

1 UNITED STATES OF AMERICA  
 2 BEFORE THE  
 3 NUCLEAR REGULATORY COMMISSION  
 4

5 In the Matter of: )  
 )  
 6 HOUSTON LIGHTING & POWER ) Docket Nos. 50-498 OL  
 COMPANY, ET AL. ) 50-499 OL  
 7 )  
 8 South Texas Nuclear Project )  
 Units 1 and 2 )

9  
 10 Green Auditorium  
 11 South Texas College of Law  
 12 1303 San Jacinto Street  
 Houston, Texas

13 Wednesday  
 14 June 17, 1981

15 PURSUANT TO ADJOURNMENT, the above-entitled  
 16 matter came on for further hearing at 9:00 a.m.

17 APPEARANCES:

18 Board Members:

19 CHARLES BECHHOEFER, Esq., Chairman  
 Administrative Judge  
 Atomic Safety & Licensing Board  
 U. S. Nuclear Regulatory Commission  
 20 Washington, D. C. 20555

21 ERNEST E. HILL, Nuclear Engineer  
 Administrative Judge  
 Atomic Safety & Licensing Board  
 University of California  
 22 Lawrence Livermore Laboratory, L-46  
 23 Livermore, California 94550  
 24  
 25

## 1 APPEARANCES: (Continued)

2 DR. JAMES C. LAMB, III, Environmental Engineer  
3 Administrative Judge  
4 Atomic Safety & Licensing Board  
5 313 Woodhaven Road  
6 Chapel Hill, North Carolina 27514

7 For the NRC Staff:

8 EDWIN REIS, Esq.  
9 JAY M. GUTIERREZ, Esq.  
10 Office of the Executive Legal Director  
11 U. S. Nuclear Regulatory Commission  
12 Washington, D. C. 20555

13 DONALD E. SELLS, Project Manager  
14 Office of Nuclear Reactor Regulations  
15 U. S. Nuclear Regulatory Commission  
16 Washington, D. C. 20555

17 WILLIAM HUBACEK  
18 Office of Inspection and Enforcement  
19 Region IV  
20 Arlington, Texas 76011

21 For the Applicant, Houston Lighting & Power Company:

22 JACK R. NEWMAN, Esq.  
23 MAURICE AXELRAD, Esq.  
24 Lowenstein, Newman, Reis & Axelrad  
25 1025 Connecticut Avenue, N.W.  
Washington, D. C. 20036

FINIS COWAN, Esq.  
Baker & Botts  
3000 One Shell Plaza  
Houston, Texas 77002

26 For the Intervenor, Citizens for Equitable Utilities, Inc.:

27 WILLIAM S. JORDAN, III, Esq.  
28 Harmon & Weiss  
29 1725 "I" Street, N.W., Suite 506  
30 Washington, D. C. 20006



1 APPEARANCES: (Continued)

2 For the Intervenor, Citizens Concerned About Nuclear Power:

3 LANNY SINKIN  
4 838 East Magnolia Avenue  
5 San Antonio, Texas 78212

6 MICHELLE FRAWLEY, Attorney  
7 5106 Casa Oro  
8 San Antonio, Texas 78233

9 - - -  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD EXAM.</u>
KNOX M. BROOM, JR.					
RAYMOND J. VURPILLAT					
STEPHEN H. GROTE					
(Resumed)					
By Mr. Jordan				4454	
By Mr. Sinkin				4533	
By Mr. Reis				4718	

EXHIBITS

NUMBER: FOR IDENTIFICATION IN EVIDENCE

<u>Applicant's:</u>			
Nos. 41 and 42	4506		4508
<u>CCANP's:</u>			
Nos. 16 and 17	--		4531
No. 20	4535		4539

P R O C E E D I N G S

JUDGE BECHHOEFER: Good morning, ladies and gentlemen.

Before we start, are there any preliminary matters?

(No response.)

JUDGE BECHHOEFER: During that July week, the hearings on Monday night, Wednesday and Thursday will be in this room, and on Tuesday and Friday will be in the smaller room, A-01, which is on the fourth floor but adjacent to this room.

During those two days we will have to learn to live closely together.

Mr. Jordan, you may resume anytime you wish.

MR. JORDAN: I'm not sure you should put it that way, Your Honor. In my condition, I could use a couple more hours of sleep and start a little later.

MR. AXELRAD: Mr. Chairman, could I just interrupt for one minute? I'm not sure.

JUDGE BECHHOEFER: Yes.

MR. AXELRAD: With respect to the preliminary matter you just raised, what is the schedule on the July week?

When is the hearing going to be held on Monday?  
What time?

1 JUDGE BECHHOEFER: Just like this week, 7:00  
2 to 10:00.

3 I'm sorry if I didn't announce that. 7:00  
4 to 10:00 p.m. on Monday.

5 MR. AXELRAD: Tuesday, Wednesday and Thursday  
6 will be when?

7 JUDGE BECHHOEFER: Tuesday, Wednesday, Thursday,  
8 Friday will start at 9:00 o'clock and run presumably to  
9 around 5:30 or 6:00, and Friday we will adjourn by about  
10 3:00.

11 MR. AXELRAD: Thank you.

12 JUDGE BECHHOEFER: I might add we are planning  
13 similar schedules for the two September weeks. We will  
14 start on Monday night, on a Monday night session, and  
15 then run Tuesday through Friday, and Friday adjourning  
16 early enough for people to get airplanes out that night.  
17 Whereupon,

18 KNOX M. BROOM, JR.

19 RAYMOND J. VURPILLAT

20 STEPHEN H. GROTE

21 the panel of witnesses on the stand at the time of adjournment,  
22 having been previously duly sworn, were examined and testified  
23 further as follows:  
24  
25 //



## RE-CROSS-EXAMINATION (Continued)

BY MR. JORDAN:

Q Good morning, gentlemen. Welcome back.

Dr. Broom, we had some discussion in the course of Mr. Reis' cross-examination of you of I&E Report 80-14, which is Staff Exhibit No. 60, and particular reference to an Individual E, who was B&R -- according to this report, at any rate, was B&R QA site manager in a period of November 10 to 12 or so, 1979.

Could you tell us who was the B&R QA site manager in November 1979?

BY WITNESS BROOM:

A Without referring to any documents, I believe that was Tom Warnick in November of '79.

Q Would you refer, please, to Staff Exhibit 60, I&E Report 80-14.

Take a look at pages 4 and 5. There's a paragraph entitled, "Investigative Findings."

If you would just read that over briefly, I'm particularly interested in the reference to Individual E at the end, or towards it.

(Witness reviews document.)

JUDGE BECHHOEFER: Mr. Jordan, pardon me for interrupting.

Have you asked the witness yet to identify

1 the incident which this document relates to?

2 MR. JORDAN: I have not.

3 JUDGE BECHHOEFER: Do you intend to?

4 MR. JORDAN: I do not.

5 JUDGE BECHHOEFER: Because I think --

6 MR. JORDAN: I was going to try and make this as  
7 short as possible. I think the incident has already been  
8 discussed.

9 JUDGE BECHHOEFER: Well, absent any objection,  
10 you may do it, but it might be desirable to identify the  
11 incident in the record.

12 MR. NEWMAN: I do want to indicate that I  
13 am not objecting to that question, because as I understand  
14 it, the question was put to the witness, who was the Brown  
15 & Root QA site manager as of a given date, and that's  
16 certainly a legitimate question.

17 I think we have to go on from that to see  
18 whether the follow-on questions, if there are any, get  
19 into areas which are subject to the same infirmities the  
20 Board has talked about in the last couple of hearing sessions.

21 JUDGE BECHHOEFER: Right. Y u may proceed.

22 BY MR. JORDAN:

23 Q Dr. Broom, have you had a chance to review  
24 that paragraph?

25 //

1 BY WITNESS BROOM:

2 A Yes, I -- I haven't read it in its entirety,  
3 but I've looked at it. Yes.

4 Q Including on the top of page 5?

5 BY WITNESS BROOM:

6 A I'm sorry. You are talking about the middle  
7 paragraph on page 5?

8 Q No, I was talking about the paragraph that  
9 begins on page 4 entitled, "Investigative Findings," and  
10 runs over to the top of page 5.

11 (Witness reviews document.)

12 BY WITNESS BROOM:

13 A Yes, I have read that paragraph.

14 Q Is it your understanding, based on the information  
15 you gave me in response to the previous question, that  
16 the B&R site QA manager (Individual E), noted toward the  
17 end of that paragraph, is Mr. Warnick?

18 MR. NEWMAN: Mr. Chairman, I don't see any  
19 need for that question to include the reference to Individual E,  
20 because that does invite some speculation.

21 I think the question, who is the B&R site  
22 QA manager that's being referred to in that section is  
23 a straightforward question and can get a straightforward  
24 answer, and I really think that the record is not furthered  
25 by cluttering it up with references to Individual E or F.

1 MR. JORDAN: Mr. Chairman, I've been giving  
2 some thought to this matter, as I'm sure you have, and  
3 I really am amazed at the idea that identifying the individual  
4 does not help the record.

5 That is ludicrous.

6 The fact is that in order for you to make  
7 a decision and in order for us to have any way of arguing  
8 or even understanding this case, we are going to have  
9 to know not only who Individual E is in this particular  
10 document -- and the reason I brought him up was because  
11 there was discussion of Individual E on cross-examination  
12 by the Staff and I don't know what's going on unless I  
13 know who Individual E is.

14 More importantly, though, there are a lot  
15 of I&E Reports that are going to come into this record,  
16 or at least they may, and there are going to be people  
17 who in one I&E Report may be Individual X and in that  
18 I&E Report Individual X gives some kind of information  
19 of one sort or another; and there may be another I&E Report  
20 where somebody is identified as Individual J (I'm picking  
21 these letters out of a hat), and perhaps in that I&E Report  
22 that individual is identified as falsifying a document  
23 or something of that sort.

24 We have no idea how to evaluate the question,  
25 because who is Individual X in one may be the same one



1 as Individual J in another.

2 That's very important. Now we're going to  
3 have to have that information from the source of the Applicant  
4 or Brown & Root or from the Staff or from somewhere, subject  
5 to a protective order if need be; but we're not going  
6 to be able to argue this case if we don't have the information  
7 on who those individuals are.

8 The only people, as far as I can tell, who  
9 will have been denied the information are the Intervenors.  
10 We will be sitting here --

11 JUDGE BECHHOEFER: And the Board. You forgot  
12 the Board.

13 MR. JORDAN: Excuse me, and the Board.

14  
15 - - -  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 MR. NEWMAN: And the Applicant. We don't  
2 know who these individuals are, except in one or two cases,  
3 or a half a dozen cases at the outside.

4 MR. JORDAN: Then I would submit that the  
5 Applicant needs the information as well and must have  
6 it for a logical and sensible record.

7 MR. NEWMAN: Mr. Chairman, I think that the  
8 burden has been unfairly shifted to the Applicant here.

9 The Applicant -- First of all, this document  
10 is not part of the Applicant's case; it's the Staff's  
11 case, and to the extent the Staff relies upon it, the  
12 Staff ought to be questioned as to the identity of the  
13 witnesses in Staff documents.

14 Not the Applicant. The Applicant has, at  
15 best, second or third-hand information about this; and  
16 I do think that until we come to that point where the  
17 Staff identifies the confidential informants, if that  
18 ever occurs, I think it's unfair to try to shift that  
19 burden to the Applicant.

20 We are simply not capable of fulfilling that  
21 role.

22 MR. JORDAN: I can --

23 MR. NEWMAN: Excuse me, Bill.

24 Where we do have a situation as the one that  
25 Mr. Jordan has just mentioned where the B&R site QA manager

1 is identified by title and you can tie him to a certain  
2 date, there's no problem with asking about that individual.

3 But I'm concerned when we start getting involved  
4 in the numerical or alphabetical designations which we  
5 really can't vouch for.

6 That witness is speculating and he's not giving  
7 you the best record that can be gotten.

8 MR. JORDAN: Now, if I may, I had not completed  
9 my one-shot argument, and I would like to do that.

10 Since I hadn't, I will take the opportunity  
11 to respond.

12 This really is a charade. We've got to get  
13 this information sometime or we don't know what we're  
14 doing.

15 This particular instance we have it identified  
16 B&R QA site manager and we have a date.

17 I asked him if it was his understanding that  
18 that person, the B&R QA site manager right next to the  
19 designation, if that was who that person was.

20 This idea that it's speculation to me is a  
21 joke; but I want to add one further thing on this whole  
22 issue.

23 Much of this case -- and I'll say that much  
24 of what we see as the most important aspects of this case  
25 are going to come in in these exhibits, these Staff I&E

1 Reports.

2 The more I think about it, the more that I  
3 may well be forced to object to the admissibility of any  
4 of them without the identification of the people who are  
5 described there, because the information is useless unless  
6 we are able to take the individuals and correlate them  
7 back and forth between reports so we know whether somebody  
8 who lied in one case is giving important information in  
9 another case, and all of the other permutations of that  
10 situation.

11 Now, as I say, maybe we can have a protective  
12 order. We can limit it to Counsel. I don't know what  
13 has to be done; but I do know that something has got to  
14 be done to get that information out or there's no point  
15 to us sitting here.

16 MR. REIS: Your Honor, may I be heard?

17 JUDGE BECHHOEFER: Mr. Reis.

18 MR. REIS: The Staff strongly objects and  
19 still objects, and as the Appeal Board held, we don't  
20 feel we have to turn over that information.

21 We feel there's no need in most cases to turn  
22 over that information.

23 I think there is an exception for the particular  
24 people who are to be called as witnesses, which we dealt  
25 with yesterday and those were revealed.



1 Mr. Warnick is one of them and Mr. Singleton,  
2 and those are the only two exceptions.

3 Staff will strongly resist giving any further  
4 information.

5 Further, we think that the record is clear.  
6 We think that the Federal Rules of Evidence talk about  
7 Staff Investigatory Reports coming in for the truth of  
8 the matters stated therein, and they can.

9 We feel that the looking at informers or other  
10 people who need protection, there is no need for that  
11 for either the Board's decision or anything else, except  
12 if there are particular instances raised where we have  
13 to go to the particular statement.

14 At that point, maybe we can look at them on  
15 an ad hoc basis.

16 But the Staff will be strongly opposed and  
17 will not turn over and reveal names.

18 We think this has been decided. In essence,  
19 it was in a discovery motion, but we think the same thing  
20 is being argued now generally by the Appeal Board, and  
21 we think that's settled until such time if the Commission  
22 takes other action.

23 We think that's settled, and we will strongly  
24 oppose that.

25 We had a particular situation where, as I

1 say, we made an exception because people were named as  
2 witnesses; but other than that, we will be strongly opposed  
3 to turning over any names.

4 JUDGE BECHHOEFER: Did not the --

5 MR. REIS: And we don't feel --

6 JUDGE BECHHOEFER: Mr. Reis, didn't the Appeal  
7 Board indicate that its ruling was based on the fact that  
8 at that point in time they believed the Intervenors had  
9 not demonstrated adequate need to get those names for  
10 discovery purposes?

11 I didn't read anything in that decision which  
12 said later on need might not arise to reveal some or all  
13 of those names.

14 MR. REIS: Well, I'll have to -- As I say,  
15 we would have to deal with it in an ad hoc basis, but  
16 just the fact -- I don't have any trouble. I'm dealing  
17 with the names.

18 JUDGE BECHHOEFER: You know who they are.

19 MR. REIS: No, I do not know who they are.

20 JUDGE BECHHOEFER: Well, you or your client  
21 know who they are.

22 MR. REIS: As Counsel for the Staff... "Here  
23 are the list of witnesses. Are any of them in the report?"

24 But I have not gone back and asked for the  
25 names generally of the people.

1 JUDGE BECHHOEFER: Well, your client --

2 MR. REIS: So I do not have general knowledge --

3 JUDGE BECHHOEFER: Well, your clients do and  
4 I assume --

5 MR. REIS: My clients certainly do.

6 I don't feel it is necessary for this record.  
7 I think we can deal with the Investigative Reports and  
8 what they showed and the admissions of the Applicant and  
9 go from there.

10 JUDGE BECHHOEFER: Okay. We deal with them  
11 in any way other than showing that somebody made a report.

12 Obviously, your man will come up and say that  
13 he made the report, man or woman; I'm not sure who they  
14 are.

15 MR. REIS: Not only did they make the report,  
16 but the investigation is presumptively correct, until  
17 there's some reason to challenge the investigation, its  
18 presumptive correctness.

19 I think the Federal Rules of Evidence indicate  
20 that, and that report stands as it is.

21 JUDGE BECHHOEFER: How is someone supposed  
22 to challenge it?

23 MR. REIS: It is presumptively correct, and  
24 they have to overcome the burden to show that it's not  
25 presumptively correct; and I don't think that's been shown

1 on the individual matters.

2 I think the matters in the report do come  
3 into evidence, and they are stated there as they are.

4 MR. JORDAN: I guess at this point we're not  
5 to the point where we really argue about that.

6 I was simply putting the Board and the parties  
7 on notice that I expect to object, and I would suggest  
8 that we had better get this matter certified to the Commission,  
9 if need be.

10 I think you know what the difficulties are  
11 that you're going to have.

12 JUDGE BECHHOEFER: Well, I know what our difficulties  
13 will be when we have to write a decision based on --

14 MR. JORDAN: The ruling of the Appeal Board  
15 was not on -- as you recognized, Your Honor, on admissibility  
16 into evidence or anything of the sort. It was on discovery.

