of the letter?

6 MR. SILBERT: By final concurrence, do you mean this  
7 sheet that's --

8 MR. ROBINSON: Yes.

9 MR. SILBERT: -- previously been identified?

10 MR. ROBINSON: Yes.

11 MR. SILBERT: Which is signed as of March 20th?

12 THE WITNESS: I don't believe it happened at that  
13 point in time. I think it happened in discussions prior to my  
14 final -- my signature on that sheet was applied on March 20th,  
15 I believe, although I was asked to sign off on a previous  
16 version of that which I refused to sign off.

17 But my recollection of the discussion regarding the  
18 dictionary definition of pervasive was that it preceded this by  
19 probably a month.

20 MR. ROBINSON: Okay.

21 THE WITNESS: I think it took place prior to February  
22 20th version which was not sent.

23 BY MR. ROBINSON:

24 Q Approximately how many times before the final  
25 concurrence were you asked to sign off or concur on say an

1 earlier draft?

2 A Just once prior to March 20th.

3 Q Just one other time.

4 A Right. And as I don't have -- I have not seen a copy  
5 of that concurrence although I wrote a memo to White/Gridley --  
6 I'm not sure which one of them -- offering my concurrence about  
7 February the 20th. But I didn't sign the sheet that was asked  
8 for, but I did write down my concurrence in a draft about that  
9 point in time. That's the only other time I was asked to sign  
10 off.

11 Q On that earlier time that you were asked to concur  
12 and you didn't, why didn't you?

13 A Because of the wording on the concurrence sheet. It  
14 was a -- it was a signature sheet, I believe, which contained a  
15 paragraph. It was not set up like this.

16 Q Okay.

17 A There was a statement of what was being concurred in  
18 or attested to and a place to sign, and I didn't agree with  
19 what I was being asked to sign so I didn't sign it.

20 Q And that sheet was specifically essentially stating  
21 the qualifications of your concurrence alone. All the other  
22 concurees were not on that sheet, or were they?

23 A My recollection was they were not. But my problem  
24 with it was it contained words --

25 MR. MESERVE: It being the concurrence sheet?

1 THE WITNESS: It being the first --

2 MR. SILBERT: The first concurrence sheet.

3 MR. MESERVE: Right.

4 THE WITNESS: The first -- the affidavit or  
5 concurrence sheet. My recollection was that it contained words  
6 that I have personally reviewed and verified everything, every  
7 statement made in the proposed letter. And I refused to sign  
8 it because I hadn't personally reviewed and validated every  
9 statement that was contained in that draft or in the draft  
10 ultimately that was sent on March 20th.

11 BY MR. ROBINSON:

12 Q Are you aware of the nature of Mr. Whitt's  
13 concurrence to that letter, the NSRS director?

14 MR. MESERVE: This is the March 20th letter? Are you  
15 talking about the March 20th letter?

16 MR. ROBINSON: The March 20th letter, his concurrence  
17 on that letter.

18 THE WITNESS: I have a recollection of that. I don't  
19 know whether I have given you that recollection or not, but let  
20 me run through it just so you have it.

21 We were -- on March the 20th when we signed this, we  
22 were in Steve White's office at his round table. And in  
23 attendance was Kermit Whitt, myself and others. I believe that  
24 Bill --

25

1 BY MR ROBINSON:

2 Q Mr. Kirkebo?

3 A My recollection is not certain on that.

4 Q Okay.

5 A But probably. I can't be sure. He was there, but if  
6 I recall, Bill Wegner was standing in the doorway when we were  
7 discussing the final letter. Whitt was seated next to me and  
8 Gridley was also there.

9 We passed this sheet around and signed it at that  
10 round table. I signed it after Kermit Whitt signed it, and  
11 there was no qualification on the letter.

12 Q Was there any discussion between Whitt and White at  
13 that time about his concurrence?

14 A No, none that I recall.

15 Q Okay.

16 A And I was somewhat upset later when I saw that  
17 qualification because it was not on the sheet when I signed it,  
18 although he had signed before that.

19 That writing is not Kermit Whitt's writing as I  
20 recollect. That is Dick Gridley's writing.

21 Q Right.

22 A Some time after March the 20th I saw a copy of this  
23 sheet. I did not get a copy on March 20th. I saw that letter  
24 and I was rather upset with Dick Gridley, and said why is that  
25 statement on it, because it wasn't on it when I signed the

1 sheet.

