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NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:  
PACIFIC GAS & ELECTRIC COMPANY  
(Diablo Canyon Units 1 and 2)

Docket Nos. 50-275  
50-323

Avila Beach, California  
Place - 15 January 1979  
Date - Pages 8726 - 8738

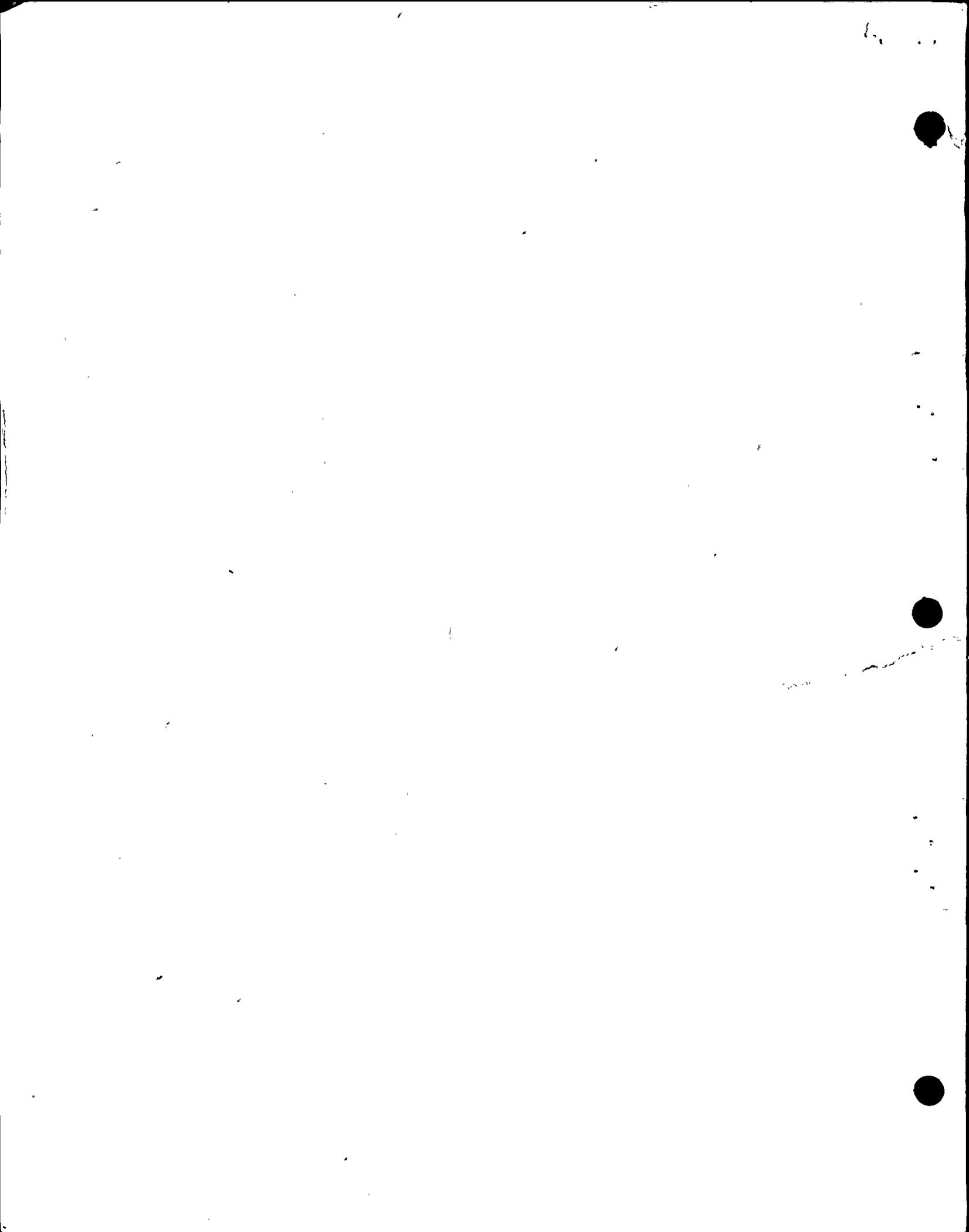
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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5 PACIFIC GAS & ELECTRIC COMPANY : Docket Nos. 50-275  
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6 (Diablo Canyon Units 1 and 2) : 50-323  
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Cavalier Room,  
San Luis Bay Inn,  
Avila Beach, California.

Monday, 15 January 1979

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12 Hearing in the above-entitled matter was  
13 reconvened, pursuant to adjournment, at 8:30 a.m.

14 BEFORE:

15 ELIZABETH BOWERS, Esq., Chairman,  
Atomic Safety and Licensing Board.

16 DR. WILLIAM E. MARTIN, Member.

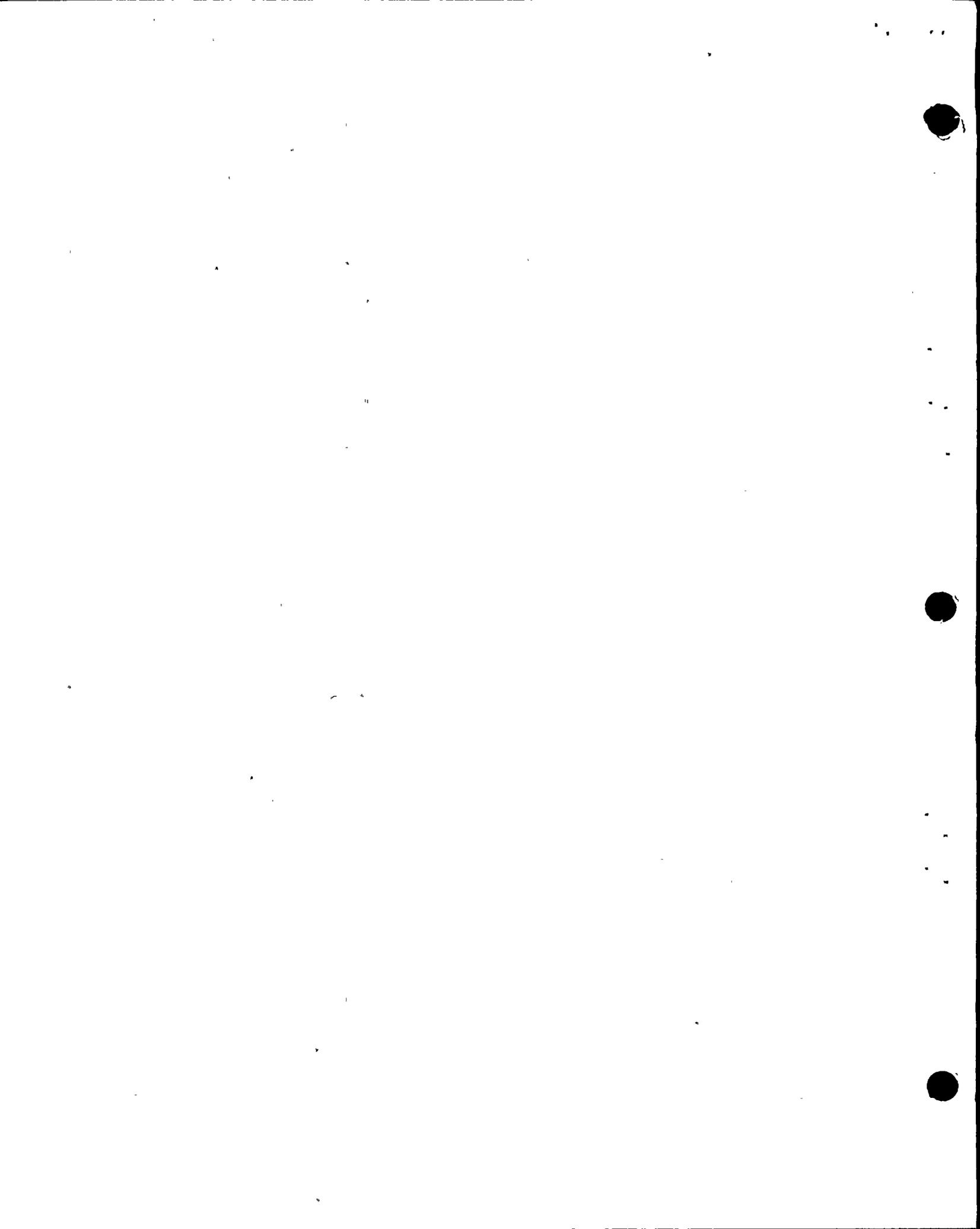
17 GLENN O. BRIGHT, Member.