17 MR. REIS: Your Honor, on many things in the  
18 SER, for instance, you rely on Staff's conclusions.

19 You don't have to delve into each matter in  
20 the SER. It's similar here.

21 JUDGE BECHHOEFER: I question that. All of  
22 those matters are subject to full cross-examination, and  
23 if the question arises.

24 That's a Staff conclusion only. It's a conclusion  
25 of a party. It is not, certainly, binding upon the Board,



-15 1 and if it is challenged in any way, Staff has to defend  
2 its views of the SER.

3 This is by any party, by the Applicant, by  
4 the Intervenors or by anyone else.

5 The SER is just the position of a party insofar  
6 as Board's are concerned.

7 I realize that we may accept conclusions in  
8 the SER, if they are not challenged, or if they are not --

9 MR. REIS: And I think you have a similar  
10 obligation to accept the conclusions in Investigative  
11 Reports.

12 I don't think there's any question. That's  
13 the role of the Staff, and until they are challenged or  
14 shown to be wrong, those are the matters in the Investigative  
15 Reports, and they are the conclusions.

16 I think the Federal Rules of Evidence read  
17 that way.

18 JUDGE BECHHOEFER: We won't rule on that at  
19 this point.

20 MR. REIS: Let me indicate, also, that there  
21 are a number of court cases which indicate that -- though  
22 they don't involve the NRC. They do involve -- They  
23 do indicate that the reports come in for the truth of  
24 the matters stated therein in civil proceedings.

25 They involve the FAA and the Coast Guard,

1 essentially accident reports, but they were statutory  
2 investigations that were charged to those Agencies made  
3 in the regular course of the Agency's business.

4 They were used -- the reports themselves were  
5 used to establish definitively what happened at that accident  
6 or that incident.

7 I have the notations in a book I just sent  
8 for.

9 (Pause.)

10 JUDGE BECHHOEFER: Off the record for a minute.

11 (Discussion off the record.)  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- - -

STP  
2-1  
ne

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2346

1 JUDGE BECHHOEFER: Back on the record.

2 Did you have something?

3 MR. REIS: I just wanted to call your attention to  
4 more particular citations to the law, since I now have them in  
5 front of me, just to have them in the record.

6 JUDGE BECHHOEFER: Okay.

7 MR. REIS: Federal Rule of Evidence 803(8)(C) states,  
8 "In civil actions and proceedings and against the Government in  
9 criminal cases, factual findings resulting from an investigation  
10 made pursuant to authority granted by law essentially come in  
11 as an exception to the hearsay rule unless the source of  
12 information or other circumstances indicate a lack of trust-  
13 worthiness."

14 The rule of evidence states that some of the cases  
15 that applied it that I find immediately are Baker versus Alcona  
16 Homes Corp., 588 Fed. 2d, 551, 559, and that's Sixth Circuit,  
17 1978, involving a police report.

18 Another case is Smith versus The Ithica Corporation,  
19 612 Fed. 2d, 215, 220 to 223, and that's the Fifth Circuit, 1980.

20 There are also other cases, but my notes don't  
21 indicate which -- I don't have them in my notes before me.

22 JUDGE BECHHOEFER: Yes. I'll have to read those  
23 cases.

24 Do you know what has to be done to challenge the  
25 trustworthiness or reliability?

2-2 1 MR. REIS: I don't recall, Your Honor. I didn't go  
2 that deeply into it.

3 JUDGE BECHHOEFER: Well, okay.

4 MR. REIS: Those cases, as I say, involve police  
5 reports of accidents, Coast Guard reports. I know there are  
6 some with FAA reports, which I don't have immediately in front  
7 of me.

8 JUDGE BECHHOEFER: Did they involve reports where  
9 the names were not revealed?

10 MR. REIS: I have no idea, Your Honor.

11 Since they were accident reports, I would not  
12 believe so, but I don't recall. I don't think they dealt with  
13 that at all.

14 JUDGE BECHHOEFER: All right.

15 MR. REIS: They might have, but I don't recall it.

16 MR. NEWMAN: Mr. Chairman, I wouldn't want to have  
17 our silence misinterpreted. We have not had a chance to do the  
18 research that apparently Mr. Reis has been able to do, and so  
19 we're not able to state a position on that right now.

20 Obviously, though, Mr. Reis indicated at least one  
21 significant exception, and that was with respect to documents  
22 where the trustworthiness of the document is suspect.

23 We would have to see what the extent of that  
24 exception is, as well as any other exceptions.

25 JUDGE BECHHOEFER: That was a source of some of my



2-3 1 questions.

2 MR. NEWMAN: I think finally, Mr. Chairman, it just  
3 ought to be really clear that we are now dealing with the Staff's  
4 case and not the Applicants' and so the Staff really has the  
5 burden. If we're going to have any action to force the identity  
6 of these individuals it really has got to come out from the  
7 Staff, except in these one or two unique circumstances.

8 JUDGE BECHHOEFER: Right. Well, the Board has  
9 discussed our ruling on this line of questioning, and we will  
10 allow the witness to answer only if he is positive about the  
11 identity.

12 If there's doubt in his mind, he should say so and  
13 not answer the questions, because we will then perhaps call  
14 upon the Staff, or if the Staff seeks to introduce these  
15 documents -- I'm not sure whether they're introduced yet, but  
16 at least they're subject to being stricken.

17 MR. REIS: I believe they are -- there is a  
18 stipulation on the weight to be given them; there is a  
19 stipulation, though, introducing them into evidence that both  
20 parties agreed to.

21 MR. JORDAN: The stipulation covers authenticity,  
22 admissibility; it does not cover the truth of the matter.

23 MR. REIS: That's right.

24 JUDGE BECHHOEFER: Right. So they will be -- when  
25 these are sought to be, or when these documents are sought to be

1 relied upon, they will be subject to motion to strike, or at  
2 least strike certain aspects of them, and we will consider  
3 those at that time.

4 MR. NEWMAN: Mr. Chairman, may I just make one  
5 other request, that if we do proceed in the manner outlined by  
6 the Chair and it does come to a point where a witness is asked  
7 to positively identify X or A35, or whatever, I would like to  
8 have an explicit understanding from, or explicit statement from  
9 NRC Staff counsel that in so doing we will not be violating any  
10 constraint imposed upon the Staff or other parties by the  
11 Division of Inspection and Enforcement.

12 I don't want to be -- this is genuine, this is  
13 not a charade; we are very concerned about our relations with  
14 the Inspection and Enforcement Division, and I would not want  
15 to do anything to jeopardize the company's relationship.

16 JUDGE BECHHOEFER: I strongly agree, and we did  
17 this yesterday and --

18 MR. REIS: I agree with Mr. Newman on that, and I  
19 certainly see your concern.

20 Part of my problem is that one of the reasons to  
21 protect confidential sources, of course, is retaliation in an  
22 employment situation, where you know one of the things I am  
23 dealing with, and I&E is dealing with as well, is considering,  
24 you are in a difficult situation.

25 You are to right matters set forth in I&E reports

2-5 1 and as a result you have to very often find out who is involved  
2 and conduct your own investigation.

3 On the other hand, we don't want you intimidating  
4 the people who are involved, and I realize the dilemma you're  
5 placed in, and I realize, we are very cognizant of HL&P's  
6 dilemma and the fact that they might be ordered to do something  
7 before a Board would not be any black mark against them or  
8 anything wrong.

9 They also are charged with righting situations and  
10 finding out what the matters are so that they can right  
11 situations. If they have a bad actor possibly they should  
12 get rid of him, and they are charged with doing that.

13 At the same time, we try to protect people from  
14 intimidation, and it is a difficult situation and we fully  
15 realize that.

16 JUDGE BECHHOEFER: Okay. Well, you may continue.

17 MR. JORDAN: I think I have a pending question.

18 JUDGE BECHHOEFER: Well, what we said is the witness  
19 may answer that only if he can positively identify the person.

20 If he can't, then you certainly may ask the same  
21 questions of the Staff witness, or when the Staff gets around  
22 to relying on its documents, and we will dispose of that at  
23 that time.

24 BY WITNESS BROOM:

25 A As I said, Mr. Jordan, the Brown & Root site QA

1 manager during this period of time I believe was Tom Warnick.

2 My only reservation about Individual E is if that  
3 title were incorrect it could be someone else. I think it was  
4 Mr. Warnick that they're referring to here.

5 MR. NEWMAN: Again, Mr. Chairman, you see the  
6 dilemma here of just speculating on the record.

7 JUDGE BECHHOEFER: Right. I recognize that.

8 WITNESS BROOM: If I could clarify, Mr. Jordan,  
9 my point here is that in other cases I have had situations  
10 where a title would be incorrect, and I'd read this and I'd  
11 think they were talking about one person and our jargon of job  
12 titles might be incorrectly recorded or something.

13 With that one reservation, I would say that this  
14 is Mr. Warnick.

15 MR. JORDAN: I see. Your Honor, I guess it was mild,  
16 but unless there was a challenge to the report in the sense that  
17 he raised a doubt as to whether that site QA manager title is in  
18 fact the title, and this is a way of trying to muddy the record,  
19 and I'm not blaming Dr. Broom.

20 It is a problem. We need to have certainty on these  
21 points as to whether that in fact was the right title of that  
22 person, and we have this sort of muddy, well, I don't know  
23 because I don't know whether they wrote the right thing and they  
24 could have easily written the wrong thing.

25 MR. NEWMAN: Mr. Chairman --



1 JUDGE BECHHOEFER: I might say I invite you to ask  
2 the NRC QA inspector when he gets on the stand.

3 MR. REIS: Let me say now that --

4 JUDGE BECHHOEFER: Because if he doesn't, we will.

5 MR. REIS: -- the QA inspector, and I will try and  
6 get this clarified, but the QA inspector might be instructed not  
7 to answer.

8 I have to get this clarified within the agency,  
9 but I just want to leave that possibility open.

10 JUDGE BECHHOEFER: The result could be that the  
11 report will be stricken from the record, at least for the truth  
12 of the matters stated therein.

13 BY MR. JORDAN:

14 Q Dr. Broom, there's testimony, with Mr. Reis you  
15 discussed an incident in which a QC supervisor made a statement,  
16 I believe, to a meeting of QA/QC personnel -- I may be wrong  
17 about the title, a QA or QC supervisor made a statement to  
18 QA/QC personnel, I believe in November of '79, to the effect of  
19 every time you go to the NRC we find out, and you seemed to be  
20 familiar with that situation in your discussion with Mr. Reis;  
21 is that true?

22 BY WITNESS BROOM:

23 A Yes, I believe so.

24 Q Who was the individual who made that statement,  
25 if you know?

1 BY WITNESS BROOM:

2 A I believe that that was Mr. Warnick. I don't think  
3 he had the title you just gave him. I believe at the time he  
4 was a site QA manager.

5 Q Okay. As I said, I thought I might have the title  
6 wrong.

7 I would ask you, sir, to refer to Staff Exhibit  
8 No. 46, which is a document that has lots of pages with lots of  
9 different numbering systems, but what I'm interested in is  
10 Appendix D, which consists in part of pages headed allegation  
11 number such and such under discussion.

12 Do you have it before you?

13 BY WITNESS BROOM:

14 A No. He's bringing it, I believe, if I can have  
15 just a moment.

16 Q Okay.

17 (Document passed to witness.)

18 JUDGE LAMB: Is that Appendix E?

19 MR. JORDAN: No, sir, that is Appendix D.

20 MR. REIS: Excuse me. What page did you mention?

21 MR. JORDAN: I mentioned Page 12 and also Page 45.

22 For everybody's assistance, to the extent that it  
23 helps, it looks to be about, oh, between a quarter and a third  
24 of the way through the document.

25 The page numbered 12 is headed "Allegation No. 1."

2-9 ✓  
1 The page numbered 45 is headed "Allegation No. 18A."

2 WITNESS BROOM: Yes, sir, I have those two pages.

3 BY MR. JORDAN:

4 Q Okay. If you would look them over briefly, or take  
5 however long you feel you need, and tell us whether you can  
6 identify Individual A40 referred to in those two pages there.

7 (Witness reviews document.)

8 BY WITNESS BROOM:

9 A With respect to Allegation No. 1 on Page 12, I  
10 believe A40 is Mr. Warnick.

11 - - -

12

13

14

15

16

17

18

19

20

21

22

23

24

25

B-1

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. JORDAN:

Q If you are confident in that, we don't need to go ahead with the other page, actually.

BY WITNESS BROOM:

A I haven't read the other page.

Q You are welcome to.

BY WITNESS BROOM:

A What was that page, again?

Q The other page, 45.

BY WITNESS BROOM:

A I'm less sure about this page. It refers to him as a QA Manager. I don't think I discussed this precise language with Mr. Warnick in the other case. I am pretty sure that that's Mr. Warnick.

Q Okay.

BY WITNESS BROOM:

A I would presume that this is him.

JUDGE BECHHOEFER: You say you are less sure of this one? Could you just clarify your answer there.

WITNESS BROOM: I guess what I am saying is if there were not this number here I could not tell you that this was Mr. Warnick, because I did not discuss with him personally whether he made this specific statement, and his title was not the QA Manager.

QA Manager is vague. Mr. Vurpillat is a QA Manager.



1 Mr. Vincent was a QA Manager.

2 JUDGE BECHHOEFER: Site QA Manager.

3 WITNESS BROOM: And he was Site QA Manager.

4 JUDGE BECHHOEFER: Right.

5 WITNESS BROOM: And maybe that is what is intended  
6 here. I'm sure Mr. Warnick could verify that, and he will be  
7 appearing.

8 BY MR. JORDAN:

9 Q But you were confident, based on the first page  
10 that you read that --

11 BY WITNESS BROOM:

12 A Yes, sir. I have discussed that with Mr. Warnick,  
13 and I believe he made those statements.

14 Q Let me get clear on one thing that was a little  
15 confusing to me.

16 His name is Tom Warnick?

17 BY WITNESS BROOM:

18 A Yes, sir.

19 Q His name is also G. T. Warnick, isn't it? Is that  
20 the same person?

21 BY WITNESS BROOM:

22 A Those are his initials, I believe. I don't know  
23 what the "G" stands for. The "T" is Thomas.

24 Q Thomas. Okay.

25 Dr. Broom, on Page 36 of your testimony you discussed

1 this, again, with Mr. Reis, Lines 36 to 38. You are essentially  
2 saying here and you explained this at some length with Mr. Reis,  
3 that you were concerned that the NRC's Order to Show Cause did  
4 not mention, particularly, "The significant evidence of HL&P  
5 management's awareness of the key problem areas."

6 BY WITNESS BROOM:

7 A That's what I say here.

8 Q My question is: It appeared to me from your  
9 discussion with Mr. Reis, that the awareness you were talking  
10 about was the awareness that you had developed as a result of  
11 your discussions with the NRC about the problems, and your  
12 concern was that when they finally got around to writing their  
13 Show Cause Order some six months after their investigation  
14 started, that it really wasn't quite fair, because it didn't  
15 reflect the fact that during this whole six-month period you  
16 had been aware of the things they had been telling you about  
17 and been taking the corrective actions that you deemed  
18 appropriate.

19 Is that what you mean when you make this statement  
20 in here?

21 BY WITNESS BROOM:

22 A Not entirely. That's a part of it.

23 I think that a part of my answer also indicated  
24 that through those discussions with the NRC I believe it was  
25 apparent that at least in some of the areas, perhaps most of

3-4 1 them, that we were had recognized or identified the problem  
2 areas either similar or the same to the ones identified by the  
3 NRC, and were working prior to the inspection toward correcting  
4 those items.

5 Q Okay.

6 BY WITNESS BROOM:

7 A So it is a sum of that overall body of information  
8 that I was referring to when I made this statement here.

9 Q In discussion with Dr. Lamb, you mentioned or  
10 discussed two of the QA Managers had been -- I'm using this  
11 vague term QA Manager. Which QA Manager is Mr. Smith now?

12 BY WITNESS BROOM:

13 A He is the Project Quality Assurance Manager.

14 Q Okay. Project Quality Assurance Manager. That's  
15 what you were talking about that I'm referring to.

16 I think I am familiar with where most of these  
17 people are now. Mr. Freidrick has gone back to MAC, so far as  
18 you know?

19 BY WITNESS BROOM:

20 A I believe Mr. Freidrick is still on site. We try  
21 to provide a transition period in turning the reins over, so  
22 to speak, and maintain continuity. I don't know what the  
23 projected date for his departure is. I'm sure it's in the  
24 near future. I don't even know if we've agreed on one. Perhaps  
25 Mr. Vurpillat could clarify that.

3-5 1 Q Okay. I'm sorry. I just made an assumption.

2 Do you want to expand, Mr. Vurpillat?

3 BY WITNESS VURPILLAT:

4 A We don't have an absolute agreement with Houston  
5 Lighting & Power when all of the MAC employees will go back,  
6 will leave the project.

7 Mr. Freidrick's projected date is June 26th, but  
8 we don't have full agreement on that yet.

9 Q Now, he was -- Mr. Freidrick was preceded by  
10 Mr. Zwissler in that slot, and I take it Zwissler is now in  
11 the Frazar support role?

12 BY WITNESS VURPILLAT:

13 A Yes, sir. I think I described Mr. Zwissler role.  
14 He was in that slot for just a couple of months as an interim.  
15 It was clearly understood that he was not the man that MAC was  
16 going to supply to sit in that role with our person for any  
17 extended period of time. This was a short-term assignment on  
18 his part.

