

1 A I could -- I think I told you I categorized  
2 the change as not being substantive, in my opinion.

3 I mean, it was -- I think I've said I don't  
4 feel that it was even worth making the change.

5 Q Was it an addition, a deletion?

6 A I thought it was a change in the wording,  
7 a substitution of words, but it could have been it.

8 But ---

9 Q [By Mr. Robinson] Would that particular sentence  
10 that I read to you as being an additional sentence in  
11 the letter that was received by NRC, in your opinion,  
12 would that sentence have been a substantive change?

13 A No. I don't think it is.

14 It's a restatement of the sentence that preceded.

15 Q Preceded, yes.

16 Q [By Mr. Murphy] That's what I was going to  
17 ask, if it isn't a fact that ---

18 A Yes.

19 Q There's not a great deal of difference between  
20 that and the preceding sentence?

21 A Right.

22 Q [By Mr. Williamson] Mr. Kelly, in an effort  
23 to maybe refresh your memory about your conversation  
24 with Mr. White, Mr. White called Mr. Denton's office  
25 on March 20th at 2:17 and talked with him, made a call

1 to Stello's office on the 20th at 4:07 in the afternoon  
2 and talked with him. And then again on the 21st, he  
3 talked with Mr. Stello at 7:59 a.m. And then talked  
4 with Mr. Denton on the 21st at 8:53 a.m.

5 The latter of the two, you would have been  
6 en route to Washington. You would have been in Charlotte  
7 then.

8 A The latter two calls, I probably would have  
9 been en route, right.

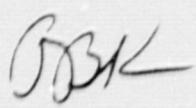
10 Q On the latter two calls.

11 The previous day there's a record of two calls  
12 to him. I say that to refresh your memory, if you can  
13 recall who Mr. White said that he had talked with that  
14 had suggested this change or suggested this additional  
15 information.

16 A As I recall the sequence of events, we had  
17 a final draft of this letter, we had innumerable final  
18 drafts of this letter along the way, but we had what  
19 I thought was the final draft of this letter, say, midday  
20 or late morning on Thursday, if that's the right date.

21 And White was looking at it and reviewing  
22 it and discussing it with Wegner, additionally, aside  
23 from discussions with me.

24 He was waiting for a phone call, indicating  
25 that he was preparing to send this letter, I think,



1 discussion with somebody in the NRC.

2 Now, my presumption is that the NRC had a  
3 copy of the close to final draft letter and he wanted  
4 to have somebody within the NRC read it and see if that  
5 was going to be unacceptable to them.

6 Q So you say you ---

7 A And so sometime in the afternoon a phone call  
8 came in and he concluded that the letter was okay to  
9 send as it was. And that's when the decision was made  
10 that I would take the letter and go to Washington. That  
11 was late in the afternoon. Say after a 4 o'clock phone  
12 call.

13 That's my recollection for that day. I made  
14 reservations, got on an early flight, around 7 o'clock,  
15 and there was a change, a discussion with the NRC subsequent  
16 to my leaving the office, 6:30-ish, on Thursday, and  
17 8:30 in the morning. I don't know who he talked with.

18 Q Okay.

19 You said that you assumed that someone in  
20 NRC had had an earlier draft of this for review?

21 A Yes.

22 Q Is that a fact?

23 A No. That's a presumption on my part, that  
24 that was -- and it may not be true at all.

25 My presumption they would -- White was talking

1 about the letter, and he may have read the letter to  
2 somebody in the NRC. But he was waiting for some reaction  
3 to the content of the letter that we were intending  
4 to send.

5 Q You recall him saying that he did read it  
6 to someone and was waiting for a response?

7 A I recall him -- I think that it was he had  
8 talked to somebody in the NRC about the letter and we  
9 were going to send it.

10 Now, whether it was read it to or talked about  
11 it, I don't have any specific knowledge.

12 Q [By Mr. Murphy] In your general conversation  
13 it seems to me, and correct me if I'm wrong, were you  
14 present when that phone call came into Mr. White's office?

15 A No.

16 Q Okay.

17 Then what you're relating is that White told  
18 you this?

19 A Yes.

20 Q Did White -- try to remember whether White  
21 -- did White say he read this letter to somebody?

22 I mean, you mentioned that. That's not my ---

23 A Right.

24 Q --- my independent idea.

25 A That's an independent. I don't recall specifically.

1 whether he told me he read it to them.

2 I got the impression. I don't remember his  
3 words.

4 Q Okay.

5 A I got the impression that the content of the  
6 letter had been discussed with the NRC.

7 And that's where then I presumed that they  
8 had either seen a copy or he had read them a copy. And  
9 I don't know which or either.

10 Q Okay.

11 Q [By Mr. Reinhart] When you said between 6:30  
12 Thursday and 8 o'clock Friday, there was another discussion  
13 with the NRC?

14 A I presume. Because that's what the change  
15 -- the change stemmed from a discussion with somebody  
16 in the NRC who suggested a change to the letter.

17 Q [By Mr. Robinson] Does the name Bud White  
18 ring a bell to you at all?

19 A No.

20 Q It may be an error in the earlier transcript.  
21 It kind of indicated that you may have been talking about  
22 Mr. White's secretary contacting you or paging you in  
23 Charlotte, but the transcript indicates Bud White.

24 There's no Bud White at the TVA Office, in  
25 NRC or -- that you know of?

1 A I don't recognize the name.

2 Q You don't know anyone by the name of Bud?

3 A No.

4 MR. REINHART: Okay.

5 MR. MESERVE: I might say that's one of the  
6 reasons we've asked to review transcripts, because I  
7 think that's what it was. It could be avoided.

Tape 3

8 Q [By Mr. Murphy] Mr. Kelly, you've reviewed  
9 your travel records and you have stated that for sure  
10 that the travel was done on the 21st of March; is that  
11 correct?

12 A Yes.

13 Q And your flight left out of, or was scheduled,  
14 at least, to leave out of Charlotte at 7:59, was that  
15 correct, to Washington?