18 APPEARANCES:

19 On behalf of Applicant, Pacific Gas & Electric Company:

20 BRUCE NORTON, Esq., 3216 No. Third Street,  
21 Phoenix, Arizona 85012.

22 PHILIP CRANE, Esq., Legal Department, Pacific  
23 Gas & Electric Company, 77 Beale Street, San  
24 Francisco, California 94106  
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## APPEARANCES: (Continued)

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On behalf of Joint Interveners:

3

STEPHEN KRESTOVICH, Esq., Center for Law in  
the Public Interest, 10203 Santa Monica Blvd.,  
Los Angeles, California 90067.

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On behalf of NRC Regulatory Staff:

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JAMES R. TOURTELLOTTIE, Esq., Office of Executive  
Legal Director, U. S. Nuclear Regulatory  
Commission, Washington, D. C. 20555.

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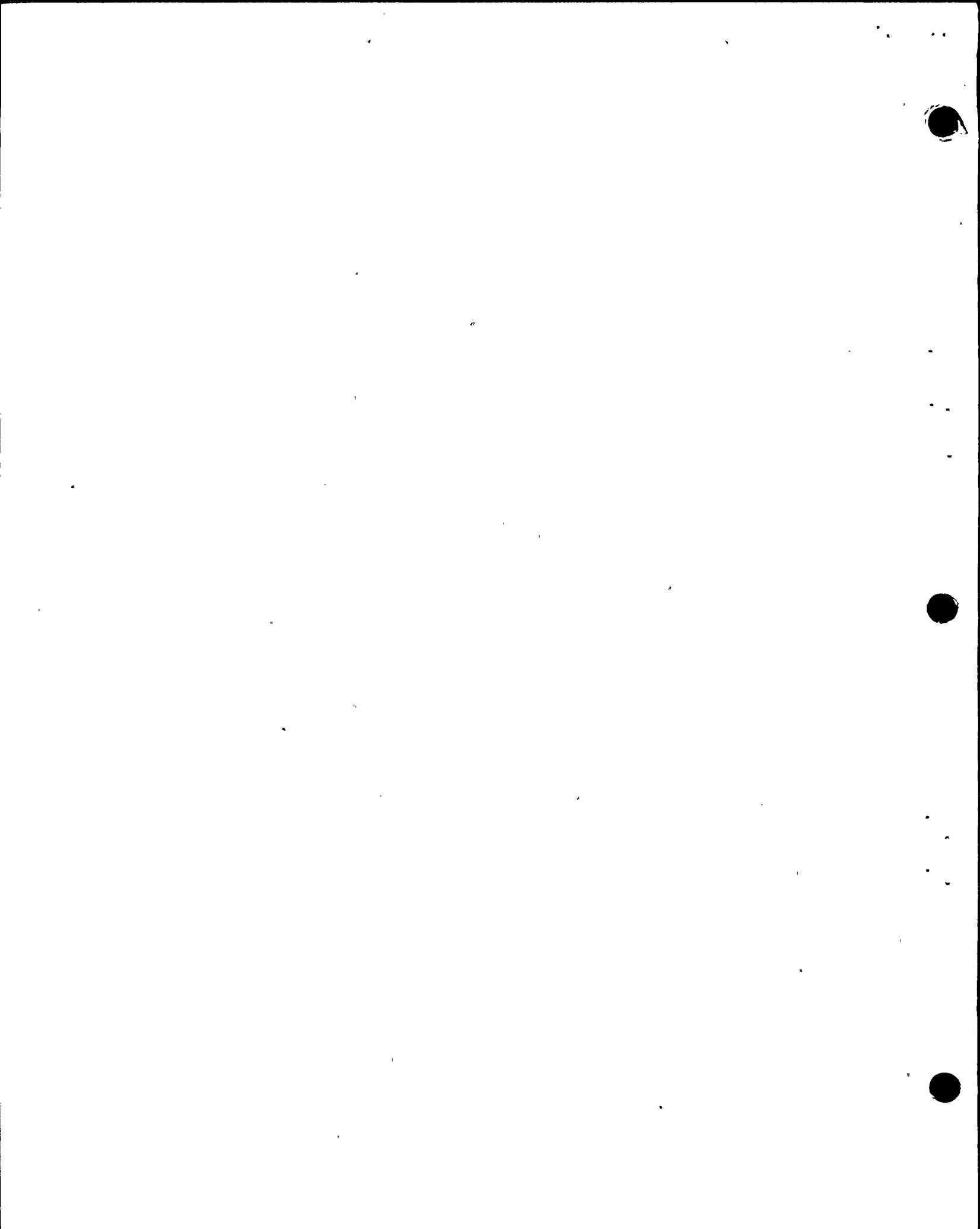
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C O N T E N T S

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WITNESSES:

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(None)

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EXHIBITS:

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(None)

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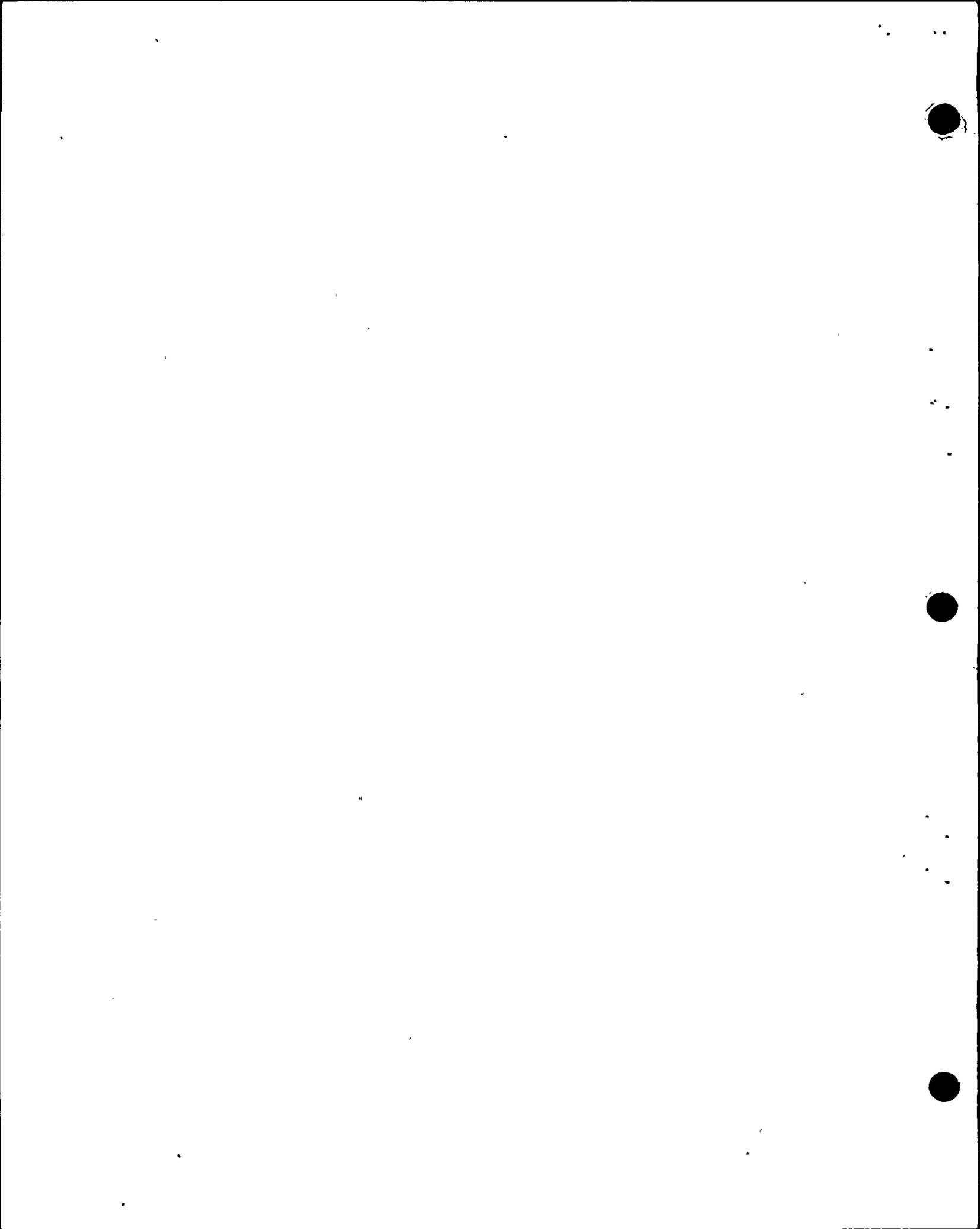
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IWEL/  
wel 1P R O C E E D I N G S