19 Q Now, he followed Mr. Vincent, who was there from  
20 April 1978 to July 1980?

21 BY WITNESS BROOM:

22 A Yes, sir, April 1978 to May 1980 I show.

23 Q Oh, I'm sorry. It would be May. That's right.

24 Can you tell us where Mr. Vincent is now?  
25



1 BY WITNESS BROOM:

2 A He is no longer in Brown & Root's employ. I  
3 believe that he is working on the West Coast at one of the  
4 Washington WPPS nuclear projects. I don't know which one and  
5 I'm not sure who his employer is, but I believe he is working  
6 in that area.

7 Q And Terry Gardner preceded Mr. Vincent from 1975  
8 to April of 1980; right?

9 BY WITNESS BROOM:

10 A Yes, sir. As I --

11 Q Only that was in --

12 I'm sorry. Let me expand. That was when the role  
13 was split, and he was the Site QA Manager?

14 BY WITNESS BROOM:

15 A That's correct. He had responsibility for all of  
16 the Site QA matters. At the time we had the Houston  
17 coordinator reporting separately from him. That's correct.

18 Q Where is Mr. Gardner now?

19 BY WITNESS BROOM:

20 A Mr. Jordan, I don't know where Mr. Gardner is.  
21 I have heard that he was employed somewhere in the Houston  
22 area, but I have not -- I don't know in what capacity, or I  
23 don't know what his employer is, and I'm not sure he is still  
24 here.

25 Q Do you know where he went in April 1978? Was he

1 still --

2 MR. REIS: Mr. Chairman, I --

3 Q -- with the company at that point?

4 MR. REIS: Mr. Chairman, -- I'm sorry. Did you  
5 complete your question?

6 MR. JORDAN: Yes. I did.

7 MR. REIS: Mr. Chairman, I object on the grounds  
8 of relevance. I can see where whether he is still with  
9 Brown & Root or Houston Lighting & Power might be relevant,  
10 but where he went I can't see the relevance of that.

11 MR. JORDAN: Actually, what Mr. Reis just objected  
12 to was the question that had previously been answered, and the  
13 new question was really whether he had been with the company  
14 when he left the Site QA position in 1978. I wanted to get a  
15 feeling of when he left Brown & Root itself.

16 WITNESS BROOM: Am I to answer that, or is there an  
17 objection? I'm confused.

18 MR. REIS: I take it right now the original  
19 question is withdrawn.

20 MR. JORDAN: No. The original question to which  
21 you objected had been answered just before that.

22 JUDGE BECHHOEFER: It was answered.

23 WITNESS BROOM: Mr. Jordan, I don't recall. I'm  
24 not even sure I knew at the time whether Mr. Gardner left --  
25 I don't know when he left precisely. I really don't recall

1 whether he remained in our employ after Mr. Vincent took that  
2 job, or not. I would have to check the personnel records. I  
3 just don't remember.

4 BY MR. JORDAN:

5 Q Can you tell us why Mr. Vincent took the job? Or  
6 not what Mr. Vincent's reasons were, but what Brown & Root's  
7 reasons were for having Mr. Vincen t put into the job?

8 BY WITNESS BROOM:

9 A I don't recall specifically, Mr. Jordan. I believe  
10 Mr. Vincent had been fired in a staff role for a brief period  
11 of time. He had had many years of nuclear QA experience.

12 I believe it was a case where the QA Manager felt,  
13 and I'm sure that the client agreed, that he was well qualified,  
14 and would be an improvement in the management of the job, and  
15 Mr. Gardner had been on the job for quite some period of time.  
16 Beyond that, the reasons I'm not familiar with.

17 Q Now, who was the Houston coordinator you mentioned  
18 that had the other side of the split?

19 BY WITNESS BROOM:

20 A Mark Meyer, M-e-y-e-r.

21 Q Do you know what his dates of tenure were?

22 BY WITNESS BROOM:

23 A No, sir. I can tell you who succeeded him in that  
24 capacity, but I did not record the dates. Mr. Meyer is still  
25 in our employ, and he moved from the QA side of the house to



1 the engineering side of the house, in essentially the same type  
2 of interfacing role.

3 He was succeeded by a Mr. Holbrook, who was  
4 succeeded by Mr. Janake, but I do not know the date of those  
5 changes. Mr. Janake has been in that position for quite some  
6 time.

7 Q Well, I'm afraid you just confused me. My  
8 impression was that those two positions of Houston coordinator  
9 and Site QA -- in other words, the Terry Gardner position and  
10 its counterpart -- were essentially merged into what became  
11 the Vincent position. Is that wrong?

12 BY WITNESS BROOM:

13 A Yes, sir. That is incorrect.

14 Q What was the change that happened at that point?

15 BY WITNESS BROOM:

16 A What I tried to explain was that prior to  
17 Mr. Vincent being named as the Project QA Manager we had the  
18 Project Quality Assurance Activities split into two functions,  
19 both of which reported separately to both the client and to our  
20 QA Department Manager.

21 One was all of the QA activities at the site, which  
22 would correspond to the responsibilities of the Site QA Manager  
23 that Mr. Warnick held for a period of time that we were talking  
24 about earlier, in which capacity Mr. Warnick reported to  
25 Mr. Vincent as the Project QA Manager, with responsibility for



10 1 all QA matters.

2 Mr. Meyer had responsibility for the Houston  
3 coordination functions of a quality assurance nature. That is,  
4 the interface between the Quality Assurance Department and  
5 Engineering, and Home Office Procurement, coordinating the  
6 review of documents, the review of specification, purchasing  
7 packages, this kind of thing.

8 When Mr. Vincent was made Project QA Manager, the  
9 functions of a Site QA Manager, and a Houston Coordinator were  
10 retained under the head of a Project Quality Assurance Manager.

11 Does that clear it up?

12  
13 ///

14  
15 ///

16  
17 ///

18

19

20

21

22

23

24

25

1 BY MR. JORDAN:

2 Q Yes. And then, so, in effect, the Gardner and  
3 Meyer positions then reported to this new position?

4 BY WITNESS BROOM:

5 A Yes, sir, except that I believe Mr. Gardner --  
6 I think Mr. Gardner's position was changed, and Mr. Warnick  
7 was put in that slot. I'm not sure of the date of that, but  
8 those positions reported to him, that's correct.

9 Q Thank you.

10 JUDGE BECHHOEFER: Could I get one clarification  
11 here? I'm still a little confused. Then what is left over  
12 for Mr. Holbrook and Mr. Janake, of those positions? Their  
13 positions must be somewhat different from Mr. Meyer's position.

14 WITNESS BROCM: No, sir. They are the same.

15 Let me try to explain that. From the beginning of  
16 the job we have had a coordinator in the Houston office  
17 responsible for assuring coordination between the Quality  
18 Assurance Activities of the Project Team or Staff Support  
19 Services, and the project activities occurring in Houston,  
20 Engineering and Procurement.

21 Mr. Meyer was assigned that coordinating role. He  
22 was transferred -- he was relieved of that and moved to a  
23 different role, and Mr. Holbrook was given those responsibilities,  
24 as I recall, for a relatively short time, and then Mr. Janake  
25 succeeded him, but the responsibilities of that position have

1 been the same throughout the duration of the project.

2 I perhaps confused things a bit when I said  
3 Mr. Meyer is still with the company. He transferred from  
4 Quality Assurance into the Engineering organization, and he  
5 still deals with Engineering Assurance and Quality Assurance  
6 related matters that are performed by Engineering, but he is  
7 not in the QA Department.

8 JUDGE BECHHOEFER: See, I think what confused me  
9 is that when you mentioned that Mr. Vincent, his predecessors  
10 were both Mr. Gardner and Mr. Meyer in a somewhat different  
11 position, that is what I think confused me.

12 WITNESS BROOM: Shall I explain that again?

13 JUDGE BECHHOEFER: Yes. Why don't you.

14 WITNESS BROOM: I'm not sure I heard you correctly.  
15 I confused you by the fact that I said Mr. Vincent succeeded  
16 both Mr. Gardner and Mr. Meyer; is that the confusion?

17 JUDGE BECHHOEFER: Or maybe you said it the other  
18 way around, the duties exercised by Mr. Vincent were previously  
19 exercised by Mr. Gardner and Mr. Meyer, and I'm trying to see  
20 where --

21 WITNESS BROOM: Right. Let me try it again.

22 When the job started we divided the project QA  
23 activities into two pieces. One was the activities occurring  
24 in Houston, and one the activities occurring at the site.  
25 Originally, of course, it was planning for the site activities,

3-13 1 and then when we moved to the site Mr. Gardner went to the  
2 site and was there and responsible for all the QA activities on  
3 the site.

4 So we had someone in charge of the project QA  
5 activities in Houston, and someone at the site, but we did not  
6 have a Project Manager, as it were, over both of those two  
7 individuals. They reported separately to the QA Department  
8 management.

9 In April 1978 when we made a change from  
10 Mr. Gardner we restructured the QA project organization, and  
11 we named Mr. Vincent as the Project Manager for QA for all  
12 project related activities.

13 We put Mr. Warnick in what had previously been  
14 Mr. Gardner's role as the Site QA Manager, and I'm not sure  
15 of the timing, whether Mr. Meyer remained in that role, or  
16 whether it was Mr. Holbrook, or Janake, but the two functions  
17 reported to Mr. Vincent, as being in overall charge of all  
18 of the QA activities for the project.

19 Does that help clarify it?

20 JUDGE BECHHOEFER: Yes.

21 You may continue.

22 BY MR. JORDAN:

23 Q Okay. I hope I have some simple questions from  
24 here on for awhile. You can see why we become confused, when we  
25 don't live in it the way you do.



1 May I ask you, you talked about training, and you  
2 got into some detail on it, and I guess this is either for  
3 Dr. Broom or Mr. Vurpillat, whoever feels best qualified.

4 The question is, there's a point where training  
5 wasn't mandatory and a point where it became mandatory, and  
6 if you could just touch on two aspects of that: One is when  
7 did training become mandatory, and the other aspect of it is  
8 how much of it became mandatory? Was all the training that's  
9 relevant to somebody's work, is that what became mandatory, or  
10 not?

11 Now, in asking the question I recognize, I think,  
12 what Mr. Vurpillat said, that the off-site training wasn't  
13 mandatory.

14 Could you just clear up that area?

15 BY WITNESS BROOM:

16 A I'm thoroughly confused, I'm afraid, Mr. Jordan.

17 Q Okay. Let me just start over.

18 There was testimony that training became mandatory.

19 BY WITNESS BROOM:

20 A Yes, sir.

21 Q When was that?

22 BY WITNESS BROOM:

23 A Well, I was not referring to all training on the  
24 project being non-mandatory.

25 What I intended to say was that I believe in the

1 early phases of the project, in attempting to satisfy the  
2 requirements that I believe Mr. Vurpillat has stated, are  
3 somewhat general in nature, and state, I think, simply that  
4 people performing quality related activities must be trained.

5 In attempting to satisfy those kinds of guidelines  
6 we had a training program, and I believe under that training  
7 program there may have been provisions for -- as an example,  
8 when a procedure was modified, but only slightly, someone may  
9 be expected to read that minor revision to that procedure but  
10 not have a sit-down classroom, formal sign-in sheet and an  
11 instructor stand up and read that change out and then have him,  
12 perhaps have him sign a piece of paper saying that he had read  
13 and understood that.

14 I think at the beginning of the project those type  
15 matters may have been treated much less formally.

16 In the beginning of the job, however, we did have  
17 formal training programs for any significant procedures at the  
18 first issuance. Now, I can't tell you when, without checking  
19 through changes in our training program, when changes were made  
20 that required more and more formal or stricter or less  
21 flexibility in the manner in which we satisfied our training  
22 requirements. I'm sorry, I don't know the dates on which those  
23 changes occurred.

24 Q Now, I recognize you may be speculating, and if  
25 you are, just tell me. Okay. But I think it's important that

3-16 1 we have some feeling for that.

2 Was there a point, say, that came after the  
3 issuance of the Show Cause Order when you -- when Brown & Root  
4 specifically formalized its training to the degree that now  
5 there's a sign-up sheet for everything? Or was there a point  
6 at some other time?

7 BY WITNESS BROOM:

8 A We had formal classroom training with sign-up  
9 sheet for the vast majority of our training prior to 79-19.

10 We may have gone to that before the Show Cause  
11 Order was issued, and I would have to speculate that that would  
12 be in late '79 or after the Show Cause investigation.

13 Mr. Jordan, I really don't remember.

14 Now, today I'm not sure that there might not be a  
15 provision in our training program for some type of extremely  
16 minor typographical change or a page numbering change or some  
17 type of minor change to a procedure that the training require-  
18 ments could not be satisfied by having something that a fellow  
19 said he had read this or understood it without a formal sit-down  
20 classroom session.

21 I intended to imply that we greatly formalized our  
22 program, and if you visit the site and see the amount of  
23 training, and if you see the amount of time that our people  
24 spend in formal classrooms and instructor hours and all of the  
25 documentation of these training activities, I think you'd agree



1 that that's a proper statement.

2 BY WITNESS VURPILLAT:

3 A Mr. Jordan, might I add; from the beginning of  
4 the job, at least the site portion of the job, there's a  
5 requirement that QA/QC people performing inspections and tests  
6 for acceptance purposes need to be certified in accordance  
7 with some very precise regulations and rules, and those  
8 regulations and rules have been translated into our procedures,  
9 and those requirements for certification include prior  
10 education, experience and training, in varying degrees,  
11 depending on what the task is that needs to be performed

12 That training associated with that certification  
13 for the QA/QC people doing their work, be it inspection or  
14 procedure review and approval, approval of reports, testing  
15 functions, has always taken place and has always been  
16 documented.

17 - - -



1 That is in addition to what we talked about  
2 earlier, a more procedure type training.

3 Q I think the next one is for you, Mr. Vurpillat,  
4 although maybe not, but you mentioned it.

5 The local ASQC Chapter established --

6 BY WITNESS VURPILLAT:

7 A In Bay City.

8 Q In Bay City.

9 Can you tell us when?

10 BY WITNESS VURPILLAT:

11 A As I recall, the first meeting of that chapter  
12 was early 1981. I would guess February, but I can check  
13 and get it exactly, if it's important.

14 Q We talked about -- whoever wants to answer  
15 this; whoever has the information -- salaries and levels  
16 of inspectors and who is comparable to who and so on.

17 What I'm confused about is who are the counterparts  
18 to whom.

19 You have, as I recall the testimony, four  
20 levels of inspectors now, and you've arranged it so that  
21 everybody on the same level makes the same pay.

22 My question is who is the counterpart? You  
23 know better than I, but I'll ask you specifically if that  
24 will help you, to take an example.

25 In the area of concrete, for example, who

1 is the construction counterpart to an inspector Level  
2 A?

3 BY WITNESS BROOM:

4 A Could I attack that in a slightly different  
5 fashion?

6 Q Certainly.

7 BY WITNESS BROOM:

8 A I'm not sure there's an easy direct correlation  
9 there.

10 We feel that a nuclear QC inspector Level  
11 C is in some respects equivalent to a journeyman craftsman.

12 This is a subjective judgment. I'm not sure  
13 there is a firm yardstick to use, because the functions  
14 are distinctly different, separate.

15 If you say that the journeyman is equivalent  
16 to a C or B or halfway in between. I don't really know,  
17 but certainly somewhere in that area, and that span is  
18 a total of 40 cents an hour, so I'm not sure that makes  
19 that much difference.

20 Then depending upon where you choose a C or  
21 a B as your base to equate to a journeyman, then that  
22 would mean a B or an A would be the equivalent of a construction  
23 foreman.

24 So I backed into the answer to try to tell  
25 you what the equivalent of an A would be.

1 A leaderman is a position in some of the crafts,  
2 so it could be that he's equivalent to a leaderman or  
3 to a foreman; but the first level of supervision in the  
4 crafts is, I think, to the Inspector A or slightly below,  
5 perhaps.

6 Q Okay. Let's go to your Inspector C, then,  
7 to understand this counterpart with the journeyman craftsman.

8 I would take that to mean that that is the  
9 person that he deals with. In other words, C is doing  
10 his inspection of concrete widgets and he either signs  
11 off or he finds something that's not acceptable and says,  
12 "This isn't acceptable."

13 The person he goes to to say that is the journeyman  
14 craftsman. Is that right?

15 BY WITNESS BROOM:

16 A I don't know that that's a good correlation.  
17 If you think about -- Let me answer it in  
18 this way.

19 If a C or B inspector on a concrete pour,  
20 in an in-process inspection, finds some problem -- It  
21 looks like there's rebar missing there or the spacing  
22 is a little too -- whatever their finding. This is not  
23 a final inspection. This is an in-process inspection.

24 He probably would do a number of things. He  
25 probably would point it out to whoever was in the area,



1 whether it was a craftsman or a foreman.

2 He would record it on a checklist or some  
3 document that the construction personnel could refer to  
4 officially to say, you know, he found something here and  
5 it needs to be fixed before the area is finalized.

6 He might very well talk to some higher level  
7 of supervision. I can envision him talking to a superintendent,  
8 if he happens to be standing around the area, depending  
9 upon the subject, depending upon the circumstance.

10 But in the truest sense of the word, in the  
11 B or C or even an A level inspector performing his inspection  
12 function on the site, there's no requirement that he deal  
13 orally, verbally with a counterpart in construction.

14 It happens. It happens all the time and we  
15 expect that to happen, but it's not a strict requirement  
16 in order for him to perform his job.

17 That's the kind of problems that I have in  
18 trying to equate peer level or reporting level or interfacing  
19 level on the job site.

20 The jobs are different.

21 I guess maybe a better example would be in  
22 the welding area.

23 You have a welder and he makes welds. Now,  
24 after that weld is made, you have an inspector that comes  
25 along and does a dye penetrant exam or takes an X-ray



-5  
1 or whatever.