16 MR. REINHART: 8:59.

17 A 8:59.

18 Q [By Mr. Reinhart] 7:35 from Chattanooga  
19 and 8:59 from Charlotte; was that correct?

20 A 7:35 from Charlotte, 8:59 departure from --  
21 7:35 departure from Chattanooga, 8:59 departure from  
22 Charlotte.

23 MR. MURPHY: All right. Thank you.

24 Q [By Mr. Williamson] So you received a phone  
25 call from Mr. White's office?

1 A Around 8:30.

2 Q And the purpose of that phone call was to  
3 alert you that there would be a change waiting for you  
4 in ---

5 A Washington.

6 Q --- in Washington?

7 And that was to be tentatively implemented  
8 prior to delivery of the letter to NRR?

9 A That's correct.

10 MR. MURPHY: Are we done with that topic?

11 Let me cover some ground here.

12 Are you done, Len?

13 MR. WILLIAMSON: Yes.

14 Q [By Mr. Murphy] Along with the draft of that  
15 letter what we have here is -- what we've been told was  
16 the results of some line organization review of the NSRS  
17 perceptions.

18 Now, generally speaking, from yourself and  
19 other witnesses, we were told that the original NSRS  
20 eleven perceptions were on some type of a viewgraph,  
21 not specific really in nature and not -- in general terms,  
22 did not have the backup data necessary at the time they  
23 presented it, that Commissioner Asselstine didn't clearly  
24 support these perceptions. Is that correct?

25 A Yes.

*JBK*

1 Q Who made the decision that we would go with  
2 the format that exist in the final -- the attachments  
3 of March 20th, who decided that that was the format  
4 used for them to address the eleven perceptions?

5 A I don't really recall.

6 My intention was not to include any attachments.

7 Q Why was that?

8 A Because I didn't think we needed the attachments  
9 to specifically cover each of the eleven points. We  
10 were going to respond with a letter early in the process.

11 My preference and recommendation was to respond  
12 with a letter and have files containing the backup  
13 information on which our judgment was based, which would  
14 be available to the NRC when they came in.

15 Now, some place in the process it was decided  
16 that we needed to send more information about each one,  
17 and I don't recall who specifically decided that.

18 Q But it was not your decision?

19 A No.

20 Q Okay.

21 Mr. Kelly, what I'd like to show you here  
22 is we've been told by several witnesses that on or about  
23 February 13th NSRS was requested and did provide the  
24 line organization with some specific data concerning  
25 the employee concerns which relate to these eleven



1 perceptions.

2 And the line organization responded. They  
3 did summaries of these particular employee concerns.

4 But when you view what is considered their  
5 summary to what the final executive summary is, what  
6 it appears to me is that they went from some very, very  
7 specific issues to a very, very general form.

8 And what I guess -- you've already said this  
9 was not your decision. And what I see here is, to me,  
10 it looks like when they went through the process of identifyin  
11 these very specific concerns, the line outfit, it did,  
12 in fact, in most of these documents that I'm going to  
13 show you, have a very high percentage, somewhere around  
14 70, said that these employee concerns were substantiated.

15 Now, this is not Dan Murphy's idea. This  
16 is line organization or probably whoever prepared these  
17 initial summaries.

18 What I'd like you to is -- and we can go through  
19 these one by one, but we'll start with this welding issue.  
20 And I'd like for you to look at the initial summary prepared  
21 by the line organization and what is contained in the  
22 executive summary and tell me if it's clear to you that  
23 we're talking about the same thing.

24 A Okay.

25 Q Let me read this, first off. This is a

1 welding summary. It's No. 1 on their list, right?

2 A What time frame do you ---

3 Q February 13th, March 20th.

4 We're starting somewhere in February when  
5 NSRS is requested to give more information, right? Okay?

6 A Right.

7 Q We've also been told by the Director of NSRS  
8 that at some point in time, like around February 13th  
9 when this vast information was given to him, he was under  
10 the belief that their concerns were substantiated. Not  
11 that he agreed or disagreed with whether you're in compliance  
12 with Appendix B or not, but that, in fact, they did support  
13 these things.

14 A Well, I'll just comment.

15 There were several versions of documents prepared  
16 by NSRS.

17 Q Yes, sir.

18 A They <sup>EVOLVED</sup> ~~involved~~ -- they added to information. X  
BPK  
19 They added citations as they went. So there were --  
20 at various times there were various documents, all basically  
21 the same issue. But they were formatted to contain more  
22 or less detail.

23 The line organization, there were also several  
24 versions as the evolution took place. In most cases,  
25 they added to the information because they left questions.

1 And so they kept having to go back and do additional  
2 work to resolve questions.

3 Q Let me read this.

4 This is a summary that's identified: "Welding.  
5 "A detailed review with 21 issues identified  
6 by NSRS supporting their perception indicated that all  
7 the key elements as stated, do not address the basic  
8 issues of listed concerns. Some of the key elements  
9 cannot be found in the concerns that were listed by NSRS's  
10 report. Only three of the eleven key elements relate  
11 directly to the concerns listed."

12 Okay?

13 "Twelve of the 21 concerns are considered  
14 substantiated. Five were considered partially substantiated,  
15 due the concern of addressing the situations that were  
16 acceptable to the program, but actually did occur as the  
17 concern stated. These could be considered nonsubstantiated.  
18 Three concerns were not substantiated."

19 Would you say that that's addressing these  
20 things in a specific manner?

21 MR. MESERVE: Can I have a look at it?

22 MR. MURPHY: Surely.

23 MR. MESERVE: Whose document is this, Dan?

24 Did you say it was an NSRS document?

25 MR. MURPHY: No. This is a Tv. line organization

1 document.

2 MR. MESERVE: It's a line document. Okay.

3 MR. MURPHY: We've been told this is the evolution  
4 of the technical concerns, the evaluation of technical  
5 concerns, the write-up, at least, of the technical concerns.

6 Here is the corporate position, the executive  
7 summary that is made as an attachment to the -- and,  
8 of course, included in there is the evolutions of that  
9 executive summary.