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2 MRS. BOWERS: We'd like to proceed.

3 One thing that we wanted to bring up was, when we  
4 were breaking up Friday afternoon -- and I don't know whether  
5 this is in the transcript or not -- people were kind of half  
6 leaving when Mr. Norton said something about subpoenas for  
7 the depositions of Drs. Trifunac and Luco.

8 Of course, the Board has had an opportunity to  
9 consider that over the weekend, but probably should give the  
10 other parties the chance to respond.

11 So, Mr. Kristovich, do you have more to say?

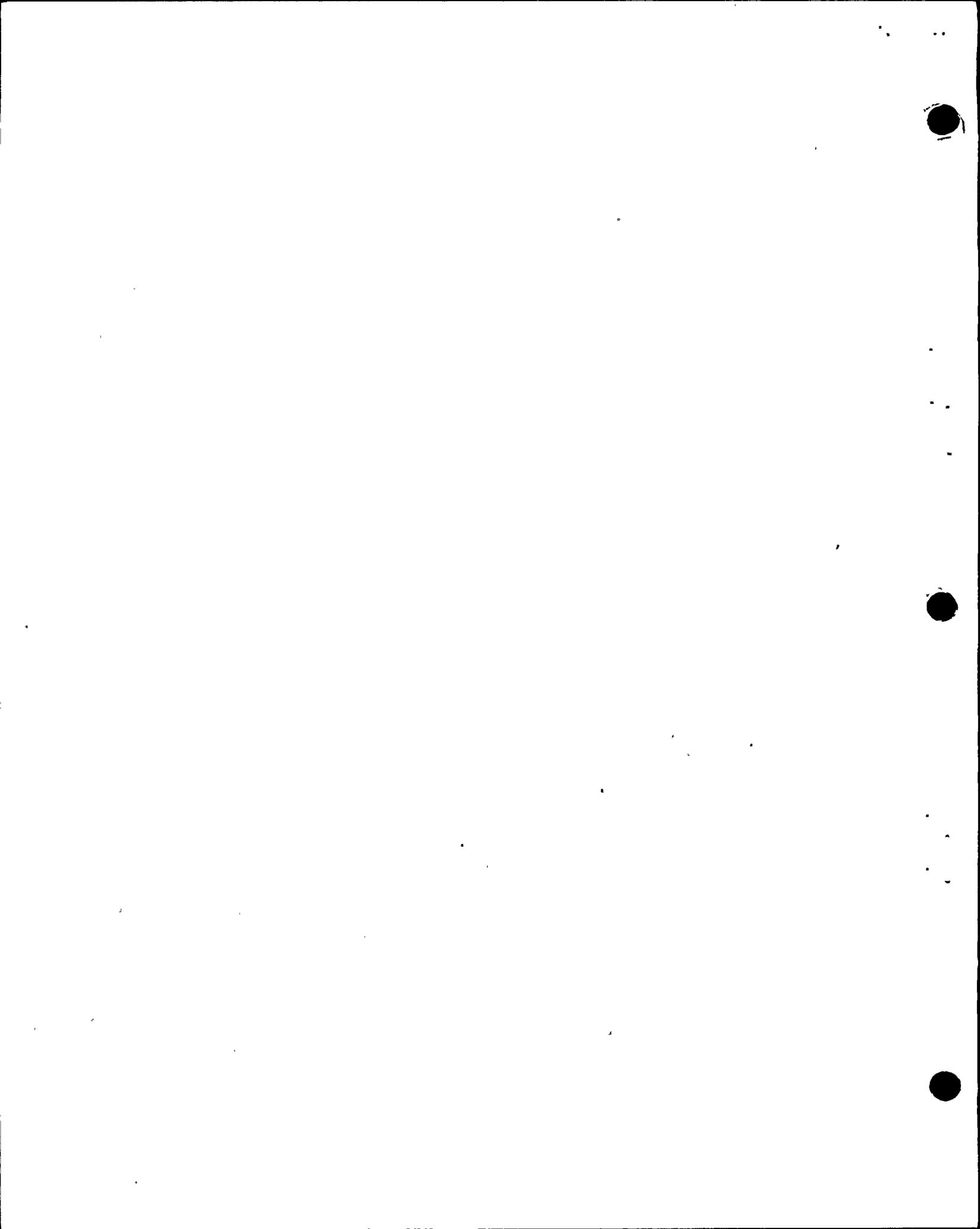
12 MR. NORTON: Well, I don't know if Mr. Kristovich  
13 knows what we're talking about. He --

14 MR. KRISTOVICH: I wasn't here Friday.

15 MR. NORTON: We were talking about the possibility,  
16 if the Appeal Board arrives at a decision, in whatever manner,  
17 that Drs. Trifunac and Luco should be subpoenaed for the  
18 hearing, we would want to take their depositions and we were  
19 wondering if subpoenas would be necessary.

20 Frankly, I don't think they would be, unless they  
21 insisted on them. And if they were being subpoenaed for the  
22 hearing, I wouldn't imagine that they'd insist on subpoenas  
23 for depositions. That would be the easiest way to proceed, of  
24 course, is without subpoenas.

25 But I don't know what the parties' feelings are.



wel 2

1 MR. KRISTOVICH: Well, I haven't discussed this  
2 with Mr. Fleischaker, so I probably should do that before I  
3 say anything about the intervenors' position.

4 MRS. BOWERS: Well, this is a little different from  
5 the way we understood it.

6 I thought that because of the time frame you wanted  
7 subpoenas issued right away, and you intended to go ahead  
8 with the depositions before the Appeal Board ruled.

9 MR. NORTON: No, but --

10 MRS. BOWERS: Okay, that's different.

11 MR. NORTON: -- but we do not want to have to wait  
12 until the Board rules and then take care of that, because --  
13 in other words, if we have this decision ahead of time we  
14 don't have to sit and reconvene and argue about it two or  
15 three weeks from now.