2 Those two people would not have to even see  
3 each other. They would not have to even be in the same  
4 area at the same time, because one is performing the work  
5 and the other is a distinct after-the-fact situation.

6 So that's the kind of problem I have in trying  
7 to draw out a level working interface.

8 Q I think you probably recognize, as I asked  
9 the question, that I can see that there are going to be  
10 differences in the ways they relate, and I think your  
11 welding example is a good one of how it's very different  
12 from concrete. That's useful.

13 I would like to ask you, you testified to  
14 the current salary ranges and the 25-cent differential  
15 that has now been established, and that there is a difference  
16 between the way that the whole salary structure is now  
17 from the previous situation where you did it based on  
18 individual performance.

19 My question is do you have any feeling for  
20 whether there was any sort of differential before you  
21 established the new system, whether there was an average  
22 of slightly higher or lower pay for QA/QC people, as opposed  
23 to construction people; or was your system such that you  
24 really couldn't say that one way or the other?

25 //

1 BY WITNESS BROOM:

2 A Mr. Jordan, I really don't know.

3 In reviewing the situation at the time, I  
4 believe that the averages were pretty much comparable.

5 I tried to indicate the problem in doing this.  
6 That is that in the craft area you have a wide variance  
7 in wage rates due to a whole host of skills or crafts  
8 on the job.

9 I don't know if you took an average of all  
10 the crafts and an average of all the inspectors and compared  
11 them at some point back in time, what those averages would  
12 look like.

13 I would expect on that basis that the QA man  
14 would certainly -- I would expect him to make as much  
15 as the average construction worker, if not higher.

16 The reason for that being that in discussing  
17 the comparative wages of inspection personnel and construction  
18 personnel, I have been focusing on the higher skilled  
19 crafts, which I think for the purposes of our discussions  
20 here makes my remarks conservative, and that's the way  
21 I intended.

22 But for example, the carpenters, cement finishers,  
23 rebar, ironworkers, structural welders make less than  
24 that in the craft; and in earlier stages of the job there  
25 were -- percentagewise there were more of those people

1 than in the later stages of the job when pipe welding  
2 and electrical work and other kinds of things occur.

3 So if you take all of that information and  
4 then, I guess, make a judgment, I would expect that the  
5 wages would have compared quite favorably.

6 I'm not sure that's meaningful.

7 Q You are really making a judgment based on  
8 some fairly general information. You haven't done that?

9 BY WITNESS BROOM:

10 A No, I haven't done that, but I'm pretty confident  
11 that that would be the outcome.

12 What I've said is I don't really know the  
13 significance of that. I don't really know what that proves.

14 That was not the purpose in which I was discussing  
15 the wage rates in my earlier testimony.

16 Q Mr. Vurpillat, we got back to training because  
17 you had gathered some more information, and that gets  
18 me back to training as I go through my recross.

19 You gave some interesting figures of 17,000  
20 participants in a single year from the plant.

21 You did mention that some people must have  
22 done it more than once.

23 BY WITNESS VURPILLAT:

24 A Yes, obviously, I think. That number relates  
25 to the construction people on the job.

1 Q That relates only --

2 BY WITNESS VURPILLAT:

3 A Only to the construction people.

4 Q -- to the construction people.

5 How many construction people are there on  
6 the job?

7 BY WITNESS VURPILLAT:

8 A Well, the number I gave you was for 1980,  
9 and I'm not sure of the average level of manpower, of  
10 construction people on the job in 1980.

11 I would guess maybe 2200, 2500, 3500.

12 BY WITNESS BROOM:

13 A Thirty-five hundred people.

14 Q Thirty-five hundred construction people, not  
15 including QA/QC, not including administration.

16 BY WITNESS GROTE:

17 A No, total Brown & Root people.

18 Q I'm sorry?

19 BY WITNESS GROTE:

20 A That would be total staff on the job.

21 Q That's total staff?

22 BY WITNESS GROTE:

23 A Yes, 3300, 3500.

24 Q Mr. Grote, I think you were in the audience.

25 Maybe you can help us out.



1 Mr. Vurpillat did give us figures for construction  
2 personnel who got training, and it was 17,000 participants  
3 in training for a total of 140,000 man-hours of training.

4 My question really is what was the size of  
5 the pool that participated in that that made up 17,000.  
6 Presumably the pool did not include QA/QC people, because  
7 that's a separate category.

8 Presumably it also didn't include clerical  
9 people or that sort of thing.

10 Are you able to give us some feeling of that?

11 BY WITNESS GROTE:

12 A. The total number of people on the job site,  
13 average in 1980, was probably about 3500.

14 Of those 3500, approximately 200, 250 in QA/QC.

15 Theoretically, the total force could have  
16 participated in training.

17 I'm sure there were some people, like you  
18 mentioned, clerical people, who did not; but virtually  
19 the entire balance of the thirty-two, thirty-three hundred  
20 people or so, could have been involved in that training.

21 Q Of this training, and there were three categories  
22 that you gave, Mr. Vurpillat -- I don't intend to go into  
23 the details of all of them.

24 But of all the training you mentioned in the  
25 three categories, how much of that was mandatory training?

1 BY WITNESS VURPILLAT:

2 A Mr. Jordan, I don't think I know that.

3 Q Do you know how many people did not participate  
4 in the training?

5 BY WITNESS VURPILLAT:

6 A I think I can answer that question by indicating  
7 that everybody that was required to undergo the training  
8 did undergo the training. That I can be sure of.

9 JUDGE BECHHOEFER: Mr. Jordan, at some point  
10 we want to take a morning break, so when you get to a  
11 place which is a good breaking point, let us know.

12 MR. JORDAN: I think I'm pretty close to one.

13 JUDGE BECHHOEFER: Okay.

14 BY MR. JORDAN:

15 Q On the same subject, Dr. Broom described a  
16 number of different types of training.

17 Specifically, I recall some videotapes, fifteen  
18 minutes to half an hour videotapes and perhaps others.  
19 I don't mean to shrink the universe. You can tell us  
20 what they are.

21 My question is, what's the makeup of that  
22 147 man-hours -- I'm sorry. I mean, 140,000 man-hours.

23 Is that made up of a lot of 15-minute videotapes  
24 or all-day-long sessions, or what?

25 //

1 BY WITNESS VURPILLAT:

2 A I think that the answer to your question is  
3 yes.

4 It's made up of both. I don't know the average  
5 length of a training session, except for the indoctrination  
6 session that everybody undergoes, that this is a nuclear  
7 project and this is what it involves and that type of  
8 thing, which is relatively short.

9 BY WITNESS BROOM:

10 A By the way, I checked. That's a 35-minute  
11 session, that introduction to nuclear projects for QA.  
12 I said 15 to 30 minutes, and I think it's about 35 minutes.

13 Q Okay.

14 BY WITNESS VURPILLAT:

15 A When we're talking procedural training, functional  
16 task training, procedure revision training, we're talking  
17 about training sessions from two hours to two days.

18 It would be awfully difficult to put an average  
19 length to this 140,000 man-hours that we mentioned yesterday.

20 BY WITNESS BROOM:

21 A And in addition to that, I don't know the  
22 number, but there, I'm sure, are many cases in which a  
23 small revision is to be covered through a procedure and  
24 a session is held, and that might very well only be 20  
25 or 30 minutes.

-12  
J  
1 I don't know, but I'm sure there's some of  
2 that that goes on.

3 I don't think the shortest session we would  
4 have would be two hours.

5 BY WITNESS VURPILLAT:

6 A Right. I think that there might be exceptions  
7 to that.

8 MR. JORDAN: That's a good break.

9 JUDGE BECHHOEFER: Okay. Fifteen minutes.

10 (Recess taken.)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- - -



STP  
5-1  
he

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 JUDGE BECHHOEFER: Back on the record.

2 Mr. Axelrad, did you wish to introduce these  
3 exhibits?

4 MR. AXELRAD: Yes, Mr. Chairman. We would like at  
5 this time to introduce as two additional exhibits for the  
6 Applicants some information which had been requested from  
7 Dr. Broom at the earlier sessions of this proceeding.

8 I have given copies to the reporter and to all of  
9 the parties.

10 I would like to have introduced as Applicants'  
11 Exhibit 41 a two-page document, the first page of which is  
12 entitled, "Brown & Root STP Personnel Assignment (1977 to  
13 Present)."

14 I would like to have identified as Applicants'  
15 Exhibit No. 42 a document, the first sheet of which has, as  
16 headings of three columns, "Job Classification," "Abbreviation,"  
17 and "Salary Grade," to which there are attached four charts.

18 (Applicants' Exhibits Nos. 41 and 42  
19 were marked for identification.)

20 VOIR DIRE EXAMINATION

21 BY MR. AXELRAD:

22 Q Dr. Broom, do you have before you the two-page  
23 document which has been identified as Applicants' Exhibit No. 41?

24 BY WITNESS BROOM:

25 A Yes, sir, I do.

5-2

1 Q Was that document prepared under your direction and  
2 supervision?

3 BY WITNESS BROOM:

4 A Yes, sir, it was.

5 Q Is that document true and correct to the best of  
6 your knowledge and belief?

7 BY WITNESS BROOM:

8 A Yes, it is.

9 Q Do you have before you the document which has been  
10 identified as Applicants' Exhibit No. 42?

11 BY WITNESS BROOM:

12 A Yes, sir.

13 Q Was that document prepared under your direction  
14 and supervision?

15 BY WITNESS BROOM:

16 A Yes, it was.

17 Q Is that document true and correct to the best of  
18 your knowledge and belief?

19 BY WITNESS BROOM:

20 A Yes, it was. This document is correct. I think I  
21 made an error yesterday; in reviewing the testimony I think I said  
22 yesterday that Mr. J. A. Thompson was a Manager 4, and he is a  
23 Manager 5. I was really referring to Mr. Gerald Martin. But  
24 these charts are correct.

25 MR. AXELRAD: Mr. Chairman, I would move, without

5-3 1 objection, that Applicants' Exhibits 41 and 42 be admitted into  
2 the record.

3 JUDGE BECHHOEFER: Any objection?

4 MR. JORDAN: No objection.

5 MR. REIS: The Staff has no objection.

6 JUDGE BECHHOEFER: The documents will be admitted.

7 (Applicants' Exhibits Nos. 41 and 42  
8 were received in evidence.)

9 MR. AXELRAD: Mr. Chairman, one further remark.

10 In the discussions that were held on the record at that time  
11 that these documents were requested, there was also some  
12 discussion about providing specific salary ranges, that the  
13 company, Brown & Root, as we mentioned at that time, that  
14 information would be proprietary, we would prefer not to make  
15 that information part of the record.

16 We have provided information here as to salary grades  
17 for each of the positions. It is possible to tell comparability  
18 by just looking at the information we have provided here. We  
19 really do not believe that actual salary ranges are necessary  
20 for purposes of this Board or any party, and we do not at this  
21 time intend to provide that particular information.

22 JUDGE BECHHOEFER: I believe it was the Board that  
23 asked for this information. We believe that the exhibits are  
24 sufficient to show comparability, which is what we were  
25 interested in, so we will accept that.

5-4

1 MR. AXELRAD: Fine, Mr. Chairman.

2 JUDGE BECHHOEFER: Okay. Wait a minute.

3 JUDGE HILL: Can I presume the salary grade, the  
4 way you have a salary grade of 12, that that is the same salary  
5 grade as, for example, the Engineer 3 is a Salary Grade 12 --  
6 I'm sorry, I should direct this to Dr. Broom.

7 WITNESS BROOM: Yes, sir. That is correct.

8 JUDGE HILL: And the QA/QC Specialist 4 is also a  
9 Salary Grade 12, and that means they are in the same comparable  
10 salary grade?

11 WITNESS BROOM: That is correct. The ranges  
12 correspond precisely to these numbers, salary grade.

13 JUDGE HILL: All right. That's sufficient. Thanks.

14 JUDGE LAMB: Dr. Broom, is it also correct that the  
15 numbers do not necessarily mean equivalence from a point of view  
16 of position?

17 For example, since you say a QA/QC Specialist 4 is  
18 in Salary Grade 12, an Engineer 3 is in Salary Grade 12, those  
19 two are the same from the point of view of salary but are they  
20 the same from a point of view of relative position in the  
21 organization?

22 WITNESS BROOM: I think that you'd have to look at  
23 the chart to really answer that in every case. In some cases,  
24 yes, and in other cases perhaps not.

25 JUDGE LAMB: Okay. So that does not necessarily



5-5  
1 mean equivalence, the fact that they're both rated at 3 doesn't  
2 mean that they are equivalent in relative positions?

3 WITNESS BROOM: You said rated at 3. What --

4 JUDGE LAMB: The fact that both are rated at the 3  
5 level, would that necessarily mean that they are viewed as  
6 being equivalent in position?

7 WITNESS BROOM: Right. That is correct.

8 JUDGE LAMB: All right. Thank you.

9 JUDGE BECHHOEFER: Okay. You may go ahead.

10 RECROSS-EXAMINATION (Continued)

11 BY MR. JORDAN:

12 Q I have a few quick questions on the documents just  
13 to help me understand. I haven't obviously had time to look at  
14 them much.

15 First, at least on the last page of Exhibit 42 --  
16 and these will all be on Exhibit 42, by the way -- there are a  
17 number of blanks which neither have names nor job titles, job  
18 classifications.

19 I take it they don't have names because there's  
20 nobody in those positions?

21 BY WITNESS BROOM:

22 A That's correct.

23 Q Does the fact that they don't have job classifi-  
24 cations mean there isn't a job classification for those  
25 positions?

5-6 1 BY WITNESS BROOM:

2 A I guess I really hadn't thought about that. I don't  
3 know. We probably could put some expected job classification  
4 associated with that; since they were not filled, I just didn't  
5 do that.

6 BY WITNESS GROTE:

7 A That's right. We could put expected classifications  
8 in those slots, but occasionally we'll transfer people to a  
9 position from another position, and he'll carry with him his  
10 job classification, which, if you'll study this chart, you'll  
11 see some people that are of higher classification reporting on  
12 the project to a person of lower classification, and that's  
13 reflective of our selecting some senior person in the organi-  
14 zation and putting him in an open slot on the job.

15 Q So that could also happen with people who are in  
16 these slots now if they change? If somebody moves, then the  
17 whole job classification for that slot could change, depending  
18 on who goes into it?

19 BY WITNESS GROTE:

20 A Yes. That's true. Generally, the job has a  
21 classification of the person. You'll see very much consistency  
22 in the classification and the job position, but occasionally  
23 there will be what appears to be an inconsistency, and that  
24 generally results from our transferring someone to that position  
25 from another position in the company.

5-7

1 Q Now, the only other question I have, in trying to  
2 follow up on Dr. Lamb's concern and check the chart with  
3 respect to, say, comparing a QA Spec 4 and an Engineer 3, I  
4 find there aren't any QA specialists on the chart.

5 Were are they? Are they off the bottom of the chart,  
6 at least the QA chart? The QA chart would be Chart 3.

7 BY WITNESS VURPILLAT:

8 A Yes, they'd be off the chart.

9 Q Are those the four positions, A, B, C, D, that you  
10 talked about?

11 BY WITNESS VURPILLAT:

12 A I don't quite understand.

13 Q These four QA specialist positions, are they the  
14 four levels of inspectors, or is that something else altogether?

15 BY WITNESS VURPILLAT:

16 A No, that's something else entirely.

17 MR. JORDAN: Okay. That's all I would have at this  
18 point. I obviously haven't looked at it for long.

19 BY MR. JORDAN:

20 Q Dr. Boom, on the subject of Mr. Swayze and the  
21 card games, you testified that you had talked to two others  
22 about the Swayze card games.

23 Who did you talk to about the Swayze card games,  
24 you personally? Not the Swayze, the the Swayze allegations  
25 of card games.

5-8 1 BY WITNESS BROOM:

2 A I believe I said I had spoken to two individuals  
3 who were alleged to have participated in the card game. I  
4 have spoken to far more than two individuals about the Swayze  
5 situation.

6 Q Who were the two individuals?

7 BY WITNESS BROOM:

8 A I don't recall right now. If I can check a moment.  
9 One is Mr. Singleton. I believe I have spoken to Mr. Hammons  
10 about that in the past.

11 Those are the only two names that I -- I may have  
12 spoken to some of these other people, but I don't recall  
13 specifically.

14 - - -  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



5-9

1 JUDGE BECHHOEFER: Could you repeat the name of  
2 that second person?

3 WITNESS BROOM: Hammons, H-a-m-m-o-n-s.

4 JUDGE BECHHOEFER: Okay. Thank you.

5 Go ahead.

6 BY MR. JORDAN:

7 Q Mr. Vurpillat, you testified that the NRC findings,  
8 and I may be summarizing, so correct me if I'm not precise,  
9 with respect to STP, on which the Show Cause Order was based,  
10 were practically the same as those for any -- for other  
11 nuclear projects.

12 Is that a fair characterization, or do you want to  
13 refine it?

14 BY WITNESS VURPILLAT:

15 A I think what I said was that none of the findings  
16 that the NRC came up with in 79-19 were -- involved situations  
17 that I had not seen on other projects.

18 Q Can you identify for us all of the other projects  
19 where you have seen such situations to a degree as extensive as  
20 reflected in 79-19?

21 BY WITNESS VURPILLAT:

22 A Mr. Jordan, that's an extremely general question,  
23 and it's going to be difficult to answer.

24 I have never been involved on a project that had an  
25 investigation by the NRC, or an inspection by the NRC that was

5-10 1 anywheres nearly as extensive as 79-19, so there are more  
2 findings in 79-19 than I have seen in other inspection,  
3 individual inspection reports on other projects; if that's  
4 clear.