10 MR. MESERVE: This executive summary was from  
11 March 20th?

12 MR. MURPHY: Yes, sir.

13 MR. ROBINSON: Let me make certain on that.

14 This is the welding summary that was submitted  
15 with the March 20th letter.

16 MR. MURPHY: Right.

17 MR. ROBINSON: It looks like it's the same.

18 MR. MURPHY: There may be some ---

19 MR. ROBINSON: Different type, but it's the ---

20 MR. MURPHY: But that's -- the issue here  
21 is not -- I'm going to get into the issue, what I feel  
22 is the issue.

23 Q [By Mr. Murphy] Would you say that the initial  
24 line response was very specific in nature?

25 A This wasn't the initial line response.

1 Q What was that? Can you tell me what it is?

2 A Undated, unmarked as far as the provision of  
3 -- my recollection was that at some point during the  
4 process, NRC came up with their concerns, detailed on  
5 at ---

6 Q Wait. NSRS?

7 A NSRS came up with details and identified against  
8 each of the issues the referenced documents, primarily  
9 employee concerns, and they numbered each one.

10 Now, we didn't know whether that document  
11 changed content of what the issue was or not. So we  
12 had QA people take that version of the NSRS issue, listing  
13 the specific referenced documents, and go find out what  
14 those referenced documents said. Did they relate, if  
15 they had been investigated, or they -- what was the result  
16 of it?

17 I think that's what this is. Result of that  
18 effort by the QA organization to go relate those citations  
19 against the issues.

20 Q And who did that? Your QA organization?  
21 Who are we talking about?

22 A Tom Burdette would have been probably the  
23 principal.

24 Q Tom Burdette actually did the work himself  
25 or ---

1 A No. He ---

2 Q Who would he assign that --

3 A As I recall, he -- we asked him to go take  
4 a look at this, and he had some other people with him.

5 Q Okay.

6 And what does the "substantiate concerns"  
7 mean? Would we say it's absolutely meaningless, when  
8 they go out and do this? It has no bearing on the issue?

9 A No. There's several things that this says.

10 Only three of the eleven key elements relate  
11 directly to the concern listed. Only three of the  
12 citations ---

13 Q Mm-hm.

14 A --- related to the issue.

15 Some of the key elements cannot be found in the  
16 concerns that were listed. You know?

17 Q Mm-hm.

18 A They weren't -- again, they weren't related.

19 Twelve of 21 concerns are considered substantiated.  
20 That's -- yeah. That's a lot of concerns that are substantia:

21 In the reviews of this, we found a lot of  
22 them were substantiated. And some of them that were  
23 substantiated were, so what? No, never mind.

24 You know, I had -- when I originally read  
25 this, early in the process, before the end of January,

1 Q How can you go over -- I mean, how can you  
2 go over that, I mean, from the -- when I look at this,  
3 it talks about some very specific concerns. Immediately  
4 we go to what appears to be a better general type document.  
5 How can you say that when these concerns -- unless I'm  
6 wrong, I don't even think they're listed beyond this  
7 point. How can you say that these are, no, never mind,  
8 or these are valid concerns and have to be addressed  
9 without addressing the specific concerns?

10 A We were addressing the specific concerns,  
11 in a general sense, here.

12 Q Wait a minute.

13 A We had to address each of the employee concerns.

14 Q I understand that

15 A And that program was in process.

16 Q Okay.

17 A So each of the specifics -- now, we had to  
18 extract those that related to that charge as expanded,  
19 that particular charge as expanded by the NSRS as to  
20 what the parts that led them to that conclusion were.

21 And then we tried to expand that. And there  
22 was a version which listed under that heading what the  
23 issues were that were contained in the material.

24 There's a document that -- I assume you have  
25 it. As constructed, the welding program is indeterminant.

RBK

1 I read them and I found no bell ringers.

2 I also found some that, if true, were of no  
3 concern to me, because they were interpretations on  
4 ways you do work and did not bear on the acceptability  
5 of the work.

6 Q Mm-hm.

7 A So substantiating a concern by itself doesn't  
8 tell me whether I have a problem or not. It depends  
9 on what the concern is.

10 Q How was the process evolved to the point  
11 where you, or whoever, decided that these concerns were  
12 of no never mind, even though they were substantiated,  
13 they were no never mind? Did you, in fact, yourself  
14 go over each one of the -- there's a lot of concerns  
15 here, by the way, and I'll gladly cover them with you.

16 Did you go over each one of these yourself  
17 and say, this is a valid concern, this is a nonvalid  
18 concern; and if this was valid, this still wouldn't mean  
19 anything? Is that what you told yourself?

20 A Did I go over each of those, you mean?

21 Q Yes, sir.

22 A No, I didn't go over each of those.

23 I went over them in that format. This one  
24 ex -- this is probably one of the versions along the  
25 way, which was added to.

1           There were three or four issues, parts of  
2 that, inadequate control of welding wire.

3           I don't recall the parts of them.

4           But there were four or five items that had  
5 to be included, covered in the response.

6           These added a whole bunch of additional citations  
7 at some point, and we wanted to make sure that there  
8 was a new -- there was a citation here which added to  
9 those four or five elements of that issue, relating to  
10 welding, so that we picked it up and included it in the  
11 response, in the attachment.

12           Q       Let me try one more, because I'm not -- from  
13 this point, where you have identified these employee concerns,  
14 when it's counted up, in fact, each one of these numbers  
15 relate to employee concerns.

16                   Who made the decision that these specific  
17 items would either be included or not included in the  
18 final executive summary?

19           A       Probably Lundin.

20           Q       Was Lundin involved in -- I'm not sure whether ---

21           A       He was -- he was -- when it continued on,  
22 right to the end of this process, working with these  
23 items and making sure that the content of them covered  
24 all the issues we had to respond to.

25           Q       Then, in fact, you didn't play a part in ---

1 A I would have sat with Lundin and asked --  
2 and I may have even looked through these. I looked at  
3 some similar type documents and indicated, which looked  
4 for in the final product, these items.