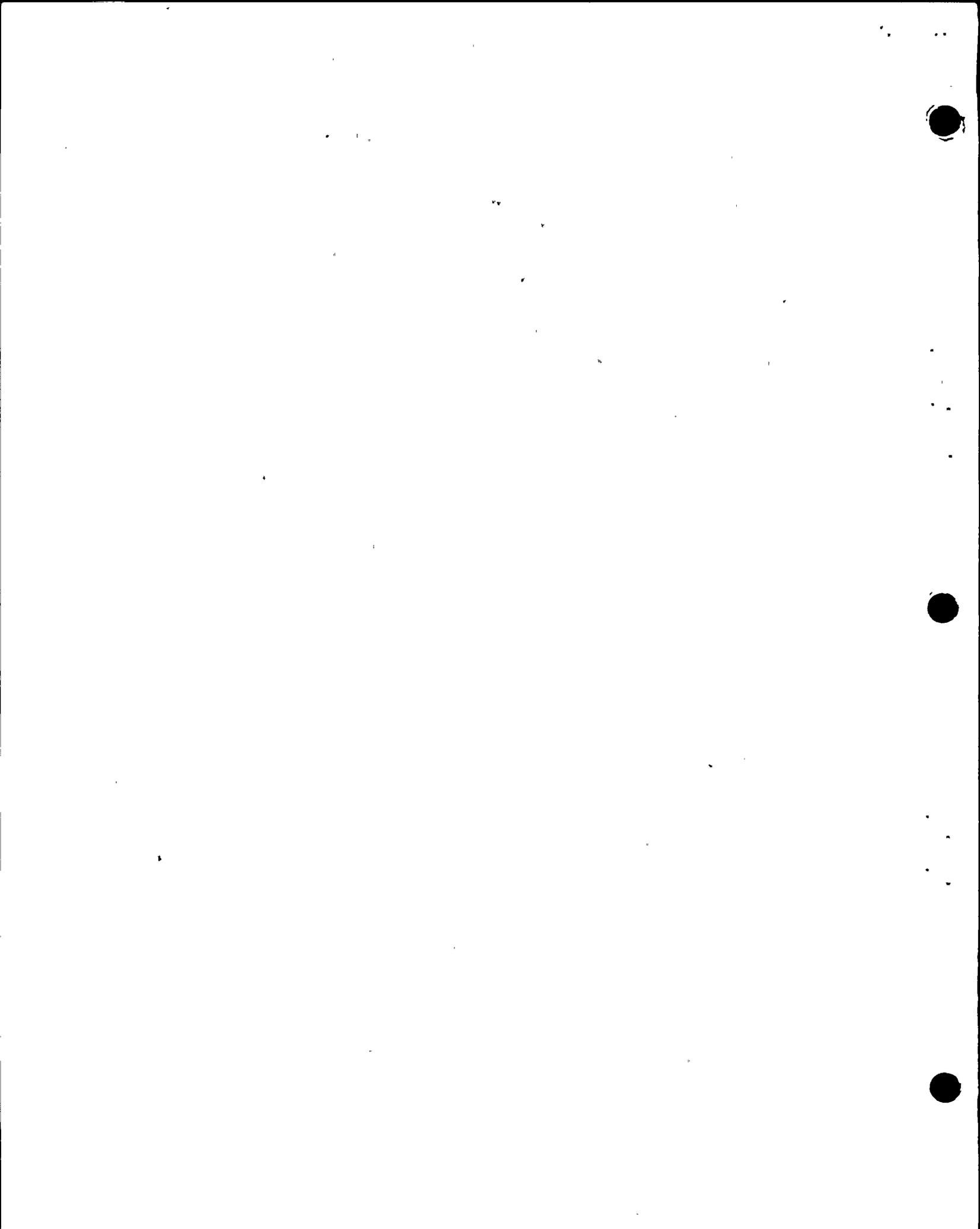
16 MRS. BOWERS: We have no problem with that. You  
17 know, we offered to sign subpoenas in blank sometime ago,  
18 and --

19 MR. NORTON: Yes, I appreciate that. But I just  
20 thought if we could avoid the subpoenas, really, it would be --

21 MRS. BOWERS: You see, I misunderstood. Because I  
22 thought during the interim you wanted to go ahead, even though  
23 the Appeal Board might not have ruled, and --

24 MR. NORTON: No, I don't think we'd want to do that.

25 MRS. BOWERS: -- and that, we'd have a problem with.



wel 3

1 MR. NORTON: No, that, I don't think we'd want to  
2 do.

3 MR. KRISTOVICH: Mrs. Bowers, we certainly wouldn't  
4 object to the depositions of Luco and Trifunac being taken.  
5 I don't know how they feel about being subpoenaed for the  
6 depositions.

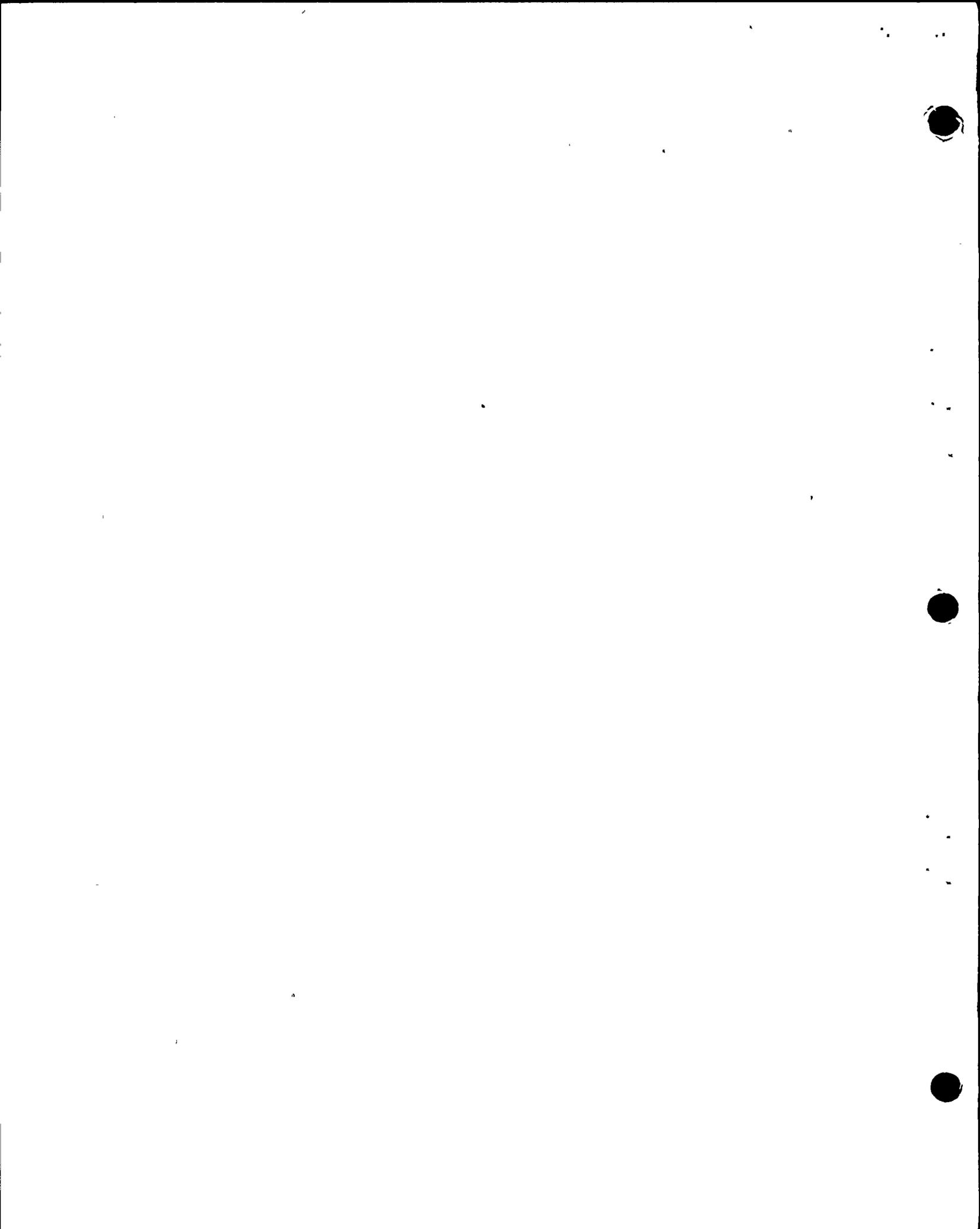
7 MRS. BOWERS: Well, in any case, nothing would  
8 happen unless the Appeal Board determined that they should be  
9 subpoenaed for the hearing.