5 If you take the sum total of problems identified  
6 in 79-19 and relate them to other projects, the comparison is  
7 extremely difficult to make.

8 If we take -- of the 22 findings, I don't believe  
9 that there is -- I believe that I could -- I could tell you  
10 which projects I've seen those on, and I don't know whether you  
11 want to get into that.

12 Q I'm not interested in where you may have seen  
13 individual findings from among the 22, but in other projects  
14 where the findings or the situation was as extensive as here.

15 BY WITNESS VURPILLAT:

16 A That requires a subjective analysis on my part of  
17 "extensive."

18 There were -- of the 22 items of noncompliance,  
19 there involved an awfully lot of allegations which were  
20 substantiated or unsubstantiated to varying degrees.

21 Q I don't want to put you in a difficult position.  
22 If you feel that based on the kind of reason you just expressed  
23 you can't make the comparison or can't identify any place else,  
24 simply say so.

25 / / /

1 BY WITNESS VURPILLAT:

2 A I think over the course of three projects that I  
3 can recall, at least three, three of which that come to mind  
4 rather readily, there have been violations not exactly the same  
5 but of the same nature and the same number as identified in 79-19.

6 If you want me to -- those three projects are the  
7 Salem Project, the Three Mile Island Project and the WPPS I and IV  
8 Projects.

9 Q Were Show Cause Orders issued for any of those  
10 three projects on the basis of those violations?

11 BY WITNESS VURPILLAT:

12 A Not to my knowledge.

13 Q Dr. Broom, you testified that -- you testified  
14 concerning people who had admitted that they didn't inspect  
15 things they were required to inspect.

16 You said first that only one person -- you could  
17 recall only one person who had actually said he didn't inspect  
18 when he was supposed to. That was Mr. Swayze. Then you amended  
19 that to say that there was one other case of failure to inspect.  
20 Who was that, and when?

21 BY WITNESS BROOM:

22 A The incident that popped into my mind was -- I  
23 don't know the name, but it was the incident surrounding the --  
24 I don't know what the fellow's -- he was in the vendor, the  
25 subcontractor surveillance group. He said that he had made an

5-12

1 inspection and then later he said that he had not made the  
2 inspection, and was terminated. That was on a subcontractor  
3 surveillance inspection of EDM welding activities, and it was  
4 one of the items we were talking about this morning. I don't  
5 remember the number.

6 Q Is that reflected in 79-19, do you know?

7 BY WITNESS BROOM:

8 A No. I believe that happened after 79-19, if my  
9 memory serves me right. I may be wrong. I'm confused.

10 What I had in mind was there that he finally  
11 admitted that he had lied about making the inspection, and so --  
12 I can't, you know, obviously on that instance I have to say he  
13 did not make his inspection. I don't think that was due to  
14 harassment or intimidation, which is what we were talking about  
15 at the time, but that was an individual case where an inspector  
16 admitted that he did not make an inspection.

17 I believe, if I remember correctly -- yes, this is  
18 the item covered in Inspection Report 80-14 that we were  
19 talking about earlier, and that occurred after the 79-19 report  
20 incident occurred in -- well, the NRC inspections were done in  
21 June of 1980, and I've forgotten the date on which the  
22 inspection was alleged to have been missed, but it was sometime  
23 earlier.

24 Q Well, that's in the document, I guess.

25 / / /



5-13

✓

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY WITNESS BROOM:

A. Yes, it is.

- - -

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 654-2346

1           Q       Now, Dr. Broom, I would like to get to an  
2 area where I, not having built a nuclear plant, I'm a  
3 bit confused, and that is this area of the percentage  
4 of completion of engineering that you talked about at  
5 some length.

6                    You had clearly reviewed it carefully, and  
7 I'd like to take advantage of the fact that you are clearly  
8 familiar with that.

9                    My understanding is that there was a point  
10 early in the project, and my understanding is that it  
11 was essentially when you went to the site to begin construction,  
12 that there was an estimate that 50 percent of engineering  
13 had been completed.

14                   This, as you explained, was based on the fact  
15 that engineering -- that estimate was based on a concept  
16 of budgeted man-hours expended. Am I right so far?

17 BY WITNESS BROOM:

18           A       Yes. When we went to the field, we had expended  
19 approximately 50 percent of the then-budgeted engineering  
20 man-hours. That's correct.

21           Q       And was that in 1975? Can you pinpoint that  
22 date for us?

23 BY WITNESS BROOM:

24           A       Yes, sir. I don't remember whether the report  
25 I looked at that had the 50 to 60 percent figure was

1 December of '74 or January '75, but it was along about  
2 the time -- I'm sorry, December '75 or January '76.

3 It was along about the time the construction  
4 permit was issued.

5 Q Now, what was the figure of which that was  
6 50 percent? Was that based on a 1973 conceptual design  
7 that we've heard about or on something else?

8 What is that 50 percent of?

9 BY WITNESS BROOM:

10 A I would have to check and tell you the number.  
11 I can tell you what the number -- I don't know the actual  
12 number, but I can tell you what the report would have  
13 shown.

14 The report would have been published, as I  
15 said, in late '75 or early '76. It would show the expended  
16 man-hours versus the then-budgeted man-hours.

17 So that would have been the then-budgeted  
18 engineering man-hours for, I suppose the last time it  
19 was updated, 1975, probably.

20 Q Okay. I think you just explained what I was  
21 trying to get to.

22 Then-budgeted, then, is a figure that is a  
23 1975 revision from any previous figures?

24 BY WITNESS BROOM:

25 A As far as I know. I haven't checked that

1 specifically, but that's what it should have been, yes.

2 Q Well, there's at least one person here that's  
3 unclear on that. Let me make sure.

4 The budgeted hours were budgeted in 1975?  
5 In other words, the total budget was a 1975 figure that  
6 would have been revised from any previous figures; is  
7 that what your testimony is?

8 BY WITNESS BROOM:

9 A Yes, sir. What I'm saying is that when we  
10 began the job we had a man-hour estimate for performing  
11 the engineering, and roughly annually, I think, that man-  
12 hour budget was revised.

13 As I explained earlier, I don't recall specifically  
14 if we did that each year, '74, '5, '6, '7, but since the  
15 job started, it has been done roughly annually.

16 It might not have been done in 1974. I believe  
17 it was done in 1975.

18 I think we were working then against an estimate  
19 that was higher engineering man-hours than the original  
20 estimate of engineering man-hours in 1973.

21 Q Now, you mentioned a number of things that  
22 caused your estimates to be wrong, as is true in many  
23 nuclear plants, and I'm sure in much large construction,  
24 for that matter.

25 One I'd like to focus on in particular is



1 this matter of the foundation.

2 You went to the site to begin construction  
3 in late '75. You testified that the original concrete  
4 estimate you had to change considerably because of a geotechnical  
5 study that told you essentially that you would need a  
6 larger foundation for the project.

7 Now, that geotechnical study was done, wasn't  
8 it, before you went to the project to actually do the  
9 construction? So that would have been taken into account  
10 by that point?

11 BY WITNESS BROOM:

12 A Yes. As I think I tried to explain, I was  
13 called upon to make an analysis or look into the reasons  
14 for the changes or increases in the project between two  
15 specific dates.

16 That was 1973 and 1978, original estimate  
17 and 1978. This was occasioned by a presentation that  
18 we made to the owner of the plant.

19 I believe I began my testimony yesterday on  
20 this subject with that preface.

21 That was what led me in 1978 to becoming involved  
22 in detail in this data, the preparation of that presentation.

23 So the material that I reviewed was reviewed  
24 for that specific purpose.

25 I don't have the same type information for

5  
1 each year, year-by-year; but certainly, in 1974, prior  
2 to our going in the field in January of 1976, we had had  
3 the geotechnical investigations underway at the job site.

4 Soil borings had been taken, various tests,  
5 the subsidence study had been undertaken.

6 I don't remember when all the data that resulted  
7 from those programs specifically came into our engineering  
8 organization; but certainly, we were aware of the characteristics  
9 of the soil prior to moving into the field and beginning  
10 our foundation design and so on. It was necessary to  
11 support going into the field.

12 But you do understand that when we moved to  
13 the field, we didn't start pouring concrete the first  
14 day.

15 We had a huge lake to build and a number of  
16 civil activities, earth-moving and so on.

17 There may have been some finalization of foundation  
18 designs that was factoring in additional information or  
19 further information from the geotechnical study after  
20 we actually moved onto the site.

21 I'm trying to be very precise in answering  
22 your question.

23 We might have had some additional information  
24 concerning the site characteristics after the issuance  
25 of the construction permit; but generally we knew what

1 the problems were and what we were faced with.

2 Q 1973, was that when you essentially began  
3 designing the project, other than some very preliminary  
4 work? Is that fair?

5 BY WITNESS BROOM:

6 A Beginning the design of the project is a generic  
7 type term, and I think it's proper to say we began design  
8 in 1975.

9 We certainly could not begin any detailed  
10 design in 1975, but we began --

11 Q '5 or '3?

12 BY WITNESS BROOM:

13 A I'm sorry. 1973. Thank you for correcting  
14 me.

15 Major equipment decisions, general layout,  
16 general configuration of the plant, the preliminary engineering  
17 required to support preparation of the PSAR, yes, those  
18 were begun in 1973.

19 Q You testified that each month you have some  
20 sort of a curve that you publish that tells you in effect  
21 where you are on engineering completion.

22 BY WITNESS BROOM:

23 A No, sir. I think I said we have a curve that  
24 appears in a monthly progress report in that timeframe  
25 that showed you expended man-hours versus budgeted man-hours.

1 Q Okay, which at that time was commonly used  
2 as engineering completion figure?

3 BY WITNESS BROOM:

4 A That was the measurement of engineering progress,  
5 but since there have been several terms of engineering  
6 progress used here in this discussion, I'd like to be  
7 very clear about that.

8 Q Okay. I'll try to be careful on that.

9 I take it that this curve was changed each --  
10 not only each month, but particularly each year, according  
11 to your re-estimate of the basis -- in other words, your  
12 rebudgeting of the total, so that -- and let me give an  
13 example and see if it fits. It seems to make sense to  
14 me.

15 You could, because of all the extensive changes  
16 you've talked about, come up with a figure that, say,  
17 is in 1975 (and I'm just doing this for purposes of illustration),  
18 a 50 percent figure in 1975.

19 You could do a lot of work in 1976 and come  
20 up with a 50 percent figure at the end of 1976, just because  
21 of all the reasons that you have stated, correct?

22 BY WITNESS BROOM:

23 A Yes, sir.

24 Q You've changed the parameters and so you are  
25 back at 50 percent again.



1 BY WITNESS BROOM:

2 A Yes, sir, that could happen.

3 Q And that's the kind of updating that you did  
4 on the engineering man-hours budgeted premise throughout  
5 the period?

6 BY WITNESS BROOM:

7 A Yes, sir, but I should add that even with  
8 today's engineering tracking methods that are pretty much  
9 in use by all engineering companies now, that same type  
10 of thing can happen, where you are not just measuring  
11 man-hours, but where you are tracking progress on physical  
12 progress of engineering documents, drawings, other ways  
13 to measure actual completion of the engineering work,  
14 because as changes occur which require additional man-  
15 hours, in many cases they require additional products.

16 So that can also change.

17  
18 - - -  
19  
20  
21  
22  
23  
24  
25

1 Q It's just a change of measurement system.  
2 You should come up with basically the same kind of progress.

3 BY WITNESS BROOM:

4 A Yes. Well, not precisely. I don't know that  
5 you want to get into that detail, but....

6 Q When did you change the method from engineering  
7 man-hours to, in effect, hard documents produced?

8 BY WITNESS BROOM:

9 A I think I testified yesterday, Mr. Jordan,  
10 I'm not sure precisely when that was done.

11 We were certainly talking about it in 1978.  
12 This is quite an undertaking and you don't do it overnight.

13 I believe we began implementing a system like  
14 that in 1978, and refinements to that have been made every  
15 since, or for an extended period of time.

16 Mr. Grote might remember.

17 BY WITNESS GROTE:

18 A It was 1979 when we -- We report progress  
19 in engineering in two basic ways now.

20 We continue to report the percentage of the  
21 budgeted man-hours expended, which is one measure of how  
22 much of the work you've done.

23 We also report the percentage of what we call  
24 deliverables issued. Deliverables would be specifications  
25 and drawings, basically, the documents that represent

1 the product of engineering.

2 BY WITNESS BROOM:

3 A This report that I was referring to that I  
4 made was in the fall of '78 and I know we were talking  
5 about that at that time, and I would remember that within  
6 a few months -- Mr. Grote said 1979.

7 I couldn't disagree with that. Maybe it went  
8 into effect in early '79.

9 If you are looking for a year, I guess '79,  
10 late '78.

11 JUDGE BECHHOEFER: Pardon me, Mr. Grote.

12 Is there any reports that are now made that  
13 take into account physical completion.

14 I know that either you or Dr. Broom said that  
15 those rep. r's were not made at an earlier date.

16 BY WITNESS GROTE:

17 A Physical completion in engineering is represented  
18 by the deliverables that I mentioned.

19 The work that's done by engineering to support  
20 the construction effort is the issuance of mainly drawings  
21 and also specifications; and so we measure the numbers  
22 and we weight those items in the fashion that represents  
23 the effort that goes into their preparation, and we report  
24 a percent complete of deliverables, which is the physical  
25 percent complete of engineering.

-11 1 JUDGE BECHHOEFER: I see, and that's what  
2 I wanted to clarify.

3 That's not merely a review of contract documents  
4 in terms of their satisfaction?

5 WITNESS GROTE: I'm sorry, I didn't understand  
6 that question.

7 JUDGE BECHHOEFER: Well, that takes into account  
8 the physical completion of whatever the item is, the accomplishment  
9 of the particular item?

10 Deliverables doesn't mean that you ordered  
11 something from a --

12 WITNESS GROTE: Oh, no. I'm sorry.

13 It takes into account --

14 JUDGE BECHHOEFER: That's what I was trying --

15 WITNESS GROTE: -- the physical work that's  
16 being done by engineering.

17 It's a measure of the physical percent complete  
18 of the work that's done by engineering.

19 JUDGE BECHHOEFER: All right. Thank you.

20 MR. JORDAN: That's my recross and according  
21 to our complicated system, we now go to Mr. Sinkin's recross.

22 JUDGE BECHHOEFER: On 81-11?

23 MR. JORDAN: This is recross on what we've  
24 had thus far and then 81-11.

25 JUDGE BECHHOEFER: But not the same areas



1 you covered.

2 MR. SINKIN: Generally not, just one or two  
3 questions.

4 Before doing that, Mr. Chairman, we did submit  
5 two exhibits for authentication, Exhibits No. 16 and No. 17.

6 JUDGE BECHHOEFER: Hold on a minute. It will  
7 take me a minute or two to find them.

8 MR. SINKIN: It's the T. P. Gardner memo is  
9 the 16, and the M. J. Meyer trip report is 17.

10 This is not the package that was submitted  
11 night before last. This was in our last session.

12 (Pause.)

13 MR. SINKIN: Have you found the documents  
14 now, Mr. Newman?

15 MR. NEWMAN: Yes. I think we're checking  
16 to see whether or not the authentication process on those  
17 was completed, and I am told that everything is satisfactory.

18 They are authentic.

19 MR. SINKIN: Then I would move into evidence  
20 CCANP Exhibit No. 16 and CCANP Exhibit No. 17.

21 JUDGE BECHHOEFER: Are there any objections?

22 MR. NEWMAN: If I may, just for a moment,  
23 examine the documents.

24 JUDGE BECHHOEFER: Point of inquiry. Have  
25 we not already accepted these documents subject to authentication?

1 I have a note on at least one of these, on  
2 16 at least, that that's what happened.

3 MR. SINKIN: Well, my note -- I really wanted  
4 to clear this up.

5 My note said moved into evidence at an earlier  
6 date, if the authenticity is not contested by the Applicant.  
7 My note, the "if" was what was in my mind, "if it was  
8 not contested," but maybe it has been accepted into evidence  
9 subject to authenticity.

10 That may well be.

11 MR. NEWMAN: In any event, any question as  
12 to authenticity has been resolved. We have no question  
13 as to the authenticity of Exhibit 16 or Exhibit 17.

14 JUDGE BECHHOEFER: My inquiry was whether  
15 those were already in evidence, subject to questions of  
16 authenticity.

17 MR. SINKIN: That was my understanding.

18 JUDGE BECHHOEFER: If that's the case, then  
19 absent any authenticity objection, they will be admitted.

20 Otherwise, we would be open to --

21 MR. NEWMAN: There is no objection, sir.

22 JUDGE BECHHOEFER: Okay. The documents will  
23 be admitted into evidence.

24 (Exhibits Nos. CCANP 16 and  
25 17 were received in evidence.)

1 MR. SINKIN: Thank you.

2 Then there was a question on CCANP Exhibit  
3 18, which was the compilation of Mr. Swayze's personnel  
4 file, as to whether it would be supplemented by the Applicants.

5 MR. NEWMAN: We will be able to respond on  
6 Exhibit 18 at lunchtime. That file is still being looked  
7 at right now.

8 MR. SINKIN: Okay.

9 JUDGE BECHHOEFER: All right. We will defer  
10 that until that time.

11

12

- - -

13

14

15

16

17

18

19

20

21

22

23

24

25

1 BY MR. SINKIN:

2 Q Dr. Broom.

3 BY WITNESS BROOM:

4 A Yes, sir.

5 Q In your testimony you stated that you had  
6 reviewed the sources that contain the various allegations  
7 of threats or harassment or whatever at Brown & Root.