5 We had Mullin, we had Lundin, we had myself  
6 and maybe Houston, and QA, parts of the QA organization,  
7 going through this, making sure that the elements that  
8 we saw -- and you don't have a copy -- I haven't yet seen  
9 a copy of it, the one that has the subelements, that  
10 all of those elements are covered in the response.

11 Q Why don't you look through that documentation  
12 there and see if you can come up a subelement?

13 Q [By Mr. Reinhart] Of Mullin, Lundin, Kelly and  
14 Houston, who was in charge?

15 A I was in charge of QA. Mullin was assigned  
16 essentially full time to generate these enclosures until  
17 they were sent.

18 Q [By Mr. Murphy] Who was that? Mullin?

19 A Yeah.

20 And we looked it.

21 Periodically -- he had books and books on  
22 this stuff, and looked through them and asked for summaries  
23 different ways, of what elements were.

24 And there was another version of this that  
25 NSRS issued in April that added more elements. And one

1 of the versions in March added more than eleven issues.  
2 There were another four or five issues beyond those  
3 eleven.

4 Q Well, let me get the dates first.  
5 When did they add them? In March or April?  
6 If they had them in April, obviously, we're late ---

7 A Yeah.

8 Q --- with a letter. But if -- were they added  
9 in March or were they added in April?

10 A As I recall, there were issues added in March.

11 Q Before the letter went out?

12 A Yes. Those issues, being that type.

13 Q Mm-hm.

14 A But they furnished another version of the  
15 same document with more citations in April.

16 Q But that's after, after March 20?

17 A Afterwards.

18 Q The March 20th letter?

19 A Right.

20 Q [By Mr. Reinhart] Mr. Kelly, I'm losing something  
21 here.

22 MR. MESERVE: I think he's still looking for  
23 the ---

24 MR. REINHART: Oh, I'm sorry.

25 MR. MURPHY: That's okay.

1 MR. REINHART: I thought you had looked ---

2 MR. MURPHY: But I'm losing something, too,  
3 but I'll let you go ahead.

4 Q [By Mr. Reinhart] While you're looking, Mr. Kelly,  
5 as we talked to different people in the interview process,  
6 we looked for the person in charge, the one making the  
7 policy and the decisions.

8 People keep saying, Kelly, Kelly, Kelly.  
9 And we talk to Kelly, he says, Joe, Tom, Dick  
10 and Harry.

11 A I was in charge of QA from the middle of February  
12 through the end of March. Mullin worked for me.

13 Q Who established the policy regarding what  
14 went into this response and what did not go into the  
15 response?

16 A I would have.

17 Q You would have?

18 A Right.

19 Q Or did you or would have ---

20 A I did tell him what went in.

21 Q Okay.

22 That's what we need to know.

23 Now, when we look at a lot of the input there,  
24 we see specifics, lots and lots of specifics. Whether  
25 they were big specifics and little specifics, we see

1 lots of them.

2 What really stood out to the NRC from the  
3 day we first got the documentation from TVA to substantiate  
4 this letter, as well as the letter itself, was a lack  
5 of specifics regarding implementation.

6 What we read was program and program history.  
7 Anything that got close to implementation got very, very  
8 vague. But yet the NSRS perceptions were almost entirely  
9 implementation.

10 So rather than addressing implementation,  
11 the response talked about the program back in 1973, the  
12 program back in 1982, the program yesterday or the program  
13 as it's going to look after it's all fixed up.

14 Was that intentional? Did you miss something?

15 A You say that the NSRS perceptions were specific  
16 in nature?

17 Q No. I'm saying they were implementation in  
18 nature.

19 A Implementation.

20 Well, let me read a couple of them and --  
21 I don't agree that these are implementation.

22 The first one, on the welding: "Setup inspection  
23 is not required by QC procedures for structural steel  
24 welding."

25 Is that implementation? Is that ---

1 Q Let's look at the NSRS perception. What is  
2 the NSRS perception?

3 A This is the summary of what the issues were  
4 within this on which they based their concern.

5 And we looked -- in responding to that, we  
6 looked at the program.

7 And they're right, substantiated, not required  
8 by QC procedures.

9 It was at one point in time, but it wasn't  
10 for most of the program.

11 Setup was not required. Setups were, in fact,  
12 done by the construction craftsmen, which NSRS had raised  
13 its concern years earlier. It had been responded to.  
14 The craftsmen were assigned that responsibility and they  
15 said that's not acceptable, we don't buy that.

16 And this one, in particular, I had firsthand  
17 knowledge of the Code. AWS does allow for that and in  
18 practice is common in the industry, to let the craftsmen  
19 do it.

20 It didn't provide all the documentation.  
21 So it's changed in the '84 time period.

22 Substantiated, programmatic, nonimplementation.  
23 "Weld acceptance criteria on drawing conflicts  
24 with welding procedures."

25 Drawings dictate. That's the answer to that.

1 Q Why not give it?

2 A We tried to describe that in here.

3 Q Where?

4 A In the answer that we attached, there should  
5 be a discussion of that.

6 Q Could you show it to me, please?

7 A Not without looking for it.

8 Q Okay.

9 Well, have a look here.

10 MR. WILLIAMSON: You're talking about the  
11 corporate position?

12 MR. REINHART: Yes.

13 [Pause.]

14 A I don't see it here, but it was at one point.  
15 And we do discuss here the section process, which is  
16 the acceptance criteria. It gets to the acceptance criteria,  
17 the training.

18 At one point we had specific words about when  
19 the drawing takes precedence over a spec.

20 This is the attempt to identify those items  
21 that needed to be responded to.

22 Q [By Mr. Reinhart] I'm still missing why,  
23 why the responses, in general, really home in on the program  
24 and program history rather than implementation.