10 Mr. Tourtellotte?

11 MR. TOURTELLOTTE: Well, I was going to add that  
12 the ACRS has also taken to filing an amicus brief on this  
13 item, and I understand that they're going to have their own  
14 counsel to represent Trifunac and Luco if, indeed, they are  
15 subpoenaed, and that counsel will be from the General Counsel's  
16 office of the NRC.

17 So that even if the three of us agreed about the  
18 issuance of subpoenas, I'm not sure whether OGC would or not.  
19 And if Trifunac and Luco do appear, I suppose the Staff will  
20 take whatever position is consistent with the Staff position,  
21 and if that is consistent with what Luco and Trifunac have  
22 to say, why, that would be one thing. If it's inconsistent  
23 with what Trifunac and Luco have to say, then I suppose that  
24 their interests would be represented solely by OGC.

25 MRS. BOWERS: Well, the one thing that we discussed



wel 4 1 last July in the prehearing -- and this, I'm sure, is Mr.  
2 Norton's point here this morning -- when the time comes,  
3 assuming that the Appeal Board says they should be subpoenaed,  
4 then it takes four or five days for a piece of paper to come  
5 from Phoenix or San Francisco to us, and then that many days  
6 back.

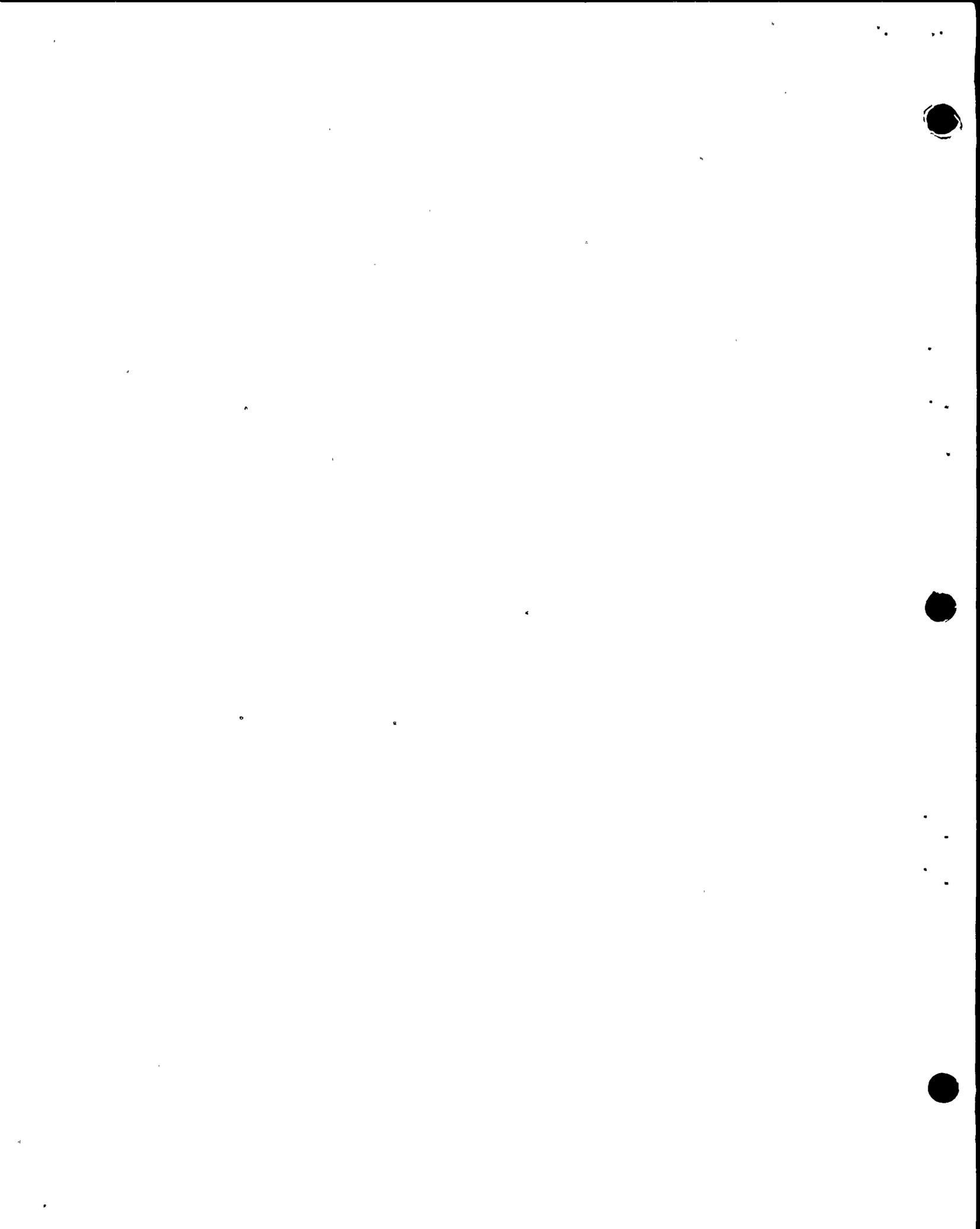
7 So I would have no problem in signing off on the  
8 subpoenas, with the understanding that it would just sit  
9 until the situation could be -- that there would be a confer-  
10 ence call, or something, to let anything happen to them.

11 MR. NORTON: Well, one of the problems I see, in  
12 any event I can't imagine the Appeal Board ruling much before  
13 the first of February, if before the first of February, and  
14 that doesn't give us a lot of time, in any event.

15 I don't know what we're going to do about that,  
16 because we've only blocked out from the 6th to the 20th of  
17 February, as I understand it.

18 I don't know. We may just have to depose them  
19 immediately before the hearings . . . well, I don't know how  
20 we can do that, because we've got that weekend.

21 MRS. BOWERS: Well, I don't know what the Appeal  
22 Board, naturally, has in mind. But there have been occasions,  
23 rare occasions, in the past when they've issued sort of a  
24 "bare-bones" conclusion with the statement that there would be  
25 a followup with a full explanation. And because they know our



wel 5<sub>1</sub> time frame here, something like that might happen.

2 MR. TOURTELLOTTE: If we were going to take a  
3 lottery on it, I would guess this Friday or next Monday for  
4 the ruling.

5 MRS. BOWERS: Now, we've had everything. Mr.  
6 Tourtellotte is a bookie?

7 (Laughter.)