8 BY WITNESS BROOM:

9 A I had reviewed the sources?

10 Q Well, that you had reviewed -- wherever you  
11 keep that information, you had reviewed that information  
12 at Brown & Root in terms of allegations made of threats  
13 or harassment or intimidation or physical force used.

14 MR. NEWMAN: Mr. Chairman, I'm going to object  
15 to that question.

16 I think it mischaracterizes the record unless  
17 Counsel has a reference in the transcript to that testimony,  
18 where that statement was made.

19 MR. REIS: Mr. Chairman, I think the problem  
20 may be the word "sources."

21 Do you mean the files?

22 MR. SINKIN: Files, however you keep them.

23 MR. REIS: I think the word "sources" we've  
24 used two ways, and it may be that word.

25 I don't know whether the objection is still



1 there, but I think the problem is the word "sources."

2 MR. NEWMAN: Could we just have the question  
3 rephrased?

4 MR. SINKIN: I'll rephrase the question.

5 BY MR. SINKIN:

6 Q My notes reflect that you testified that you  
7 reviewed the Frown & Root reports and that those sources  
8 should have contained the instances of allegations of  
9 harassment or intimidation and abuse.

10 Is it correct that you reviewed the Brown  
11 & Root reports dealing with those instances?

12 BY WITNESS BROOM:

13 A Yes. I reviewed the NRC reports and Brown  
14 & Root reports surrounding incidents of intimidation and  
15 harassment.

16 I hope that I reviewed them all. I believe  
17 I did.

18 Q Okay.

19 MR. SINKIN: At this time, Mr. Chairman, I  
20 would like to submit -- mark for identification a document  
21 that was distributed on Monday night.

22 It is the package dealing with the altercation  
23 in July of '77.

24 On the top is a letter that starts out, "Frank."

25 (Discussion off the record.)

-17

(CCANP Exhibit No. 20 was marked  
for identification.)

JUDGE BECHHOEFER: Is this merely the one page that  
starts with "Frank," or --

MR. SINKIN: No, it's the entire group of  
pages.

MR. NEWMAN: How many pages?

JUDGE BECHHOEFER: To make sure we all have  
it.

MR. SINKIN: Fourteen pages in all.

JUDGE BECHHOEFER: That's going to be CCANP 20?

MR. SINKIN: CCANP Exhibit 20.

MR. AXELRAD: And what is the last page of  
that package?

MR. SINKIN: The last page of that package  
would be a memorandum from Charles Bishop to Mr. James Monroe.

WITNESS BROOM: Mr. Sinkin, one more time, how many  
pages?

MR. SINKIN: Well, I've got 14.

You have the document in front of you, Dr. Broom.

WITNESS BROOM: Yes, I believe I've identified the 14  
pages you've referred to.

MR. SINKIN: Fine.

BY MR. SINKIN:

Q Do you recall if you reviewed these documents

1 prior to coming to these proceedings to testify?

2 BY WITNESS BROOM:

3 A No, I don't recall seeing all of them prior to coming  
4 to this hearing.

5 I have reviewed these since you submitted  
6 them a couple of days ago. I believe some of them I had  
7 seen previously.

8 Q Are you aware that in the first set of  
9 interrogatories submitted by CCANP that we requested from  
10 the Applicants the Brown & Root file on the investigation  
11 of the James Marshall altercation?

12 BY WITNESS BROOM:

13 A No, sir, I was not aware of that.

14 Q Which of the pages are you familiar with and  
15 which of the pages are you not familiar with?

16 We can just walk through them from page 1  
17 backwards.

18 BY WITNESS BROOM:

19 A Mr. Sinkin, I think that I just said I re-  
20 read all of these pages within the last few days. I have  
21 become familiar with all of them.

22 Q Excuse me. Which pages were you familiar  
23 with before this document was distributed two nights ago?

24 BY WITNESS BROOM:

25 A I'm not sure I can tell you that. I'll try.

-19 1 I don't believe I had ever seen this first  
2 sheet, started, "Frank."

3 I probably saw the second page. I believe  
4 I remember reading this memorandum from Crane to Asbeck.

5 Q That would be the third through the fifth  
6 page?

7 BY WITNESS BROOM:

8 A Yes, sir. I'm pretty sure I had read that  
9 before.

10 I think I saw this document signed by, it  
11 looks like, James Marshall. I believe I remember some  
12 of the colorful language in there.

13 The handwritten report from Mr. Singleton,  
14 I believe I read that earlier.

15 I believe I read this one-page document from  
16 Pittsburgh Testing Laboratory.

17 I don't remember the next document. I may  
18 very well have read it. Again, there's some colorful  
19 language there that didn't ring a bell when I read it  
20 the second time -- I mean, when I saw it here in the last  
21 few days.

22 I might have seen it previously.

23 Q That's the statement of Jackie Cox?

24 BY WITNESS BROOM:

25 A Yes, it looks like Jackie Cox. C-o-x is



1 the last name.

2 Oh, yes, it says at the top, "I, Jackie Cox,"  
3 yes.

4 The next page from Mr. Reddy, I really don't  
5 remember whether I saw that or not. I may have.

6 I believe I had seen this handwritten page  
7 from B-a-d-i-l-l-a, Badilla, Charles Bishop and Monroe.

8 I don't remember specifically this piece of  
9 paper, but I probably saw that.

10 Q Fine, thank you.

11 BY WITNESS BROOM:

12 A I think I've said earlier I've read an awful  
13 lot of pieces of paper in recent months and it's hard  
14 for me to remember what I reviewed when.

15 Q I understand.

16 MR. SINKIN: Has Counsel for Applicants had  
17 an opportunity to check for authenticity of these pages?

18 MR. NEWMAN: Yes, we have, and we have no  
19 reason to question the authenticity of the document.

20 Obviously, the question of its weight remains  
21 open, there not being any witness who can testify, at  
22 least as of this point, no witness who can testify as  
23 to the truth of the matters stated therein.

24 But other than on that ground, we have no  
25 objection as to authenticity, or on that basis, the admissibility

1 of the document.

2 MR. SINKIN: I would move this into evidence  
3 as CCANP Exhibit No. 20.

4 MR. REIS: Staff has no objection.

5 JUDGE BECHHOEFER: Okay. The documents, the  
6 14 pages, will be admitted as CCANP 20.

7 (CCANP Exhibit No. 20 was  
8 received in evidence.)

9 BY MR. SINKIN:

10 Q Dr. Broom, in this exhibit, do these documents  
11 reflect the James Marshall incident that you have testified  
12 to before, the altercation between Mr. Marshall and Mr. Bazor in  
13 1977?

14 BY WITNESS BROOM:

15 A Yes, I think you could describe them as that.  
16 I think there may be some contradictions among them.

17 I seem to recall one fellow saying that he  
18 didn't hear anything or something, but yes, I'm sure these  
19 are all people who were associated with the circumstances  
20 and supposedly presents what they thought occurred.

21 Q Fine, thank you.

22 You testified that employees have come to  
23 you after 79-19 to say that they had been misquoted or  
24 taken out of context.

25 //

22  
1 BY WITNESS BROOM:

2 A I'm sorry. Could you repeat your question?

3 Q You testified that employees have come to  
4 you after 79-19 was issued to say that they were misquoted  
5 or taken out of context in the NRC report; is that correct?

6 BY WITNESS BROOM:

7 A Yes, that's correct.

8 Q Did you ask those employees to request from  
9 the NRC copies of their sworn statements?

10 BY WITNESS BROOM:

11 A No, I did not.

12 Q Mr. Vurpillat, you provided a breakdown of  
13 the training in 1980 and '81 with the man-hours and number  
14 of people and all that.

15 Can you give a rough percentage estimate of  
16 the amount of that training that resulted from corrective  
17 actions taken subsequent to 79-19?

18 BY WITNESS VURPILLAT:

19 A Mr. Sinkin, it's my understanding that the  
20 corrective action as the result of 79-19 involved a lot  
21 of things.

22 There were some commitments made in response  
23 to 79-19 that really weren't involved in correcting specific  
24 findings.

25 For instance, I believe there was a commitment



1 for refresher training, quarterly refresher training in  
2 the construction area, and also in the QA area.

3 That was not involved in correcting a specific  
4 deficiency-related -- In that context, for instance,  
5 as I recall the numbers....

6 In refresher training -- well, I really would  
7 prefer not to answer. I can check that and give you a  
8 little better answer after the next break.

9 Q Okay. To sharpen up my question just a little  
10 bit, what I would be looking for was how much training  
11 was done that would not have been done had it not been  
12 for 79-19?

13 Do you follow that?

14 BY WITNESS VURPILLAT:

15 A Yes, I follow that and I'm not sure I can  
16 answer that, because that presumes that we wouldn't have  
17 done -- that Brown & Root wouldn't have done anything  
18 different if there hadn't been a 79-19 report; and I'm  
19 not sure that I can make that assumption.

20 Q Okay. Well, given the two questions as you  
21 understand them.

22 BY WITNESS VURPILLAT:

23 A Why don't I -- I can get you a better breakdown  
24 on the hours of training and what was involved and maybe  
25 we can figure out a better compilation of the analysis



1 of the numbers.

2 Q Okay, fine.

3 Does the training for inspectors and construction  
4 supervisors include how to set a good example in dealing  
5 with each other, how to deal with each other with mutual  
6 respect?

7 BY WITNESS VURPILLAT:

8 A Yes.

9 Q When did the training begin to include that  
10 kind of training?

11 BY WITNESS VURPILLAT:

12 A I think specifically the training related  
13 to procedure -- I think it's mentioned in the testimony,  
14 and I believe the number is PGM02, which is how to resolve  
15 disputes between construction and QA people. The training  
16 on that procedure would involve that.

17 The instruction given by supervisors to individuals  
18 as to how to handle situations like that probably is not,  
19 for instance, contained in the training hours that I listed;  
20 but that is simply supervisory instruction.

21 I shouldn't say "simply," because it's certainly  
22 not a simple situation; but it's certainly part of the  
23 instructions that are given to individuals in performing  
24 their tasks.

25 That has been the subject of some -- I want

1 to say lectures, and that's the wrong word.

2 We talked about Mr. Rice's talk in early 1980,  
3 and talks by Mr. Vincent, and those kind of things.

4 I, myself, have talked to the people on several  
5 occasions. We must operate in a professional manner and  
6 this is how things are done.

7 Whether you call that -- that's certainly  
8 training. Again, I don't think it's counted in the hours  
9 that I gave you.

10  
11 - - -  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

7-1  
1 BY MR. SINKIN:

2 Q Would you ever include in that type of training  
3 actual acting out or role playing, for construction and  
4 inspection personnel?

5 BY WITNESS VURPILLAT:

6 A If I were giving the training, I might well do  
7 that.

8 Q Do you know if it is being done or has been done?

9 BY WITNESS VURPILLAT:

10 A No. I don't know whether it has being done in  
11 that manner or not, Mr. Sinkin.

12 BY WITNESS BROOM:

13 A Could I add something?

14 I don't know the specific details of the course,  
15 but in 1980 we instituted a human relation course, I believe  
16 taught by some professors at the University of Houston. I'm  
17 not sure about that. I believe that has been put on on  
18 several occasions, for supervisory people and I would expect,  
19 them, that there may have been the role-playing type  
20 instructions included in that.

21 I must, though, add that I did not review the  
22 details of the lesson plan. I heard comments about the course.  
23 I think that was done, but I am not absolutely certain.

24 BY MR. SINKIN:

25 Q Is it true, any of the three of you, that many of

1 the employees on the site do not speak English as their first  
2 language? By "first language" I mean they were not brought up  
3 speaking English.

4 BY WITNESS BROOM:

5 A Perhaps Mr. Grote should answer. I don't think  
6 that's true with regard to the Quality Assurance personnel.  
7 I think we have some Spanish-speaking people on our payroll,  
8 but I don't think we have anywhere near a majority that would  
9 fall in that category.

10 The extent of fluency in English in the construction  
11 force I am personally not familiar with. These may be. I  
12 don't know.

13 BY WITNESS GROTE:

14 A We have a fairly high percentage of the employees  
15 on the site that are what is classified as Mexican/American  
16 citizens. I don't recall the exact percentage of the direct  
17 work forces; in the 30 or 40 percent range, as I recall.

18 I don't really know what you mean by as a first  
19 language. I presume, just listening to some of them talk that  
20 use Spanish frequently in their exchanges with each other.  
21 I presume from that that they probably speak Spanish at home.  
22 I don't really know what their first language is.

23 Q How about Vietnamese?

24 BY WITNESS GROTE:

25 A I don't recall a percentage of Vietnamese, and I



1 have no way of knowing what their first language is. But,  
2 again, I would presume that based on their accent, and much  
3 more infrequent interchanges I've heard among them, that they  
4 do speak whatever Vietnamese speak at home.

5 Q Is any training given at this project in any  
6 language other than English?

7 BY WITNESS GROTE:

8 A No. Not to my knowledge, at least. And I'm real  
9 sure I'd know about it.

10 Q Dr. Broom, you discussed the foundation problems  
11 that you ran into that caused more concrete, and I think even  
12 a design change on the foundation, and you used the term  
13 called a buoyancy equation. Would you elaborate for me just a  
14 little bit what you meant by a buoyancy equation?

15 BY WITNESS BROOM:

16 A I'm not sure I intended to use buoyancy equation.  
17 I was really talking about buoyancy of a structure in soil  
18 foundation median.

19 If the plant is not founded on bedrock, and the  
20 structure -- if the mass of the structure is deficient in a  
21 small enough area, it can settle into the ground more, broaden  
22 the affected surface area of the foundation out to move or  
23 equalize any buoyancy affect.

24 Now, I'm sorry, I'm not a soils engineer or  
25 structural designer, and you have about tested my ability on

7-4  
1 that subject. We have some people coming on later who can talk  
2 at whatever depth you want in that field, but that's what I had  
3 in mind.

4 Q To your knowledge, was a study ever conducted  
5 regarding whether the foundation reached bedrock?

6 BY WITNESS BROOM:

7 A Pardon?

8 Q Was a study ever -- You did a great deal of  
9 excavation before you laid the foundation for the reactor  
10 containment building. Let's try Reactor Containment Building  
11 No. 1. Was a study ever conducted to determine if you actually  
12 reached bedrock?

13 MR. REIS: Mr. Chairman, I object to the relevance  
14 of the question.

15 I don't understand -- I think if we examine the  
16 PSAR and the FSAR, which the Board can take judicial notice of,  
17 I think bedrock is about 20,000 feet down, and I don't see the  
18 relevance.

19 MR. SINKIN: Well, I believe Mr. Broom just  
20 testified that what you were looking for was bedrock on which  
21 to --

22 WITNESS BROOM: No. I did not say that.

23 MR. SINKIN: Oh, I misunderstood. Excuse me.

24 JUDGE BECHHOEFER: I think we will sustain the  
25 objection, just because I don't think it is relevant to what

7-5 1 we are -- There is no connection of relevance at this stage.

2 BY MR. SINKIN:

3 Q Dr. Broom, you testified that you do annual updates  
4 of the schedule and the cost for the project, and have done so  
5 for every year since 1975, with the exception of 1980. Is that  
6 correct?

7 BY WITNESS BROOM:

8 A No, sir. I said that I believe we were to do that  
9 every year, and I am not sure we have done it every year. I  
10 think we have done it every year since 1975 but 1980.

11 Q Can you provide the dates, and the figures, for  
12 each year, the projected date of completion, and the projected  
13 cost for each year for which such a study was done?

14 BY WITNESS BROOM:

15 A No, sir. I don't have that information here.

16 Q Mr. Grote, I believe that's one of your specialties.

17 BY WITNESS BROOM:

18 A Cost and schedule information?

19 Q Cost and schedule, yes.

20 BY WITNESS BROOM:

21 A Oh, no. I don't have that information here.

22 Q Mr. Grote, I note from a description of your  
23 background that that's one of your specialties. Can you provide  
24 that information?  
25

1 BY WITNESS GROTE:

2 A We have -- Well, first of all, let me say that  
3 what Dr. Broom said is correct, that we did make an update of  
4 the estimates of cost and schedule for the project every year  
5 except 1980. I believe that is a hundred percent correct.

6 I made an extensive study of the history of the  
7 estimates, and the reasons for their changing over time, and  
8 we have that information available. That is Brown & Root. I  
9 don't have any of that here with me.

10 Q I'm sorry. I didn't hear you.

11 BY WITNESS GROTE:

12 A I don't have any of that with me here.

13 Q You don't have that with you.

14 A But we do have --

15 Q But you could get it?

16 BY WITNESS GROTE:

17 A Yes. I could get it.

18 Q I would like to see it.

19 MR. NEWMAN: Mr. Chairman, as we have indicated on  
20 earlier occasions, matters like this are to be addressed to  
21 counsel. That is, requests for additional information or  
22 documents, whatever the case may be, the discovery period having  
23 long, long ago expired, and I think that discovery matters,  
24 which this is exactly what is involved here, are too late at  
25 this point in time.



7-7  
1                   Moreover, I see absolutely no showing of relevance  
2 to any matter relating to QA/QC functions that are before the  
3 Board. We would, therefore, decline to furnish that information.

4                   MR. SINKIN: Mr. Chairman.

5                   JUDGE BECHHOEFER: Yes.

6                   MR. REIS: Mr. Chairman, in view of the lateness  
7 of the request and the tenuousness of the relevancy to any  
8 issue in this case, the Staff would also feel that there is no  
9 need at this point to produce the information.