2           And Dick said that he had discussed this with Kermit  
3 Whitt afterwards and added that in Dick Gridley's writing  
4 because that's what Kermit Whitt meant. That discussion did  
5 not take place in my presence.

6           Q     Did you ever make the comment to either Gridley or  
7 White that if Whitt doesn't have to concur on this letter, why  
8 should I?

9           A     Not that I recall.

10          Q     Or something to that effect.

11          A     Not that I recall. I can't recollect back then. I  
12 don't think I would have had a problem -- I would have had a  
13 problem, but I think I probably would have signed off with  
14 concurrence unless Whitt had some technical basis that  
15 challenged the content of the letter even if he hadn't signed  
16 it.

17          Q     Specifically at that final concurrence meeting that  
18 you described earlier, do you recall having a discussion with  
19 White either reminding him or advising him of your definition  
20 of pervasive as a qualifier for your concurrence?

21          A     I don't recall that.

22          Q     Do you ever recall --

23          A     That doesn't mean it might not have happened, but I  
24 don't recall it.

25          Q     Do you recall that ever happening?

1           In other words, the definition of pervasive as a  
2   qualifier for your concurrence, a discussion between you and  
3   White about that.

4           A    Yeah, there was a discussion, but the discussion  
5   was -- my recollection of the discussion was that it was some  
6   time after that, and it came to the point where we were talking  
7   about the substitution of widespread for pervasive. And I said  
8   we could not have signed it with widespread. It had to have  
9   pervasive in it.

10          Q    So it's your recollection that that discussion  
11   happened after March 20, 1986?

12          A    Yeah, but there was such a discussion at some point.

13          Q    Was there any indication to you that the phrase in  
14   which the word "pervasive" was used in that letter referred  
15   only to the past events at TVA as opposed to the present?

16          A    Throw that question on me again.

17          Q    Okay. The phrase in which pervasive was used, to the  
18   best of my recollection right now. Let me see the March 20th  
19   letter, please. It's, yeah, right at the top of the --

20               MR. SILBERT: It says that -- right here.

21               BY MR. ROBINSON:

22          Q    "On the basis of a review of the issues identified in  
23   the NSRS perceptions, as reflected in the enclosure, I find  
24   that there has been no pervasive breakdown of the quality  
25   assurance (QA) program."

1            Obviously, the terminology "has been" refers to the  
2 past, but to your knowledge was there any conscious thought by  
3 Mr. White or yourself or discussions that the word "pervasive"  
4 was just going to refer to the past situation at TVA as opposed  
5 to the present time in March of 1986?

6            A     I don't recall any such discussion.

7            Q     Okay.

8            BY MR. MURPHY:

9            Q     If we are putting that as in the past tense that  
10 there has been no pervasive breakdown, in the meeting that  
11 deals with the past would that have been an acceptable  
12 statement to you?

13           A     The statement made is acceptable on the basis of a  
14 review of the issues identified in the NSRS perceptions, as  
15 reflected in the enclosure, I find there has been no pervasive  
16 breakdown.

17                  So we were referring to the issues as reflected in  
18 the enclosure.

19           Q     Okay, that very limited scope.

20           A     Not to the world, but to those 11 issues and those  
21 enclosures discuss past events as well as current status as  
22 best we could do that.

23                  So there was references to past in there as to what  
24 had happened. But my way of reading that was we were referring  
25 to those 11 issues, but the facts we had available to us

1 contained in the enclosures.

2 Q Okay, but we are limiting that to the -- I mean like  
3 even the first statement, "The welding program at Watts Bar is  
4 indeterminant".

5 We're not talking about the welding program at Watts  
6 Bar being indeterminant. We're referring to those specific  
7 concerns furnished by NSRS as related to that very general  
8 statement.

9 In other words, you are not addressing that the  
10 welding program at Watts Bar historically was always in  
11 compliance with App.B?

12 A I never said that --

13 Q No, I'm asking; no, I'm asking. I know you -- I'm  
14 just saying that's not what you -- you are not referring to the  
15 welding program historically as opposed to that very specific  
16 issue.

17 A There were a group of four or five issues in that  
18 welding item that made up the one line bullet, indeterminant  
19 welding program. There were three, four, five. I don't know  
20 the number.

21 But specific issues that the NSRS people documented  
22 and said this is the basis of our concern, we tried to handle  
23 each of those three, four, five issues, including a reference  
24 that we had -- because that and the employee concerns generally  
25 kicked off a massive welding program review which was going to

1 take many months to complete.