8 MR. TOURTELLOTTE: One has to make a living the  
9 best way one can.

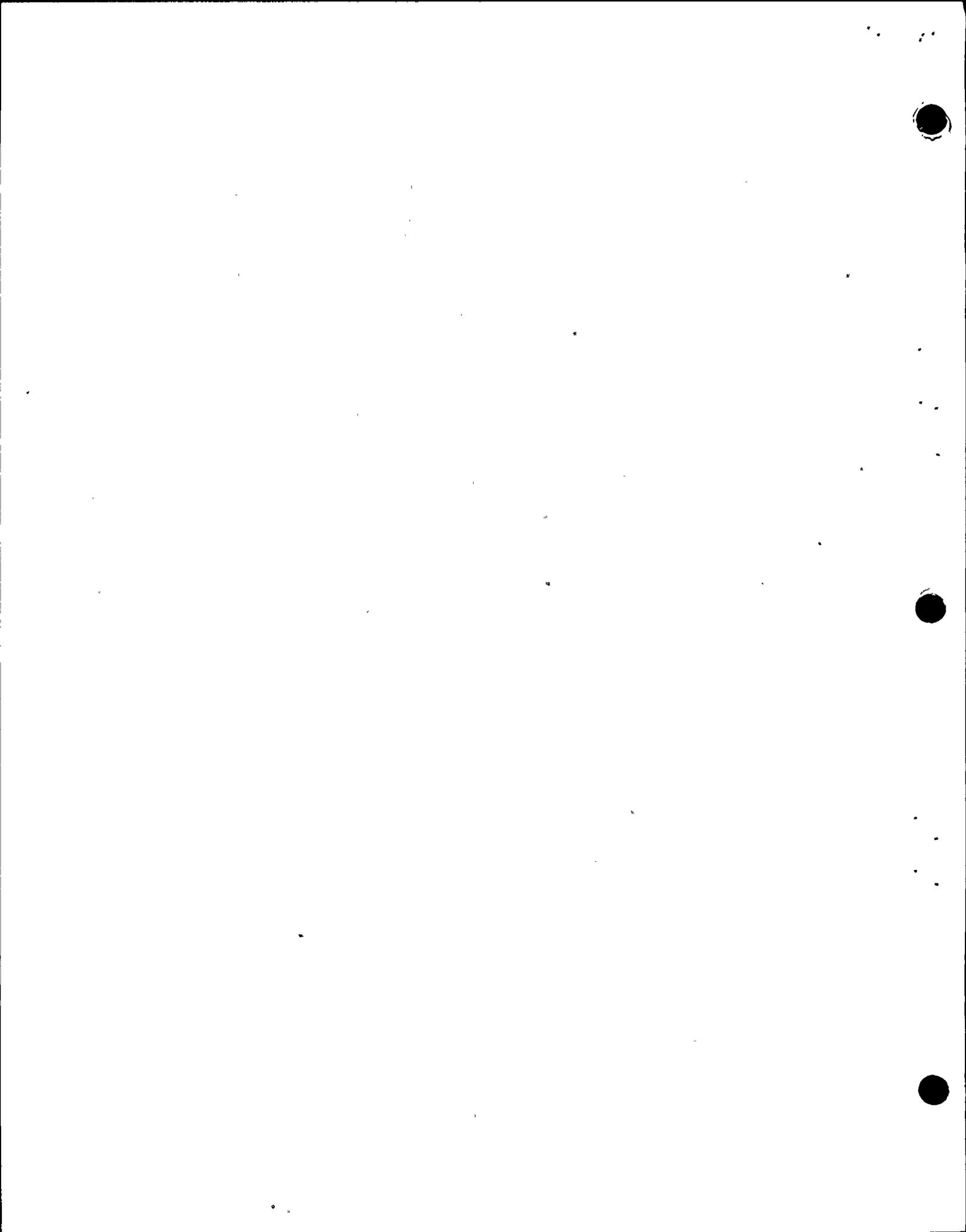
10 MRS. BOWERS: Well, you know, they realize the  
11 urgency, and I do think there may be something forthcoming  
12 rather soon. But it may not be the full explanation.

13 Well, back to the paper flow, while we're here --

14 MR. NORTON: When are you leaving?

15 MRS. BOWERS: Well, we thought we were leaving at  
16 5:45 this afternoon to go to Los Angeles, and now it looks  
17 as if it might be . . . well, we'll see what we can get on.  
18 Actually, we have no interest in getting to Los Angeles this  
19 morning because our flight out, of course, is tomorrow  
20 morning. So we had in mind that if this didn't go the full  
21 day we'd think in terms of there's a 3:00-something, and  
22 a 1:00-something. I've got to stand in a United line for  
23 two hours to get a bunch of things done, and I'd just as soon  
24 get there mid-afternoon rather than this evening.

25 MR. NORTON: Well, we can draw two subpoenas up



wel 6

1 upstairs in the office very quickly, I believe -- in the  
2 blank, obviously -- and have you sign them. And then we'll,  
3 as you say, just sit on them until we get on a conference  
4 call to work out the details.

5 MRS. BOWERS: Fine.

6 Well, now are there other matters?

7 Mr. Tourtelotte, where is your panel of witnesses?

8 MR. TOURTELLOTTE: You asked that question as if  
9 you didn't know.

10 (Laughter.)

11 MRS. BOWERS: Well, I saw a bunch of people in  
12 the lobby.

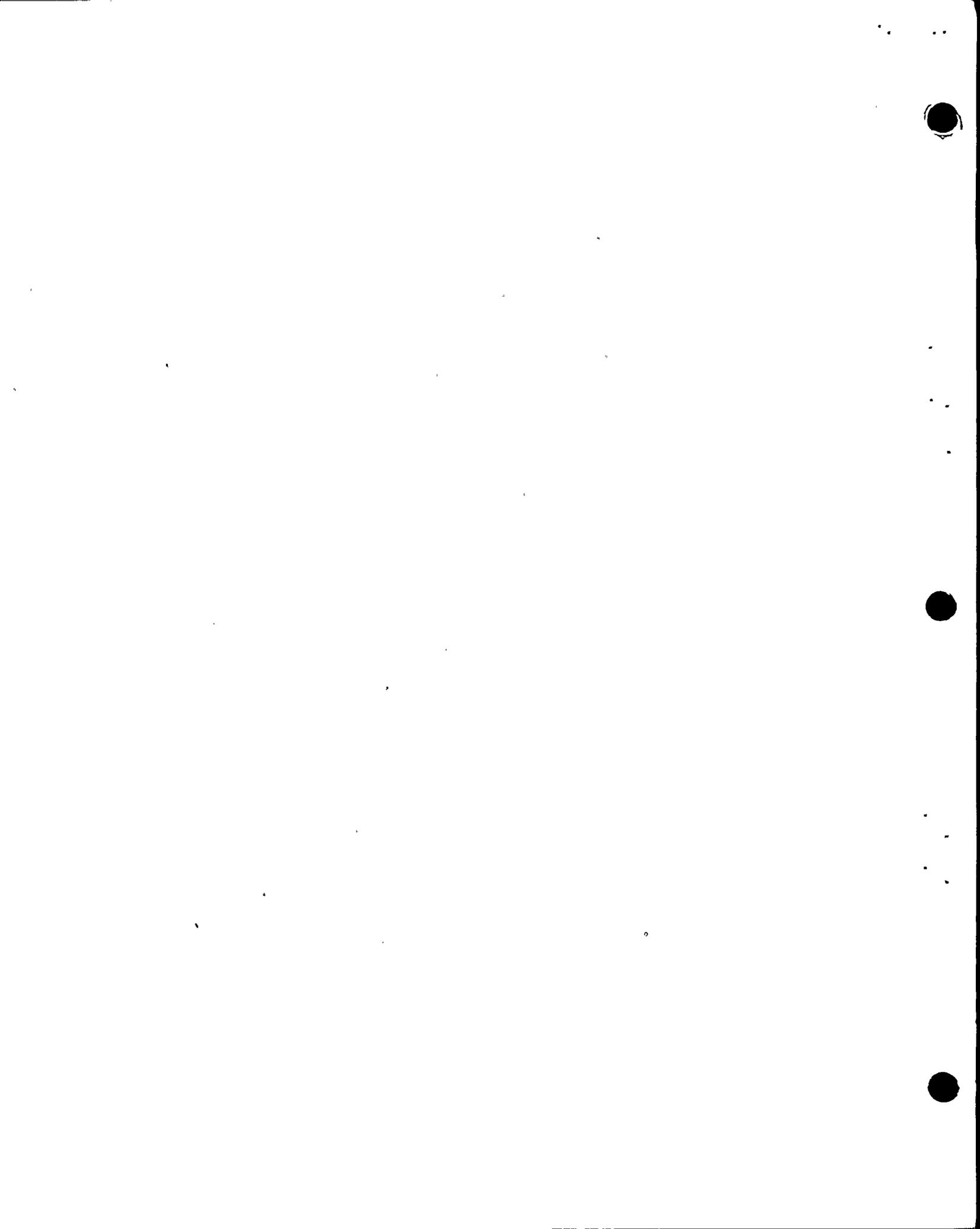
13 MR. TOURTELLOTTE: I asked several of them if they  
14 knew anything about this subject, and none of them did.

15 (Laughter.)

16 Unfortunately, Mr. Rosa is incapacitated today and  
17 he could not make the trip to the West Coast yesterday. In  
18 fact, we don't really know how ill he is.