10                  MR. SINKIN: I would suggest two grounds for  
11 producing the information.

12                  One, in his prefiled testimony Mr. Grote says that  
13 he is responsible for scheduling, estimating, including cost  
14 engineering, scheduling and estimating, he says so that it goes  
15 to the particular competence of Mr. Grote in his work, and  
16 since at issue in these proceedings is the technical competence  
17 of the applicant, the scheduling and estimating done by the  
18 contractor could well be relevant to the technical competence  
19 of the applicant.

20                  ///

21  
22                  ///

23  
24                  ///  
25

1 JUDGE BECHHOEFER: Off the record.

2 (Discussion off the record.)

3 JUDGE BECHHOEFER: On the record.

4 We will not order that information to be produced.  
5 Its relationship is much too tenuous, I think, to have it  
6 produced at this late date.

7 The mere fact that it wasn't requested at discovery  
8 does not pro se make the request invalid, but there has got to  
9 be a stronger showing of relevance at this late date for further  
10 information of that sort to be produced, so we will not direct  
11 it.

12 BY MR. SINKIN:

13 Q Mr. Grote, I believe you stated that in doing these  
14 estimates that you tried to analyze the reasons for the changes  
15 in cost and schedule; is that correct?

16 BY WITNESS GROTE:

17 A Yes.

18 Q Did you write a formal report that would incorporate  
19 those reasons for the changes in cost and schedule?

20 MR. NEWMAN: Mr. Chairman, I'm going to ask, I  
21 guess at least one question. What question is counsel now  
22 recrossing on, because I don't recall testimony in this  
23 particular vein to Mr. Grote?

24 MR. SINKIN: Well, we have sort of a funny situation  
25 in that we have some pre-filed testimony by Mr. Grote that says

1 he did scheduling and estimating.

2 JUDGE BECHHOEFER: This is too late for that. That  
3 was the subject of cross-examination earlier.

4 MR. SINKIN: I've never had an opportunity to ask  
5 Mr. Grote any questions.

6 JUDGE BECHHOEFER: Oh, I guess that's right. Yes.

7 MR. SINKIN: I can save that until 81-11, I guess,  
8 but it makes more sense to do it here.

9 I would also point out it's in the context of the  
10 discussion Dr. Broom had about cost and scheduling, that it was  
11 studied, updated each year, and that sort of thing, and when  
12 Dr. Broom was talking about Mr. Grote was not here.

13 JUDGE BECHHOEFER: I might add we asked some  
14 questions on that, but it was in the context of whether the  
15 client Houston had been misled by any figures supplied them.  
16 What the precise figures are at any given time, I don't really  
17 see the relevance of that.

18 MR. SINKIN: I believe you have ruled on the precise  
19 figures, that we are not going to get that at this time. What  
20 I am asking now is a different question, and that is that  
21 Mr. Grote did an analysis of why the figures changed. That's  
22 a different question from what the figures actually were.

23 My question was: Did he put that analysis into  
24 a formal report.

25 MR. NEWMAN: Mr. Chairman, I think that is



1 irrelevant for precisely the same reasons as your prior ruling.  
2 There is no showing of the relevance of that information to any  
3 issue in this proceeding.

4 MR. REIS: Mr. Chairman, the Staff would agree with  
5 the applicant on that particular issue. We are getting pretty  
6 far afield to the issues that are to be tried in this proceeding,  
7 and we can try the whole job from beginning to end, and be here  
8 for years reconstructing every bit of construction that has  
9 gone in the past, every bit of estimating that has been taking  
10 place, and every bit of engineering drawing that has taken  
11 place.

12 I think we have to more narrowly focus on the  
13 issues in this case, and I really think that from that point  
14 of view the question is irrelevant.

15 JUDGE BECHHOEFER: I think we will uphold that  
16 objection on the grounds of relevancy.

17 BY MR. SINKIN:

18 Q Dr. Broom, I believe you testified that a number of  
19 employees to STP from North Carolina, but were you referring  
20 to the Brunswick Project, itself, people who had previously  
21 worked on Brunswick?

22 BY WITNESS BROOM:

23 A Mr. Sinkin, I'm not trying to take issue with you.  
24 I don't remember making such a statement, but, sure, we  
25 have some employees that worked for us at Brunswick, I'm sure,



1 on the jobsite. I may have said that the first time I appeared  
2 here.

3 MR. NEWMAN: Does counsel have a specific reference  
4 to direct the witness' attention to?

5 MR. SINKIN: I don't have a page number. It appears  
6 in my notes in the testimony of Dr. Broom from yesterday, at  
7 the time that he was discussing the engineering estimates.

8 MR. REIS: Mr. Chairman, may I just suggest that  
9 we go on? He has said that employees came from North Carolina.  
10 Let's just go on.

11 JUDGE BECHTOLD: I guess the question has been  
12 answered.

13 MR. REIS: Yes.

14 BY MR. SINKIN:

15 Q Have you explored at all the interaction between  
16 the North Carolina employees at this project, the people who  
17 came from North Carolina and the people who were working there  
18 already?

19 MR. REIS: Mr. Chairman, I object on the grounds of  
20 relevancy. I don't see -- And it is also beyond the scope of  
21 any kind of examination that has gone before.

22 MR. SINKIN: Mr. Chairman, if we are going to be  
23 discussing the problems of this project, intimidation,  
24 harassment, lack of good communications, friction, tension,  
25 I think it certainly is relevant to begin to try and discover

1 what the root causes of those problems are.

2 My question to Dr. Broom is an attempt to find out  
3 if the presence of a substantial number of people from North  
4 Carolina on the project might be one of those causes.

5 (Bench conference.)

6 JUDGE BECHHOEFER: I think the question asked is too  
7 broad, and we will sustain it.

8 MR. SINKIN: Let me try to narrow it down.

9 JUDGE BECHHOEFER: I think it might be -- there  
10 may be marginal relevance to some of it, but as asked it is much  
11 too broad to be relevant.

12 BY MR. SINKIN:

13 Q Dr. Broom, have you found any evidence on the site  
14 that the employees who came from North Carolina have formed a  
15 click of sorts that protects each other to the detriment of the  
16 other employees?

17 MR. NEWMAN: Mr. Chairman, that question, again, is  
18 so wide-ranged, and it is so broad. There has got to be some  
19 evidence, some foundation laid for that premise before the  
20 ultimate question in that regard can be asked.

21 MR. REIS: Mr. Chairman, the Staff has a separate  
22 objection we would like you to consider.

23 We do not understand why it is appropriate on  
24 recross. We don't see where questions were asked dealing with  
25 this subject matter to allow such a question to be asked on

1 recross.

2 (Bench conference.)

3 JUDGE BECHHOEFER: All right.

4 MR. SINKIN: Mr. Chairman, there has been extensive  
5 discussion with Dr. Broom about intimidation and harassment,  
6 and he said people came from North Carolina to this job, and I  
7 am trying to see if there is any linkage.

8 (Bench conference.)

9 JUDGE BECHHOEFER: The Board will sustain that, as  
10 well, on the ground that it is too broad.

11 The one question that could be asked, if you want  
12 to, is -- Oh, I might add Dr. Lamb thinks that whole line  
13 reflects badly on his home state.

14 (Laughter.)

15 JUDGE BECHHOEFER: But you could ask if there are  
16 any of the incidents that he has talked about, or of which he  
17 knows which were caused by and he thinks resulted from friction  
18 from people coming from North Carolina, or other areas. You  
19 could ask him that direct question.

20 BY MR. SINKIN:

21 Q That's a fine question. Dr. Broom, would you care  
22 to answer that question?

23 A I have not become aware of any circumstance resulting  
24 in friction or harassment, or anything else, that I could  
25 attribute to being due to the fact that some people were here



7-14

1 from the fine state of North Carolina, or any other locale or  
2 state that I'm aware of.

3 Q Thank you.

4 Mr. Grote, would the same hold true for you?

5 BY WITNESS GROTE:

6 A That's true, yes.

7 Q Dr. Broom, you stated that there were problems at  
8 Comanche Peak similar to ST&P. Could you compare the welding  
9 problems discovered at Comanche Peak with the welding problems  
10 found at ST&P in terms of number of deficient welds, types of  
11 deficiencies, that sort of thing?

12 BY WITNESS BROOM:

13 A I'm not sure I can draw a detailed comparison,  
14 Mr. Sinkin.

15 What I intended by my remark to say was that all  
16 of the problems you have in welding, lack of fusion, various  
17 artifacts, arc strikes, improper technique, all of those kind  
18 of things we have experienced at Comanche Peak. We have  
19 experienced at Brunswick. You experience them on every job I  
20 have ever been associated with.

21 The frequency, the -- I want to use the term the  
22 seriousness of those matters really has to be judged in terms  
23 of the state of the project, how much welding has gone on, have  
24 you been through the learning curve? Is your reject rate by  
25 type, by type of welding and by area, acceptably low, and that's



7-15 1 an objective judgment. I don't recall data or statistic from  
2 Comanche Peak, but I remember as we started up the welding  
3 program there we had the same type problem; a higher rejection  
4 rate, higher than we wanted. And retraining of welders.  
5 Retraining of inspectors. Those type things. Those are common  
6 iterations that I am familiar with in beginning a welding  
7 program on any jobsite.

8 Q Was Mr. U. D. Douglas involved with the welding  
9 program at Comanche Peak?

10 BY WITNESS BROOM:

11 A Mr. U. D. Douglas was the Project Manager, the Site  
12 Manager, and in that regard was responsible for all of the  
13 activities on the site. I don't remember any personal involve-  
14 ment he had in the welding program. He may have. I don't know.

15 Q Was there any overlap between the time Mr. Douglas  
16 moved to ST&P and the time that he assumed the responsibilities  
17 as Project Manager? Was he at ST&P for any time before he  
18 actually became Project Manager?

19 BY WITNESS BROOM:

20 A I don't think so. I don't remember that there was  
21 any overlap period. I'm not sure what you mean by that.

22 Mr. Kirkland preceded Mr. Douglas, and he was  
23 associated with the job to provide some period of continuity.  
24 I can look at those charts. I don't remember that he was on  
25 the job in any other capacity than Project Manager. Steve, is

1 that correct?

2 BY WITNESS GROTE:

3 A U. D. Douglas transferred to the job, I believe,  
4 in November of 1979. There may have been a week or so that he  
5 didn't, before he assumed the title of Project Manager. I don't  
6 recall that to have been the case, but there may have been.

7 However, as Dr. Broom pointed out, Henry Kirkland  
8 had been on the site full time for quite some time in  
9 November, and he continued to be on the site for a considerable  
10 amount of time beyond November.

11 Q Excuse me just a moment. I'm not sure we're talking  
12 about the same positions. My brand new Exhibit 41, Brown & Root  
13 chart shows a Mr. Douglas replaced Mr. Dodd.

14 BY WITNESS GROTE:

15 A He did replace Mr. Dodd. The fact is, however, that  
16 Mr. Kirkland had been the interim General Manager from June  
17 until, oh, I suppose September.

18 In September he transferred to the site, because of  
19 his considerable experience in other nuclear projects and in  
20 construction. He was transferred to the site to act on behalf  
21 of the project General Manager, and up through me, in assisting  
22 Mr. Dodd, and advising Mr. Dodd on a full-time basis.

23 He continued through the time that Mr. Douglas was  
24 assigned to the jobsite, in that sort of position. There was  
25 also an overlap period of time with Mr. Dodd before he left the

17 1 jobsite. I don't recall what that period was, but Mr. Douglas  
2 didn't just show up one day and Mr. Dodd leave. There was an  
3 overlap there, also.

4 Q Okay. On Exhibit 41, the Brown & Root STP  
5 Personnel Assignment, if you could help me out, I see  
6 Mr. Kirkland on the top line, Project General Manager, from  
7 June 1979 until September 1979, and what you are saying to me,  
8 Mr. Grote, is that he then moved to the site in September 1979,  
9 but his position is not on this chart. I don't find his name  
10 after September 1979 on this STP Personnel Assignment.

11 BY WITNESS GROTE:

12 A That's correct. It was in the early spring of  
13 1979 -- I don't recall the exact month -- probably in April  
14 or perhaps May that Mr. Kirkland transferred from the Comanche  
15 Peak Project, where he had been the General Manager of that  
16 job. Mr. Douglas was the Construction Manager on that job at  
17 the time. I transferred Henry Kirkland to Houston to report  
18 directly to me and assume responsibility for the Project  
19 Managers, or what we call the Project General Managers that  
20 reported to me.

21 In June 1979, because of the fact that Mr. Douglas  
22 was spending all of his time on South Texas -- Mr. Kirkland  
23 was spending all of his time on South Texas, even though he had  
24 other responsibilities, and because of the fact that I judged  
25 that I wanted to seek out and find a much more experienced

1 person in the nuclear industry to be the overall Project  
2 Manager, one who had not only nuclear experience, but  
3 experience in project management of nuclear projects, I assigned  
4 Henry Kirkland to work full time on South Texas as the interim  
5 General Manager, pursuant to my hiring someone from the outside,  
6 which I did in September.

7 In September, rather than putting Henry Kirkland  
8 back to the job from which he had been transferred to Houston,  
9 I assigned him to the jobsite, again to act on my behalf and  
10 on behalf of the new General Manager, in an advisory capacity  
11 to Mr. Dodd, and he continued on the jobsite through the  
12 following spring of 1980.

13 Q So that would be a special position that you  
14 created at that time?

15 A Yes. That's right.

16 Q All right. Thank you.

17 Can you tell me what Mr. Pepin's position is now?

18 BY WITNESS GROTE:

19 A He is employed in another group at Brown & Root,  
20 the manufacturing and process industries group, it is called,  
21 in a Project management capacity of some sort. I don't know  
22 specifically what it is.

23 ///

24 ///



STP  
8-1  
he

1 BY MR. SINKIN:

2 Q Can you characterize his current position for me  
3 as promotion, demotion, or equivalent?

4 MR. NEWMAN: Mr. Chairman, I'm going to object to  
5 the question on the grounds of relevance.

6 MR. SINKIN: The relevance, Mr. Chairman, is that  
7 we explored yesterday the various reasons people were moved in  
8 and out of positions, and Mr. Pepin was explored as one of those  
9 people.

10 I'm now asking what his current position is and  
11 whether that constitutes a demotion, promotion or the  
12 equivalent.

13 (Bench conference.)

14 MR. NEWMAN: Mr. Chairman, the question of whether  
15 it's a promotion or a demotion has absolutely no relevance.

16 JUDGE BECHHOEFER: Well, the question of whether  
17 there was any discipline involved in the transfer, I think --

18 MR. NEWMAN: Well, that's a different question.  
19 I mean, if the question is why was Mr. Pepin taken off the site,  
20 that is a question which has now already been answered.

21 JUDGE BECHHOEFER: I think it has been, but --

22 MR. NEWMAN: I beg your pardon, sir?

23 JUDGE BECHHOEFER: I said I think it has been, but  
24 if he were demoted it would have some relevance to that.

25 / / /

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

8-2

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 BY MR. SINKIN:

2 Q Perhaps to sharpen up my question a little,  
3 Mr. Grote, in June of 1979 I really should be asking what  
4 position did Mr. Pepin assume?

5 WITNESS GROTE: Am I supposed to answer that  
6 question? There's no objections?

7 JUDGE BECHHOEFER: Yes.

8 BY WITNESS GROTE:

9 A Okay. Mr. Pepin was laterally transferred from the  
10 project to work -- he continued to work for me as a project  
11 manager not assigned to a specific project.

12 He had extensive experience in international work,  
13 and we at that time in the power group were attempting to secure  
14 contracts overseas for at least one major job that I can recall.

15 He subsequently transferred into this other group  
16 that I mentioned a while ago because they did have work on the  
17 books and potential work overseas, and I believe he is now  
18 assigned to one of their overseas projects in a position  
19 similar to that that he held on the South Texas Project, I think,  
20 but I'm not 100 percent positive.

21 I know that he's classified as a project general  
22 manager, which was his classification on the South Texas Project.

23 Q Same classification?

24 BY WITNESS GROTE:

25 A Yes.

8-3

1 Q Does the fact that he has the same classification  
2 mean that his salary remained the same? Do you know if it  
3 went up, down, or stayed the same?

4 MR. NEWMAN: Mr. Chairman, I'm going to object to  
5 that question. It's just beyond any reasonable relevance.

6 JUDGE BECHHOEFER: That one I'll sustain.

7 By the way, we're getting close to a time when we  
8 ought to break, so when you get to a division of a line of  
9 testimony --

10 MR. SINKIN: Actually, in this part of my cross  
11 I think I have one more question.

12 JUDGE BECHHOEFER: Oh, okay. Ask it.

13 MR. SINKIN: Fine.

14 BY MR. SINKIN:

15 Q Dr. Broom, you reviewed CEU Exhibit 3, which was  
16 the Forte memo concerning the pour that was inspected and later  
17 signed off by Mr. Singleton.

18 BY WITNESS BROOM:

19 A I had that here a moment ago.

20 (Document passed to witness.)

21 BY WITNESS BROOM:

22 A Oh, I know. It's attached to the top of this  
23 other stack. That's where it is.

24 Q That's it.

25 / / /

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

3-4 1 BY WITNESS BROOM:

2 A Yes, I've reviewed this memorandum.

3 Q Right.

4 BY WITNESS BROOM:

5 A I don't have mine marked as you identified it. I  
6 guess it's this Forte to Warnick, Lift 5RCB --

7 Q That's it. It should be marked CEU Exhibit 3.

8 I just want to explore with you very briefly the  
9 responsibility of an inspector who signs a pour card. When he  
10 signs that pour card is he stating that the forms are ready  
11 for the concrete to be poured?