25 A Because most of these issues are programmatic.

1 Q As constructed, welding program is indeterminant?

2 A Yeah.

3 What makes it indeterminant? These are the  
4 things that they had as problems.

5 Q Well, let me read some for you. The ones  
6 that...

7 A Don't mix those papers up on him.

8 Q No. Why ---

9 A Keep them in different piles.

10 That's the front of that one.

11 Q Here it says: "Weld acceptance criteria on  
12 drawings conflicts with welding procedures."

13 Is that a program problem or an implementation  
14 problem?

15 A It might be neither.

16 It often happens you have a welding procedure  
17 which is generic, applies to families as welds.

18 Q Mm-hm.

19 A And then you have specific geometric  
20 configurations that will show up on a drawing ---

21 Q Mm-hm.

22 A --- for a specific application. And it may  
23 vary that welding specific, so that a welding procedure  
24 a little bit, it may be at variance.

25 Is it wrong?

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Which takes precedence?

Acceptance criteria for that weld, that exact weld versus the acceptance criteria for typical welds, there may be a difference.

Q Mm-hm.

A That's not wrong, necessarily.

Q Well, but just saying we have a program doesn't answer the question.

A Saying there is a program that acceptance criteria can vary between varying documents and the more specific dictates is acceptable.

And that's not even a -- that's not even a technical concern.

Is that programmatic or is that implementation?

Q Be that as it may, just saying you have a program, doesn't answer it.

That's what I'm getting at.

A Answer what?

Q The issues.

A Into the fact that there's a difference?

Q The issue.

Whatever the -- I don't know what the issue is. But, you know, if we dig into it?

A All right. Let's not talk about it, then, because I don't know right at the moment what the issue

1 is either.

2 But that's a programmatic type issue.

3 Q Well, just a minute ago you said it was neither.  
4 So it can't be.

5 A I'm saying, if you're going -- it's not a  
6 problem. If it's an issue at all, it's which acceptance  
7 criteria dictate when you have a conflict.

8 Q Mm-hm.

9 A And is it the general requirements or is the  
10 specific requirements?

11 Q Well, let me go on down here.

12 Here's another. Just a bulletin I'm picking  
13 at random.

14 It says: "Weld rod issue accountability is  
15 inadequate."

16 It happens a lot of places.

17 "Rod slips do not reference where a rod stub  
18 was used. Weld packages do not reference where rod  
19 slips -- reference rod issue slips, and no rod stub  
20 accountability."

21 Did the program address weld rod control?

22 A The program provided for weld rod control.

23 It did not require that information, nor do  
24 the regulations, nor do the codes require that information.

25 Somebody saw a need that it would be nice to

1 have.

2 And I would agree, it's nice to have, and  
3 I'd like to have it.

4 The fact it doesn't exist isn't a problem  
5 and it isn't an implementation problem. And it's not  
6 really even a programmatic problem.

7 Q Well, if that's true, it sure doesn't come  
8 out.

9 A Does NRC consider that a problem?

10 Q I don't know.

11 A That we don't have stub accountability?  
12 For instance, just give me that.

13 Q I don't know.

14 A Do you have an inspector handy that would  
15 tell me whether having stub accountability is a problem?

16 Q In some locations in the past, it's been considered  
17 a problem.

18 A Generally it has not been considered a problem.  
19 It isn't a requirement and it's very seldom done.

20 NSRS said it would be a better program if  
21 we did that.

22 Q Would ---

23 A You haven't hit me with an implementation  
24 one yet, and you're looking for them now.

25 Q I might.

1 A And you're trying to make the point that --  
2 well, you're selectively going through that list ---

3 Q I'm just looking.

4 A --- looking for an implementation one.  
5 There are implementation ones in there.  
6 And implementation was covered.

7 When we looked at welding, we looked at the  
8 practice to see whether weld control was getting the  
9 results, getting the proper weld wire issue for the proper  
10 weld.

11 Q Just going through, okay? I won't be selective.  
12 "Electrical cable, present qualification condition  
13 is indeterminant."

14 Right off the bat, to me, that does not sound  
15 like programmatic. It sounds like an implementation  
16 problem.

17 A No, it doesn't to me. It sounds like a  
18 programmatic.

19 Qualification status is indeterminant.

20 Q Yeah.

21 A That's ---

22 Q That's implementation.

23 A No. That's not implementation. That is,  
24 the program does not specifically define the qualification  
25 status. That's what that tells me, reading it.

1 Now, there may be an implementation problem  
2 behind it someplace, but generally ---

3 Q Yeah.

4 A --- that's a programmatic problem.

5 And what's behind that is uncontrolled pulls  
6 of cable, where they may be damaged.

7 Q [By Mr. Murphy] You say may be?

8 A May be.

9 Q That's not been determined yet.

10 A As of now, there's various answers to that.

11 Q [By Mr. Reinhart] Where's that?

12 Let me back up a little with this one.

13 A Most of the pieces of these perceptions are  
14 programmatic in nature.

15 Here on -- now, we're going from these things  
16 that Dan showed you earlier, whoever compiled them for  
17 data, whoever, some specifics.

18 "The concern on a cable pull violation was  
19 substantiated."

20 That sounds to me like implementation.

21 A What concern?

22 Q Whatever it was?

23 A I have no idea.

24 Q The concerns on cable trade separation violations.

25 A No. I'll need a specific, because I can't tell

33K

1 you if it's programmatic or implementation.

2 Q Well, I guess that's what we were expecting  
3 you to tell us.

4 A I thought I had, in the March 20th attachments.

5 Q I go through and I look at the one on ---

6 A When you let me finish reading, I will.

7 All right, you say that that's a specific  
8 concern on a cable pull violation, was substantiated.

9 That's what you just read into the record.

10 And ---

11 Q That's what TVA documentation ---

12 A Right.

13 As it goes on to say: "This concern of being  
14 evaluated for its impact on all installed CSSC cables,"  
15 which is a Category 1, safety related list.

16 Now, the specifics of that, the specific improper  
17 cable pull was substantiated.

18 "Nonconformance Report 6001 was initiated  
19 six days following the event in question. New cables  
20 were installed. No further specific action in this area  
21 is required."

22 So, yeah.

23 Q Implementation?

24 A Base of cause was they failed to put a link,  
25 the break link, in that cable pull and potentially

1 overloaded it.

2 Yes, it was substantiated. That's an  
3 implementation one. A new cable was put in. An additional  
4 evaluation was being conducted at that point in time.