2 At that point in time on March 20th, we had certain  
3 information already back from that, had certain information  
4 available from the walk down that Mr. Lundin and crew had done,  
5 and we found generally acceptable practices; some deviations,  
6 but we found not everything was really bad. There was some  
7 good stuff in the welding program.

8 Q But basically related to the four or five issues that  
9 made up --

10 A That's right.

11 Q -- that concern as opposed to the program in general.

12 A Right.

13 MR. WILLIAMSON: Let me ask one question while we are  
14 on that.

15 BY MR. WILLIAMSON:

16 Q As director of QA, did you have any discussions with  
17 any of your superiors, also the board at that particular time  
18 wherein you discussed specifically limiting the scope of this  
19 response to just the NSRS perceptions?

20 Do you know what I'm saying?

21 A I don't recall, but I probably did.

22 Q We are going to address -- there have been 11 issues  
23 raised by NSRS, or people within NSRS. We are going to address  
24 just those perceptions as they were asked and nothing else.

25 Was there any discussions between you and anyone else in the QA

1 organization or in TVA --

2 MR. SILBERT: Can I ask just to clarify?

3 MR. WILLIAMSON: Sure.

4 MR. SILBERT: Other than as represented by Edgar and  
5 his comments --

6 MR. WILLIAMSON: Right.

7 MR. SILBERT: -- that he wrote saying if you will  
8 know.

9 MR. WILLIAMSON: Right.

10 MR. SILBERT: You mean beyond that, because certainly  
11 there is a discussion there.

12 MR. WILLIAMSON: Yes, yes.

13 THE WITNESS: I don't recall, but it's very likely  
14 that we discussed that kind of thing. Probably discussed it  
15 with Mullin in trying to scope exactly what kind of effort he  
16 was going to do.

17 So I wouldn't say I didn't discuss it, but I don't  
18 recall it.

19 BY MR. WILLIAMSON:

20 Q Okay, and another question, and I'm not sure --  
21 during the course of your discussion of this response, did you  
22 or did anyone else ever use the term "strategic response" in  
23 responding to the January 20th request?

24 A I never used it, and I don't recall anyone else ever  
25 using it.

1 BY MR. MURPHY:

2 Q We have had described to us the fact that there was  
3 another event as far as the concurrence went in which you may  
4 have been present along with Mr. Whitt and Mr. White and a few  
5 other folks, during which they were asked to concur with this  
6 letter, and you have also said there was at least one other  
7 instance that you were present when you were asked to concur.

8 Was that a group meeting, or was that individually?

9 A This --

10 Q Not this one.

11 MR. MESERVE: Which one? The earlier one?

12 MR. MURPHY: The first -- earlier concurrence.

13 MR. MESERVE: Earlier concurrence.

14 THE WITNESS: I think it was a group, but I couldn't  
15 swear to that at this point. I think there was three or four  
16 people there. I say that because there was a subsequent  
17 discussion, only because there was a subsequent discussion with  
18 Drotleff where he was asked to concur in that draft February  
19 20th. And as I recall, he did. And subsequently his staff  
20 came up with a change to an enclosure.

21 So I believe there was a -- at least White, Drotleff  
22 and myself were together when that concurrence was requested.

23 BY MR. MURPHY:

24 Q I have a document here I would like you to look at.  
25 It's dated February 20, 1986. It appears to be addressed to

1 S. A. White, LP6038A-C, and the comment here is, "I have read  
2 the basis for conclusion that 10 CFR50, App.B requirements are  
3 being met at the Watts Bar facility." Signed Kermit W. Whitt.

4 Would you look at this document and tell me if you  
5 have ever seen this before?

6 A I don't recall, but I may have.

7 BY MR. ROBINSON:

8 Q Is that document the same format as the earlier piece  
9 of concurrence document that you did not agree with or sign for  
10 Mr. White?

11 Obviously not the -- not the wording in that letter,  
12 but do you recall that that document being the same format as  
13 that concurrence sheet that Mr. White or Mr. Gridley tried to  
14 get you to sign earlier and you refused to sign?

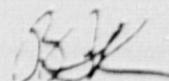
15 Is that basically in the same format?

16 A No, no, it isn't.

17 There was a pre-typed form document which was what we  
18 were asked to sign, a single sheet of paper, paragraph and a  
19 place to sign.

20 Now I took that and rewrote it in this kind of a  
21 format for what I sent -- what I signed off, and I sent. Went  
22 back to my office, and dictated what I would sign and send, and  
23 it was something like this. It was a brief memo concurring.  
24 That's what I signed.