19 So what I would suggest we do is that we adjourn  
20 and take up his testimony when we reconvene in February,  
21 February 6. I'm assuming that whatever is ailing him, he will  
22 be over by that time. If he isn't, we'll simply get another  
23 witness.

24 MRS. BOWERS: Do you have anything to say, Mr.  
25 Kristovich?



wel 7

1 MR. KRISTOVICH: We have no objections to that,  
2 given the circumstances.

3 MRS. BOWERS: Before we adjourn, are there any  
4 other matters? Let's go off the record for a moment.

5 (Discussion off the record.)

6 MRS. BOWERS: Back on the record.

7 So if counsel could meet and try to get a handle  
8 on how the hearings will go in February -- of course, the  
9 unknown is Trifunac and Luco.

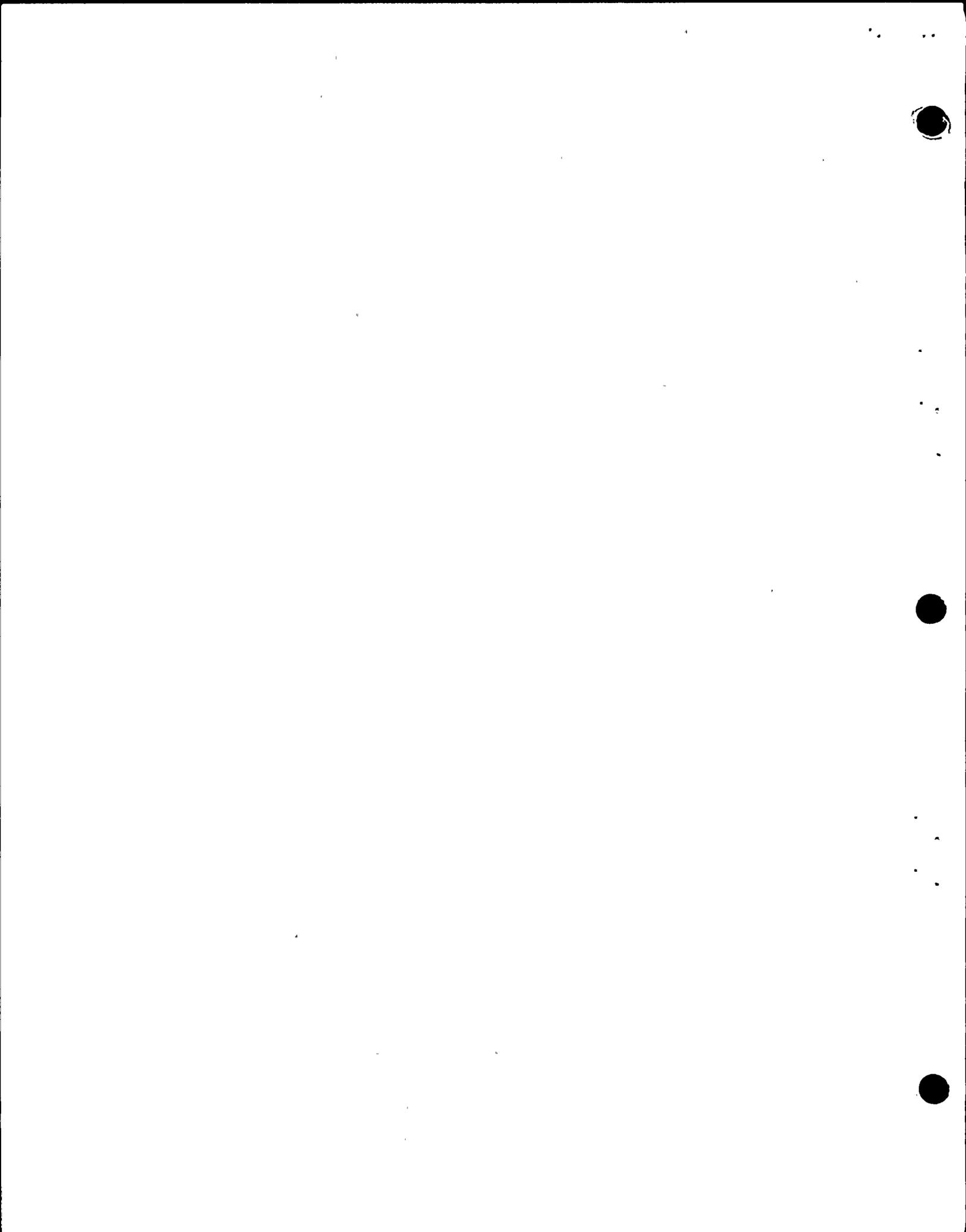
10 MR. TOURTELLOTTE: We also have the unknown about  
11 whether Mr. Valentine is or is not going to participate in  
12 the security presentation.

13 MRS. BOWERS: You haven't had the call yet, Mr.  
14 Crane?

15 MR. CRANE: He's supposed to call me today. I'll  
16 call you when I hear.

17 MRS. BOWERS: Well, then the unresolved generic  
18 items in S-3.

19 MR. TOURTELLOTTE: I think from the standpoint of  
20 items that we have to take up, I don't know exactly what  
21 order those items might be in, but we have to finish the  
22 Staff's case in chief with Mr. Rosa, and I don't really know  
23 how long that will take, because it's a matter of cross-  
24 examination. But assume half a day, is what I assume, and  
25 at the outside, one day.



wel 8

1           Then we would have I think probably Luco, would be  
2 one day; Trifunac would be one day -- if, indeed, they are  
3 required to be here.

4           And then we would have the security presentation,  
5 and with cross-examination that might be a day.

6           What I am also going to suggest is that after the  
7 security presentation the Board actually make a field visit  
8 to the site and review the security plan, actually see what  
9 the security plan is and what some of the instrumentation is.

10          Then, of course, we have the generic items which  
11 I think may take half a day or so.

12           So I --

13          MRS. BOWERS: Well, but rebuttal, you see, will --

14          MR. TOURTELLOTTE: Yes. Then we have rebuttal,  
15 which, as far as I know, the only rebuttal witnesses are  
16 Clarence Hall and Steve Graham. So that would take another  
17 day or day and a half.