5 That one is implementation.

6 There are other parts of that one.

7 Q I'm still looking for a rationale as to why  
8 the responses were basically programmatic in nature,  
9 rather than programmatic as well as implementation in  
10 nature.

11 A Implementation was checked.

12 I told you that -- I read you from the  
13 documentation that was made available to you, that ---

14 Q In the response ---

15 A --- that was checked out, the cable was found  
16 to have been improperly pulled and it was replaced.

17 Q In the response, why was the response primarily  
18 programmatic in nature and not implementation, except  
19 for in very vague terms?

20 Was that intentional?

21 A I don't have any opinion as to whether it  
22 was intentional or not. We felt we were answering it.

23 Q You were in charge, Mr. Kelly.

24 A We were answering the questions. Most of  
25 the questions aimed at the programmatic.

1 The specific citations, we chased out as many  
2 as we could. We had the information and we captured  
3 it so that it could be reproduced to the NRC and made  
4 available.

5 We had no intention not to provide that  
6 information.

7 You categorize these as programmatic. In  
8 some cases they heavily rely on programmatic because  
9 they're general in nature.

10 Where we felt that it was important to talk  
11 about specific implementation, we did.

12 Q [By Mr. Murphy] Let me ask you one question  
13 about that and then we're going to take a break.

14 If, in fact, the statement just made is you  
15 got all the stuff together so some day you could support  
16 your findings to NRC, why was that documentation not  
17 made part of the 15 or 16 booklets that we picked up  
18 early on, which was defined to us as those documents  
19 that supported TVA's position?

20 A I thought they had been. All of this paper  
21 should have been in those books.

22 MR. MURPHY: We're going to take a break,  
23 now. It's 12:27, and we're going off the record for  
24 a while.

25 [Recess.]

1 MR. MURPHY: Before we start. I know Mr. Kelly has  
2 indicated to us that he is going to make a clarification of  
3 something, but before we get into that.

4 Just prior to the break you suggested that these NSR  
5 perceptions are the summary that involves the identification  
6 of NSR perceptions, by employee concern number, was undated;  
7 are you indicating that possibly these things surfaced after  
8 the March 20th letter?

9 BY THE WITNESS:

10 A No. I just didn't know when they surfaced. I was  
11 trying to figure it out, and I think I know approximately when

12 Q And you do not cover that, right?

13 A Yeah.

14 Q I have one other question. I think we all fully  
15 appreciate the fact that when you say as QA Manager you are  
16 responsible for the final product, right? I mean, that  
17 generally is the role of the QA Manager, maybe in this case,  
18 that you are -- but what we asked you was, was it your  
19 decision to do it in this particular manner? We need a  
20 clarification of that.

21 A The answer to that is no. The answer is, that was  
22 not my decision.

23 Q Okay. But you are accepting responsibility, is what  
24 I am saying, for something that you did not agree with?

25 A Let me explain. That's what I want to make, exact.

1 how these came into being in this format.

2           Until the 17th of February, I was a consultant or  
3 advisor. My first involvement in the -- this issue at all was  
4 January the 17th, after drafts had been prepared.

5           The format of the drafts was, essentially, as they  
6 ended up; that the general content was what was available the  
7 first time I saw them on January the 17th.

8           Mullin was directing the preparation of the  
9 response, at that point, and did through the completion of  
10 that effort, although on February the 17th I took the position  
11 of Director of QA and had him report to me. So he was  
12 reporting to me for the latter stages.

13           On February the 11th he wrote a memorandum which  
14 identified the team that was put together to create these  
15 attachments, <sup>CREATE</sup> ~~late~~ these responses, and this identifies the  
16 people, and contains instructions from Mullin as to what  
17 they're to contain, what the schedule for completing them is.

18           I believe you've seen that memorandum.

19           BY MR. ROBINSON:

20           Q     I noticed one thing on this February 11, 1986  
21 memorandum that Mullin said in his instructions in the third  
22 paragraph, "Your documentation package for each perception is  
23 to be organized in a manner that justifies the corporate  
24 position."

25           Was the corporate position established on February

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1 11, 1986, as to whether or not you were in compliance with  
2 Appendix B?

3 A He's talking to the individual element people that  
4 were developing the corporate position, and what he's telling  
5 them is, the position arrived at, whatever it be, must be  
6 supported by the available documentation.

7 Q Okay.

8 A Overall, we did not have a corporate position at that  
9 time, fixed, of the total issue, until White signed the letter  
10 on March the 20th, and any time we came up with something that  
11 contradicted it, would have been changed.

12 BY MR. REINHART:

13 Q Mr. Kelly, as I read this, and in previous  
14 discussions, this is my impression of what this memorandum was  
15 for.

16 It says, "The purpose of this memorandum is to  
17 provide you with additional details in guidance for the  
18 refinement of the documentation packages."

19 We were told that this was not provided to the  
20 people preparing the line responses, to prepare the line  
21 responses, but was provided them in order to produce the  
22 backup documentation that was subsequently given to the NRC?

23 A That's right, it defined what was expected in that.

24 Q So it really doesn't incurse the question of what  
25 went into the attachments here to the March 20th letter?

1 A No, not--

2 Q So we've been told?

3 A Not specifically, although those were already  
4 available in, essentially, the final form as of January the  
5 17th. They had reviewed documents that the format was  
6 generally considered acceptable, subject to the review of the  
7 Task Force, which was preparing and reviewing this material  
8 coming together out of the line.

9 That Task Force was made up, as I recall, generally  
10 of those people on that list.

11 BY MR. MURPHY:

12 Q Is Mr. Lundin's name on that list?

13 A No.

14 Q Did you not state previously that Mr. Lundin had a  
15 role in reviewing all these documents that ultimately  
16 resulted in the corporate position on the 11 perceptions?

17 A Yes, he did. And he was acting as a review team  
18 leader -- to Mullin through this process.

19 Q Mid-January?

20 But he's not on the list there?

21 A No.

22 Q Is there any reason for--

23 A Because he wasn't a preparer of any of the documents

24 BY MR. REINHART:

25 Q I guess I still don't understand why we're talking

1 about this document in relation to the March 20th letter?