25 That's why I say I don't know whether I saw this or



1 didn't see this because I may have been -- may even have gotten  
2 a copy of this, although it isn't indicated. Probably Gridley  
3 had a set of these. He was collecting them. I would think  
4 that he would have a similar sheet from each of the people --  
5 Drotleff, Kelly, Whitt, and himself.

6 Q Could Mr. Whitt have been present at that very first  
7 concurrence session that you kind of mentioned?

8 A Could have been. I don't know.

9 Q You don't recall?

10 A No.

11 MR. SILBERT: By the first concurrence, you mean  
12 where he declined to sign the sheet.

13 MR. MURPHY: Yes, sir.

14 THE WITNESS: February 20th I think is my  
15 recollection of when that was.

16 BY MR. MURPHY:

17 Q And you don't ever recall saying either -- it might  
18 have been in jest, why should you have to sign the letter when  
19 Mr. Whitt doesn't have to?

20 A No, I don't.

21 Q If you had seen this dated February 20, 1986, the  
22 statement by Whitt, would that not in fact have kind of made  
23 the final concurrence sheet in which this same basic sentence  
24 is annotated, would you have been less bothered by that at that  
25 time?

1 I guess what I'm stating is that it appears --

2 A There was a discussion, one discussion in which  
3 Kermit Whitt and I was present, where we discussed whether he  
4 agreed with the proposed response. I think it was probably  
5 March 20th, and we discussed whether he agreed, and he said he  
6 personally agreed, but he didn't speak for his staff. He made  
7 that statement, and as I recall it was probably the March 20th,  
8 and I think he made that statement when he signed it, that he  
9 was agreeing, but that didn't represent the NSRS position on  
10 this.

11 And subsequently I was told that this note was added  
12 because he felt that if he left his signature without a  
13 qualification he would be unable to manage his people any  
14 longer. I could understand that, but that wasn't on there  
15 when I signed it.

16 Q I understand that.

17 A And I might or might not have signed it then. I  
18 probably would have regardless of that note. But I felt that  
19 that was not part of what he was signing for. What it was  
20 asking him to do was to sign for his own opinions on that.  
21 That is not a signature for NSRS. That is a signature for the  
22 individuals. That is not a signature for the quality assurance  
23 organization. It's a signature for what I felt, and Kermit  
24 Whitt stated that he agreed with what was in the letter, but  
25 his people probably wouldn't.

1           Q     Let me try to -- I understand that. Let me say that  
2 it appears to us that Mr. Whitt prior to that March 20th  
3 concurrence had attempted anyway to make notification to Mr.  
4 White and to whoever else that the basis for his concurring was  
5 merely that he had read the letter approximately one month  
6 prior to that date.

7                     But you say you have never seen this document, but if  
8 you had seen this document, or at least you don't recollect  
9 seeing it. If you had seen this document, then you would not  
10 have been upset or surprised at -- let's say surprised by that  
11 annotation. Is that a correct assessment?

12                    MR. SILBERT: That's a little speculative. I mean  
13 he's testified he was concerned and upset by subsequent  
14 addition. You are asking him to go back and say, if you had  
15 seen this, which I haven't seen, how would you have reacted to  
16 the addition? I'm a little uncertain about that.

17                    MR. MURPHY: Yes, I'm saying that --

18                    MR. SILBERT: It's double speculation here.

19                    MR. MURPHY: There may be some speculation. And if  
20 it's speculation, that's fine.

21                    MR. SILBERT: Okay.

22                    MR. MURPHY: I don't have any --

23                    THE WITNESS: Okay, let me tell you what I was upset  
24 about, all right?

25                    When Kermit Whitt signed this letter, he was signing

1 that he agreed with the content of the letter. The note added  
2 states that the signature attests that the letter was read by  
3 Whitt. That's not what he said when he signed it. He said he  
4 agreed with the letter, but his people might not. His  
5 signature meant more than the fact that he had read it on March  
6 the 20th.

7 Now Dick Gridley adding that note I felt was  
8 improper. If Whitt wanted to qualify that note, Whitt should  
9 have qualified it. And if he had wanted to qualify it  
10 afterwards, he should have qualified it.

11 But that document was not contemporaneous with  
12 February 20th sign off of that sheet, and it does not reflect  
13 what I recall Whitt saying.