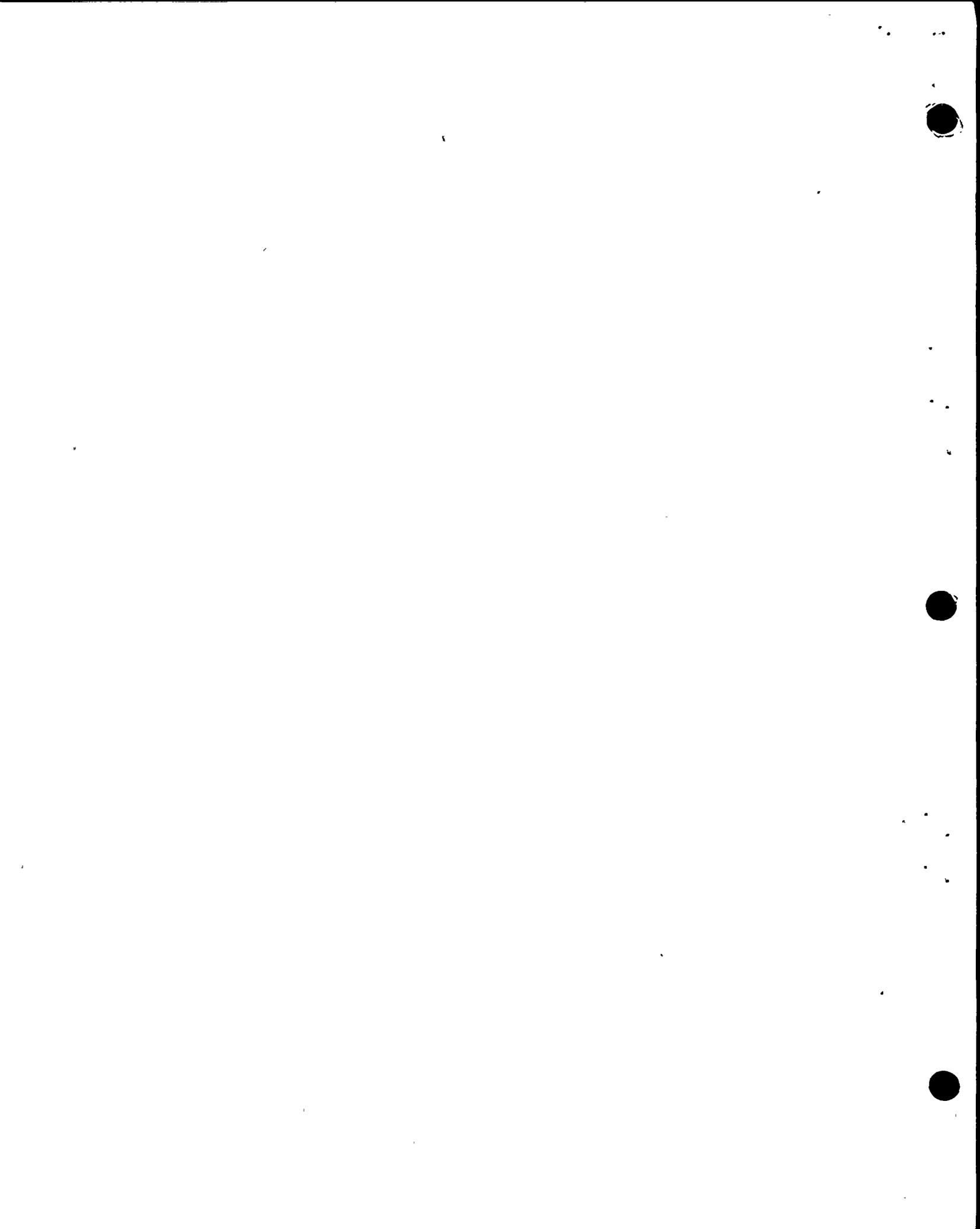
18          And then whoever the rebuttal witnesses are for  
19 the Applicant -- and I don't know anything about that. I  
20 don't --

21          MRS. BOWERS: That's why I'm suggesting that the  
22 parties, counsel for the parties, meet, to --

23          MR. TOURTELLOTTE: Yes. I have --

24          MRS. BOWERS: -- to try to hammer this out.

25          MR. TOURTELLOTTE: Currently we don't have any



wel 9

1 intention of having a rebuttal witness. We can't really  
2 say that until we hear first what Dr. Hall has to say and,  
3 secondly, it depends on whether or not Trifunac and Luco  
4 come, (a), and (b) it depends on how much is left of substance  
5 after cross-examination. We don't really know.

6 But if I had to put on rebuttal for Trifunac and  
7 Luco, it would probably be half a day, and the same with . . .  
8 well, it looks like about two weeks to me.

9 MRS. BOWERS: Yes.

10 MR. TOURTELLOTTE: Two weeks at the outside, and  
11 then there's the potential, it seems to me, to be anywhere  
12 from two weeks to one week.

13 MRS. BOWERS: Well, I told the management here at  
14 least two weeks, and I'd try to get a better feel for it this  
15 morning.

16 Is there any other matter that we should discuss  
17 before we adjourn?

18 (No response.)

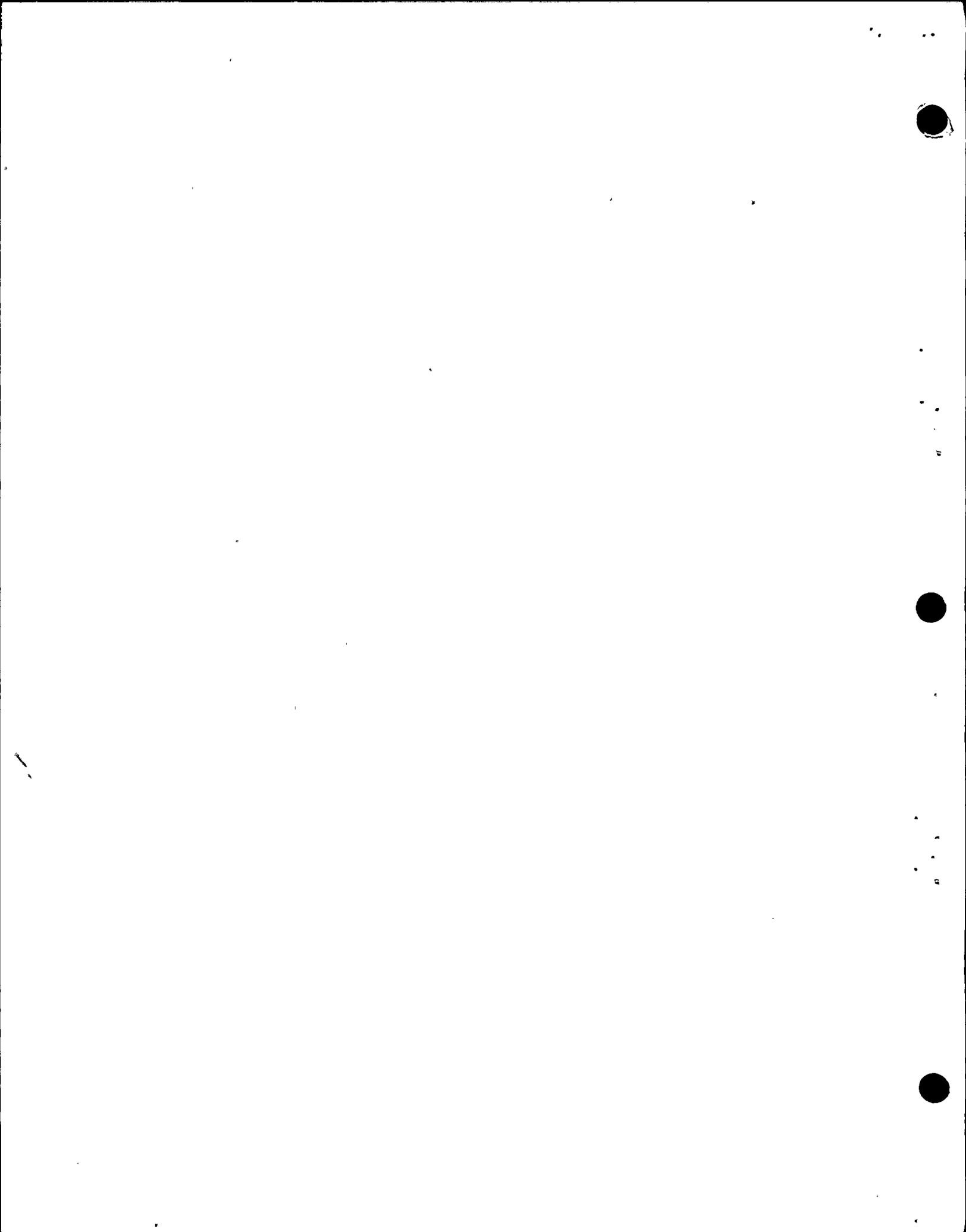
19 This was going to be your big day, Mr. Kristovich.

20 (Laughter.)

21 MR. KRISTOVICH: I'm getting used to it.

22 MR. TOURTELLOTTE: I sure hope we don't come back  
23 and have Mr. Kristovich say he didn't have enough time to  
24 prepare for Mr. Rosa.

25 (Laughter.)



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MR. KRISTOVICH: Next time I'd just like to have more notice, and I wouldn't have to get my hair cut.

(Laughter.)

MRS. BOWERS: Are there any other matters before we adjourn?

(No response.)

We will adjourn, then, and reconvene at 8:30, February 6.

(Whereupon, at 8:50 a.m., the hearing was adjourned, to reconvene at 8:30 a.m., Tuesday, 6 February 1979.)

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