2 A Because you asked me, "Did I dictate the content  
3 format of that?" Giving you a couple of facts; say until  
4 February the 17th, I had no control over content or format of  
5 those. I was reviewing them to see if they made sense; that  
6 was my role.

7 I was only doing that on an occasional basis. I  
8 looked at maybe the first version on the 17th of January and  
9 maybe one other version in between to see if they were  
10 covering the material program.

11 I didn't hold any responsibility for the content or  
12 format until after I became a loaned employee to TVA on  
13 February the 17th.

14 At that time, all of the stuff had already been  
15 decided.

16 BY MR. MURPHY:

17 Q Let me clarify one other thing that you said  
18 previously, correct me if I'm wrong, that these individual  
19 employee concerns which, when you review these, you would  
20 think would have some impact on the final corporate position.

21 You did not review each one of them individual  
22 employee concerns to see whether they were significant or if  
23 they were not significant?

24 A That's right.

25 Q That's what you stated before?

1 A Yes.

2 Q And let me go over this memo. Who actually did sit  
3 down and say each one of these things is significant, or one  
4 of these items, these employee concerns, was not significant?  
5 Who was it?

6 Did this occur before you became QA Manager, by the  
7 way?

8 A Those documents identifying the citations came out  
9 before. They came out early in February, according to the  
10 note I have here. They weren't distributed to the line until  
11 shortly after I took over the QA Director's job.

12 The line organization had to analyze those per  
13 instructions in that letter to determine their impact. That  
14 letter talks about documentation; it also contains  
15 instructions as to what to do with these citations that were  
16 being furnished.

17 Those citations were reviewed. There was a  
18 subsequent effort done by QA, TVA QA organization, Tom  
19 Burdette and Nuby, to review that material done by the line and  
20 see if it encompassed all that material and in that process  
21 they summarized, I believe it was they, that summarized that  
22 data and produced the document you handed me earlier  
23 describing the number that related to the concern, the number  
24 that was substantiated, et cetera.

25 That was done by the QA organization as part of the



1 review of the line's work.

2 Q I am still confused as to--

3 A And those documents, by the way, were captured in a  
4 set of books that were intended to become part of the  
5 documentation available to the NRC, that they were in the  
6 document provided to you.

7 MR. REINHART: No, I am not sure. They are not in  
8 the format that they were given to us, and in the sense that  
9 this was evolution of the final corporate position.

10 THE WITNESS: No. These were put into a set of  
11 files that Mullin compiled, which included various versions of  
12 the draft letters, the position as it evolved, and the testing  
13 that was done.

14 Those were in those books of notes that were,  
15 supposedly, collected and retained for the NRC review. So if  
16 they weren't available, I don't know why. They should have  
17 been.

18 BY MR. MURPHY:

19 Q The listing of the gentlemen in the February 11,  
20 1986 letter from Mullin, on the Page that is headed Appendix  
21 B contacts, these gentlemen are the preparers?

22 A As I recollect, they were.

23 MR. ROBINSON: Preparers of what?

24 THE WITNESS: Of the attachments, each individual  
25 issue document.

1 MR. ROBINSON: March 25?

2 THE WITNESS: Yes.

3 MR. REINHART: I still read this as their -- they  
4 may be, but this doesn't say that. This talks about  
5 preparing the backup documentation after these were already  
6 prepared.

7 This doesn't really address this, that I see.

8 MR. ROBINSON: To your knowledge, did these  
9 individuals play the major part in preparing the final  
10 attachments to the final March 20th letter?

11 THE WITNESS: I believe they did, and there is a  
12 copy which was signed by the principal preparers. Each of the  
13 attachments was prepared, and I believe those are the same  
14 individuals that signed them, and those signed documents are  
15 in your possession.

16 MR. ROBINSON: And these final attachments to the  
17 March 20th letter, were they reviewed by you and Lundin before  
18 giving the whole package to Mr. White to sign?

19 THE WITNESS: Yes. I read them repeatedly in  
20 various versions, especially after February the 17th. I read  
21 them to see if the position presented was credible, and if it  
22 answered what I perceived to be the issue.

23 MR. ROBINSON: So you, as a reviewer, were not  
24 necessarily aware of all the detailed input to that preparer  
25 when you reviewed this--

1 THE WITNESS: I was not. We talked earlier at the  
2 last deposition I gave about what I was doing from February  
3 the 17th through March the 20th, and how much time I spent on  
4 the Appendix B issue. It was an important issue, but it  
5 wasn't the only issue, by any means, and 95% of my time was  
6 taken with reorganizing, changing the way TVA did business to  
7 address the issues we were committed to handle.

8 My involvement in this was as a reader, to see if it  
9 made sense, and as a funnel to White to explain things so that  
10 he had some basic understanding of what the issues were.

11 I didn't review any of the documentation behind it;  
12 I had people doing that for me.

13 MR. MURPHY: Then if I understand it, what you --  
14 your review was more from a standpoint of whether it made  
15 sense or not as opposed to whether it was technically accurate.

16 THE WITNESS: That's correct.

17 BY MR. ROBINSON:

18 Q Was there a general strategy to provide an answer to  
19 each perception as it was stated, or was there a general  
20 strategy to respond to all of these perceptions from a  
21 programmatic standpoint?

22 A The intent was to take each perception of the 11  
23 perceptions by the NRC, determine what the parts, the elements  
24 that supported those -- each of those 11 were, and respond to  
25 those elements that made each of the 11 up.

1           Each thing that they claimed was the basis, part of  
2 the basis reaching a conclusion on an issue was supposed to be  
3 answered in the attachments.

4           Q     So there was no overall strategy to just respond  
5 from a programmatic standpoint in general to all those  
6 perceptions?

7           A     None that I know of. And as we discussed a little  
8 while ago, most of the issues that I, or the elements, that I  
9 see are programmatic in nature. They may have some  
10 implementation ones, but the basics of most of the  
11 complaints were programmatic.