14 MR. MESERVE: You mean March 20th?

15 THE WITNESS: March the 20th. It does not reflect  
16 what I recall Whitt signing for.

17 BY MR. MURPHY:

18 Q Do you -- in your opinion, do you think that  
19 individuals viewing this document and concurrence, do not view  
20 that Mr. Whitt signed this thing, that he was signing as a  
21 representative of NSRS and not expressing his views?

22 A No, he stated that he wasn't signing for NSRS.

23 Q Oh, I'm saying or any other, that Mr. Kirkebo wasn't  
24 signing this document as a representative of the Office of  
25 Engineering, let's say, and expressing his views on those items

1 from the Office of Engineering as opposed to his personal  
2 views.

3 I mean if that was --

4 ~~A~~ X I can only tell you what I was signing for. I was ~~JK~~  
5 directing -- on March the 20th I was responsible for QA. I did  
6 not take a poll of everybody in the QA organization saying that  
7 they all agreed with what I was stating. I didn't ask for nor  
8 get a vote of confidence that there is nobody who has a  
9 differing opinion within the QA organization.

10 I was responsible for QA. Therefore, I represented  
11 QA, and I was attesting personally because -- I was responsible  
12 but I'm attesting as an individual that that document is all  
13 right to the best of my knowledge.

14 Q I'm not suggesting that you should go take a poll  
15 before you --

16 A No, Kermit Whitt --

17 Q Signed it.

18 A Kermit Whitt, if he took a pool, would have had at  
19 least some dissention.

20 Q I understand that.

21 A And I fully knew that there was a few people or maybe  
22 more in the NSRS that would not agree with the content of this  
23 letter, but we were representing as a corporate position, and  
24 that's what we were acting then. Individuals trying to  
25 struggle with a TVA corporate position.

1 Q and I'm not trying to beat a dead horse to death.  
2 What I'm suggesting is that when people view these different  
3 things, they view that when a QA manager or director of QA at  
4 TVA you signed this thing, you are a representative of the QA  
5 section.

6 And if we take that one step further, we would hope  
7 that White when he signed the letter was not expressing his  
8 personal views, but the views of the manager of nuclear power  
9 for TVA. I mean if you carry that one step further than --

10 A Reasonable.

11 MR. ROBINSON: I have a couple question that won't  
12 require any speculation on your part regarding that.

13 BY MR. ROBINSON:

14 Q I think I heard you say that Mr. Whitt made the  
15 statement to Mr. White at the time of the signing of that  
16 concurrence sheet that he agreed with that letter; is that so?

17 A Yes.

18 Q The other question I have is, did you have any  
19 knowledge before March 20, 1986 that Mr. Whitt was only going  
20 to concur in having read that letter as opposed to a normal  
21 concurrence?

22 A No, I had no knowledge but --

23 Q So it was a total surprise to you when you saw that  
24 qualification on the concurrence sheet later.

25 A And it was quite a bit later.

1           If he had wanted to qualify it on March the 20th,  
2   that probably wouldn't have upset me. If he had written that  
3   statement that he only read it, I probably would have signed it  
4   anyway. But I didn't. That qualifier wasn't on it when I did  
5   sign it.

6           Q    And you had no knowledge --

7           A    And it wasn't reflective of what he stated in that  
8   review. He told me that he agreed with the content  
9   individually, but his people probably would not.

10           Now if he didn't want to go that far, I would have  
11   just factored that into what I was signing for. But he didn't.  
12   What he told me was what I used as the basis for what his  
13   thoughts were at the time.

14           Q    And I'm very interested in not only what he told you,  
15   but what he told Mr. White at the time of that concurrence that  
16   you can recall.

17           Did he also make that statement to Mr. White, that I,  
18   Kermit Whitt, agree with this but I cannot agree with it for my  
19   NSRS people?

20           A    I believe White was sitting at the table with us.

21           Q    Okay.

22           A    We were in his office, because I recall sitting at  
23   that round table and doing it. Now whether White was paying  
24   attention or was on the phone as was his want, he would call a  
25   meeting. We would all get in his office. Then he'd get a

1 phone call, and we'll often sit at his desk and talk for half  
2 an hour. We would do things like take care of all the details  
3 of signing it.

4 He was in the room, but I don't know whether he was  
5 listening.

6 Q Okay.

7 MR. MURPHY: We are going to take a lunch break and  
8 we are off the record at 11:58.

9 (Whereupon, at 11:58 a.m., the interview was  
10 recessed, to resume at 12:45 p.m., this same day, Tuesday,  
11 August 18, 1987.)

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BRK