12          Q     Let me take one in general, which seems to be an  
13 important one.        "Its non-conformance reporting does not  
14 address corrective action aspects appropriately."

15                Now, I guess the way I read that anyway, they're  
16 talking about implementation. So I go and I look at--

17          A     How do you reach that conclusion, because what you  
18 said didn't?

19          Q     Well, nonconforming reporting, the reporting of  
20 nonconformances does not address corrective action aspects  
21 appropriately. So reporting does not address, that says to me  
22 somebody making a report isn't addressing corrective action.

23                However, to go on, I look at a little summary, the  
24 undated one that you talked about that was provided to us, it  
25 says, "A detailed review of the 14 issues identified by NSRS

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1 as supporting their perception, indicate that all of the  
2 concerns was substantiated in 11 required corrective action  
3 be taken."

4 Something requiring corrective action tells me  
5 something didn't happen right. On the other three, corrective  
6 action had already been taken, of the 11 requiring corrective  
7 action, seven required only procedure modifications, so some  
8 required work on procedures; the others required work on  
9 implementation?

10 A That's what you say, I attach to that the elements  
11 to make it up.

12 Q Right. Here's something, unauthorized access by  
13 individual and to weld information management system,  
14 unauthorized alteration of weld records, depending the  
15 individual did not receive disciplinary actions required by  
16 TV policy; names and dates of occurrences are known, as well  
17 as confidential supporting documentations are concerned.

18 That says things were required to be done that  
19 weren't done, programs, procedures, and it wasn't done?  
20 That's implementation.

21 A How much of those are Appendix B?

22 Q I don't know.

23 A May I see them, please? Disciplinary action wasn't  
24 taken, is that Appendix B?

25 Q No. I don't know. The issue there is somebody

1 needed to evaluate this thing to say that, but, nonetheless,  
2 they're kind of an implementation aspects, not programmatic  
3 aspects.

4 A Let me finish reading--

5 Q Sure, go ahead--

6 A --the part -- the same sheet you were reading.

7 I'll reread, "unauthorized access by an individual  
8 onto the weld information management system without subsequent  
9 unauthorized -- with subsequent unauthorized alteration of  
10 weld records.

11 Vending individual did not receive disciplinary  
12 action as required by TVA policy.

13 The impact, although the concern was substantiated,  
14 deletion or modification of the information -- covered by the  
15 concern would not alter the welded component, or the welding  
16 operation sheets on which the fabrication and inspection are  
17 documented.

18 Q That's not the issue?

19 A That's the issue in the context of is it a concern  
20 under Appendix B.

21 MR. MURPHY: Wait a minute. Having a great deal of  
22 familiarity with that particular issue, keep in mind I'm not  
23 being -- but I do, not being a QA expert, the basic concern  
24 of this individual was that QA inspection records that are  
25 placed and filed through a computerized system are being

1 altered, either to say a weld has been inspected, a weld  
2 hasn't been inspected.

3 BY MR. MURPHY:

4 Q Keeping that in mind, would you say that that is not  
5 a quality related type, a quality assurance type problem?

6 A That is Quality Assurance. That we have records  
7 supporting or substantiating the hardware. That is a  
8 requirement.

9 Q And that is not on Appendix B?

10 A That is an Appendix B concern, and it would be a  
11 substantial concern, or more substantial concern if the result  
12 was that the concern would not alter the welded components or  
13 the welding operation sheets on which the fabrication and  
14 inspections are documented. That's what it says.

15 BY MR. REINHART:

16 Q Mr. Kelly, who are you kidding, sir? The issue is  
17 altering of records, the fact that the particular record had  
18 no impact is one issue; the fact that the individual lacked  
19 such integrity that he went to alter the records is the real  
20 issue, and the fact that management didn't take action to  
21 really prevent that from happening again, is the real real  
22 issue.

23 That is implementation, that is not programmatic.  
24 Let us not kid ourselves.

25 A I'm not trying to kid you, and--

Q You are telling me that is programmatic, and that is

*BJK*

1 not--

2 MR. MESERVE: Would you let him complete his answer  
3 I mean, you're making--

4 MR. REINHART: Let him answer it, Mr. Meserve.

5 MR. MESERVE: Well, if you're going to make  
6 statements, that's fine, but if you want to ask information,  
7 let him answer the question.

8 MR. REINHART: I'm trying to get an answer to the  
9 question.

10 MR. MESERVE: And he is trying to answer it.

11 THE WITNESS: Do you want to restate the question  
12 clearly? I'll try and answer it.

13 BY MR. REINHART:

14 Q Are you telling me that that is not in Appendix B  
15 and that is not an implementation issue?

16 A I'm telling you neither.

17 Q What are you telling me then? Is that  
18 implementation?

19 A It probably is an implementation item.

20 Q Is it a quality issue?

21 A Yes, it's quality issue.

22 Q Okay. That's what we're getting at. That's  
23 exactly what we're getting at here.

24 We go through those things and we see implementation  
25 problems. We go through the corporate position, we see a

1 history of the QA program with little or anything addressing  
2 implementation and any references are very vague.

3 I don't understand why TVA, or Stone & Webster  
4 supporting TVA, thinks that is responsive. I am trying to get  
5 an answer as to why I don't see more addressing of  
6 implementation in these responses? That is the real issue I  
7 am trying to get at.

8 I would like to see some reason for that?

9 A Well, I don't have a reason for you. The content of  
10 those was dictated by others before I took the responsibility  
11 for QA, and you could find somebody else to ask your question  
12 of, all right?

13 Q Okay. Let me pursue that a little bit.

14 A You may pursue it, but I may tell you the same thing

15 Q Fine.

16 A Go to somebody who is responsible for the content.

17 Q Okay. I am going to try and do that right now.

18 A All right.

19 Q Would you please look at Page 20 of the March 20th  
20 letter, and I think you have a copy right in front of you.

21 A All right.

22 Q Down at the bottom of that page, and for the record,  
23 we're talking about the NSRS perception, "nonconformance  
24 reporting does not address corrective action aspects  
25 appropriately."