12 MR. NEWMAN: Mr. Chairman, I'm going to object.  
13 That's been asked and answered.

14 The purpose of a pour card, when a pour card is  
15 issued, and what the signature on a pour card means, that was  
16 all explored yesterday.

17 MR. SINKIN: I'm just laying a predicate,  
18 Mr. Chairman, for a series of like two or three questions.

19 JUDGE BECHHOEFER: Well, are you going to ask  
20 something different? This latter question was answered, and  
21 it took some time to answer it.

22 MR. SINKIN: I'll ask the next question, then.

23 JUDGE BECHHOEFER: Okay.

24 BY MR. SINKIN:

25 Q If Mr. Forte had signed the pour card for this



1 particular pour and later something had gone wrong in the pour  
2 that resulted from a lack of cleanliness, would Mr. Forte be  
3 the person responsible and held responsible by the company?

4 BY WITNESS BROOM:

5 A He would certainly bear some of the responsibility.  
6 I don't know that you'd hold one single individual. The  
7 construction personnel are responsible for cleaning the pour.  
8 If it's not clean, we hold them responsible. The inspector is  
9 responsible for making sure it is clean, and if he fails to do  
10 that, well, we hold him responsible for not doing that.

11 MR. SINKIN: I'll stop there, Mr. Chairman.

12 JUDGE BECHHOEFER: Okay. Fine.

13 About an hour and 15 minutes.

14 MR. AXELRAD: Mr. Chairman, before we recess for  
15 lunch I would like to bring up one matter.

16 When the Board requested that Mr. Grote join the  
17 panel at the last session we agreed to have Mr. Grote join the  
18 panel as of Monday. We had indicated at that time that Mr. Grote  
19 had a commitment for a business trip overseas, which required  
20 his leaving on Wednesday.

21 Because we realize that he might not be finished by  
22 that time, Mr. Grote was able to change his commitment but he  
23 does have to leave on Friday. It is now Wednesday afternoon and  
24 we have not begun cross-examination of Mr. Grote or the panel  
25 with respect to 81-11, and we would like to request from the

8-6  
1 Board that either evening sessions be held or some limits on  
2 cross-examination, or some steps be taken so that we can complete  
3 the examination before Mr. Grote has to leave on Friday.

4 We had throught that four days would be ample for  
5 this purpose.

6 MR. SINKIN: In terms of that, Mr. Chairman, I  
7 expect to -- I think I will finish with Mr. Grote this  
8 afternoon, in terms of our cross on 81-11 and related reports.

9 JUDGE BECHHOEFER: What about your -- what about  
10 the direct?

11 MR. JORDAN: I don't expect to take very long.  
12 I think I estimated it for you yesterday.

13 JUDGE BECHHOEFER: Well, an hour?

14 MR. JORDAN: I think we can --

15 MR. SINKIN: Probably for sure we can be finished  
16 with him tomorrow.

17 MR. AXELRAD: The only reason I'm making this point  
18 right now is I did want to make sure that the Board and the  
19 parties recognize that Mr. Grote would not be available after  
20 tomorrow evening, and therefore whatever steps the Board wants  
21 to take -- we realize the Board would like to have all of this  
22 in one session of the transcript and not have to have it carry  
23 over until July or September, so whatever steps can be taken to  
24 make sure we do finish by Thursday evening, we would appreciate  
25 the Board keeping that in mind.

1 MR. REIS: The Staff indicated on the record it  
2 has about an hour and a half, including the additional material  
3 on 81-11.

4 JUDGE BECHHOEFER: All right. We'll talk about it  
5 over lunch.

6 MR. REIS: Mr. Chairman, before I forget, a couple  
7 of other things before lunch.

8 Going back to the indication and discussion of what  
9 should be done with the Staff's confidential sources, I just  
10 want to alert the parties to two other matters I think should  
11 be considered in that, and that's a couple of citations.

12 One is, which we've cited before, is 10 CFR 2.202(e),  
13 and the effect of that on this, and 10 CFR 21.2, and that's all  
14 I want to do, so that we're discussing the same law.

15 JUDGE BECHHOEFER: Okay. We'll consider those  
16 as well.

17 We'll break for lunch.

18 (Whereupon, at 12:34 p.m., a recess was taken  
19 until 2:00 p.m., the same day.)

20 - - -

21  
22  
23  
24  
25

AFTERNOON SESSION

2:04 p.m.

JUDGE BECHHOEFER: On the record.

With respect to the question concerning the Staff's informants, the Board believes that in order to not have undue delay in the proceeding in resolving this question, we should establish a schedule for doing so.

If we wait until the Staff asks questions concerning a report and if we then get an objection and a ruling, if we should rule that the report should not come into evidence and then later refer that ruling to the Appeal Board or the Commission, as the case may be, it could take a substantial amount of time.

As a practical matter, it could result in a substantial portion of the Staff's case not being admitted into evidence or being stricken from evidence, as the case may be.

The Board right now will state that we have come to a tentative conclusion.

What we would do is if there is an objection made to a report or a portion of a report, and if the objection is made on the basis of the informant is confidential and the name has not been revealed, we would require those names to be revealed, at least to the parties and the Board.



1 We aren't stating that we wouldn't enter some  
2 sort of protection.

3 Absent that, we would strike the report from  
4 the record, at least insofar as it bears upon the truth  
5 of the matters as to which confidential informants are  
6 not produced.

7 I'm stating this is a tentative conclusion.

8 We would allow the parties to brief this question,  
9 however, if they wish to do so.

10 Such briefs should be in our hands by the  
11 Friday -- let me look at the calendar. It's by the Friday  
12 prior to our July session. That would be July 17th.

13 Those briefs should be in our hands by then.

14 That means, if they are sent by Express Mail,  
15 it would be a couple of days earlier; if it was regular  
16 mail, it would have to be probably five days earlier.

17 Then to the extent necessary, we will hold  
18 an oral argument on that question Monday night of the  
19 July session, and we would hope to issue an order very  
20 shortly thereafter, which we would refer to the Appeal  
21 Board, or certify it. It could be a certified question.

22 MR. REIS: Mr. Chairman, the Staff would strongly  
23 object.

24 These are abstract questions at this time.  
25 It depends totally on the factual situation and whether

1 the person is needed for a decision.

2           Very often it is a matter that can be inquired  
3 into whether a certain happening happened without knowing  
4 the name of who informed on it or the name necessarily  
5 of all the parties to it.

6           The idea for an abstract ruling of this type  
7 I find shocking, and I don't think that it makes any sense  
8 whatsoever.

9           I want to further say that I think it's contrary  
10 to the Federal Rules of Evidence, which I think is a maximum  
11 here, and I think it's contrary to the positions of the  
12 Commission in keeping with confidential --

13           JUDGE BECHHOEFER: This would be appropriate  
14 for either the brief or the oral argument.

15           What I said is that we would take --

16           MR. REIS: We don't know --

17           JUDGE BECHHOEFER: -- that action if objection  
18 were made and the objection, of course, would have to  
19 be on the basis that the names were needed to resolve  
20 the particular question.

21           It doesn't mean we would reveal every letter  
22 in every report; but where an incident or an occurrence  
23 is subject to some dispute, we think we must know the  
24 names.

25           Again I say it doesn't necessarily mean that

1 the names have to be made public.

2 We are amenable to such devices as letting  
3 us know the names under protective order, coupled with  
4 numbers.

5 Perhaps all the questions that go on the record  
6 could be in terms of the letters or numbers that are already  
7 identified; or there could be, if necessary, in-camera  
8 sessions.

9 But what I'm saying is there are cases, many  
10 cases which say that the Government cannot rely on confidential  
11 informants without revealing them to the interested parties.

12 Those cases, I would think, although I have  
13 not done extensive research at this time, might well be  
14 governing.

15 MR. REIS: Your Honor, we have to distinguish  
16 between sources and protagonists, and I think your statement --  
17 I think the statements are quite clear that the sources  
18 need not be revealed.

19 I further think that without knowing the factual  
20 situation in what we're talking about that briefs are  
21 meaningless without having a factual --

22 JUDGE BECHHOEFER: Yes, but the practical  
23 matter is that would you rather have this question briefed  
24 at the time a specific objection comes up?

25 If that's the case, our inclination would

1 be to strike that document from the record, and the Staff's  
2 case would be -- most of your case would likely be stricken.

3 I can't say all of it, but a lot of it would  
4 be.

5 MR. REIS: That could well be, Your Honor.

6 We feel that would be contrary to law, but  
7 it's your prerogative to issue such a ruling.

8 (Bench conference.)

9 JUDGE BECHHOEFER: Does anybody else have  
10 a comment on the proposal, and I'm, again, setting it  
11 forth as a tentative conclusion, subject to briefing and  
12 subject to further oral argument to the extent necessary.

13 MR. AXELRAD: Mr. Chairman, I'm not quite  
14 sure I understand how this differs in practical effect  
15 from a blanket type ruling for disclosure of all informants  
16 which the Appeal Board ruled against in connection with  
17 the Staff's discovery aspect.

18 If I understand what the Board is saying,  
19 all any party has to do, either the Applicant or any of  
20 the Intervenors, is to ask a question with respect to  
21 one of the Staff's exhibit, and if the question is asked  
22 and the informant is not named, then a motion can follow  
23 to strike that document, and the Board would do that.

24 That sounds to me exactly like the blanket  
25 ruling that's been condemned by the Appeal Board before.



1 If there's a distinction, it escapes me at  
2 this point.

3 JUDGE BECHHOEFER: The one distinction is  
4 that it's part of the evidentiary hearing, rather than  
5 a matter on discovery, and I regard that as a major distinction.

6 MR. AXELRAD: It isn't necessarily a blanket  
7 ruling? It's not a ruling based upon a particular need  
8 for a particular report or the materiality of the particular  
9 incident or anything of that kind?

10 JUDGE BECHHOEFER: Well, if the report is  
11 needed to establish the Staff's case, then it's needed.

12 If it isn't needed, it probably shouldn't  
13 be in the record in any event.

14 MR. JORDAN: Mr. Chairman, if I may chime  
15 in.

16 I certainly appreciate the situation the Board  
17 finds itself in and, indeed, that of the Staff as well.

18 I'm afraid that you might find some difficulty  
19 even then knowing what the briefs were telling you without  
20 the factual situation in front of you.

21 I am perfectly amenable to trying to do some  
22 briefing on the subject and we could at least have --  
23 We did, for example, a brief on character before this  
24 case started without having the facts in front of us.

25 We could do some sort of briefing, at least,

1 so that you would have a discussion of the law before  
2 you; but, otherwise, the case is going to be a mess.

3 JUDGE BECHHOEFER: Right. I might add, we  
4 are amenable to suggestions in the briefs as to what types  
5 of situations we should strike the document, if that's  
6 a recommendation, and what types we shouldn't.

7 That could be part of the briefing, and our  
8 tentative conclusion could be modified. It certainly  
9 might well be modified to take into account applicable  
10 rulings and the particular situations to which our tentative  
11 ruling should apply.

12 That certainly would be a productive area  
13 of briefing, as far as we're concerned.

14  
15 - - -  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 MR. REIS: Your Honor, a briefing of a --  
2 a trial brief on a question of what possible rulings might  
3 come up might be appropriate; but just setting up a law  
4 as an abstract matter.

5 But trying to brief on a particular situation,  
6 such as you are talking about, is certainly not called  
7 for before the evidence is in and something is heard.

8 I want to point out that the dicta in the  
9 Appeal Board's decision, although it was on discovery,  
10 the dicta seems to go that far as to talk about at the  
11 hearing as well.

12 I would call the Board's attention to that  
13 opinion, and they weren't just talking about discovery,  
14 the way they wrote that opinion.

15 JUDGE BECHHOEFER: Well, that's a question --

16 MR. REIS: As an abstract manner --

17 JUDGE BECHHOEFER: That's a question you can  
18 brief.

19 MR. REIS: -- just briefing it as we briefed  
20 the question of character and as we brief questions of  
21 what evidence comes in; but the idea of a preliminary  
22 ruling and such at this time without knowing the factual  
23 situation of what is going on, whether these people were  
24 third-hand sources who heard something and they are not  
25 relevant to any issue in this proceeding, or whether

1 they were actors who took part in something and hit somebody  
2 or said some words, are two totally different matters.

3 To talk about it and that you can brief it  
4 and decide the issues preliminarily on that matter, the  
5 Staff is shocked.

6 JUDGE BECHHOEFER: Well, the Board is doing  
7 this, because otherwise when it comes time for the Staff  
8 to present its case, you may just have all your testimony  
9 stricken or a good portion of it stricken and a substantial  
10 delay of the proceeding while the issue is resolved.

11 That, I don't think, is the most productive  
12 way to develop an adequate record.

13 We were trying to formulate a method so that  
14 we could not have a two- or three-month delay once this  
15 question comes up out of the abstract.

16 We were trying to formulate a procedural device  
17 to allow appellate review of our ruling.

18 That's why we set it up as a tentative ruling  
19 now, subject to briefing and oral argument.

20 Certainly, the conditions for the exercise  
21 of whether we struck a particular document would be something  
22 that could be dealt with in the briefs.

23 MR. REIS: A matter of setting out the law  
24 as a trial memorandum, I don't think the Staff would object  
25 to.



1           The idea of briefing the matter, in the sense  
2 of briefs on a matter where there is no factual predicate,  
3 the Staff would be very opposed.

4           Now, if you're asking for trial memoranda  
5 setting out general principles of law, that's another  
6 matter.

7           JUDGE BECHHOEFER: We are asking for a brief,  
8 because we have had a situation identified this morning,  
9 several of them, where we think the names are necessary.

10           We did get identification of certain of those  
11 names, but there may be many others in those reports which  
12 are specifically relevant -- specifically at issue, I  
13 should say, in this proceeding; and without being able  
14 to positively identify those informants and find out whether  
15 the same people as wrote some of the other memos, some  
16 of which are in evidence and some of them are before us  
17 and are likely to be sought to be introduced into evidence,  
18 will be very difficult.

19           The Board cannot render a fair decision on  
20 that.

21           MR. REIS: Let me bring up this matter.

22           The Staff issued an order to show cause and  
23 a notice of violation and a fine was paid on those matters.

24           The Staff has sat here while several issues  
25 have been inquired into on those matters, but those matters

-11 1 are established as a matter of law.

2 No matter what you strike, you can't strike  
3 what is established as a matter of law under 10 CFR 2.2(e).

4 JUDGE BECHHOEFER: All those reports prove  
5 is that Individual E did something and Individual F did  
6 something.

7 It does not establish that any particular  
8 individual who has been identified here did anything.

9 MR. NEWMAN: Mr. Chairman, while I am not  
10 prepared to brief the question, I don't believe that  
11 10 CFR 2.202(e) is relevant here.

12 It's something that, again, we can brief later.

13 I just want to make it clear that at least  
14 as of this point, the Applicant has not changed its position  
15 in terms of whether NRC informants should be identified.

16 It may be that we'll have to make objections  
17 in specific instances as we go along, but at this point  
18 I do want the record to reflect that our position has  
19 not changed from the position we expressed in our original  
20 briefs on this subject.

21 JUDGE BECHHOEFER: The Board believes that  
22 we should have briefs on the schedule indicated, and we  
23 will hear any oral argument that anyone wants to make.

24 We would hope you would try to define the  
25 circumstances where documents perhaps should be stricken.

1           There are a number of cases which held --  
2 and I can't name them now. I think Reynolds is one of  
3 them, but where the Government cannot rely on confidential  
4 informants without revealing them; maybe not to the public,  
5 but at least to the parties and the Board.

6           The Commission's rules also provide even  
7 where classified information is concerned, we are supposed  
8 to take steps to be able to hold hearings on that subject.

9           We don't reveal it to the public, but we do  
10 hold -- there are alternative hearing procedures which  
11 are used.

12           People get cleared. There are devices which  
13 can be used.

14           So even when classified information is involved,  
15 this material can be put into evidence before Hearing  
16 Boards.

17           This is far less -- These informants are  
18 entitled to somewhat less protection, I think, than is  
19 classified information, statutorily, in any event.

20           So we invite the parties to brief it on the  
21 schedule we have mentioned.

22           We will permit oral argument that Monday evening,  
23 and we hope to issue an order which we can refer or certify  
24 to the Appeal Board shortly thereafter.

25           We are doing this in this method so as we

1 don't have undue delay at the time the Staff's witnesses  
2 are prepared to testify.

3 MR. NEWMAN: Mr. Chairman, I just have one  
4 more word on the subject.

5 JUDGE BECHHOEFER: Yes.

6 MR. NEWMAN: As the Board knows, it was the  
7 Applicant's position with respect to the matters identified  
8 in Allegation 1 of the Notice of Violation that although  
9 we could not verify whether all of the facts were true,  
10 we said that it is probable that in some circumstances  
11 incidents of this type did occur.

12 It is our position that the record need go  
13 no further than that.

14 We have recognized the underlying problem  
15 that is the subject of the first item of the Notice of  
16 Violation, and had not planned in this hearing to really  
17 litigate the question of whether each of the incidents,  
18 A through P under Notice of Violation No. 1, had in fact  
19 happened.

20 I would just point out that if we do get into  
21 that kind of a situation where one or more of the parties  
22 wants to prove up each of those instances which are referred  
23 to in Items A through P, we are to be involved at that  
24 point in a much, much longer hearing.

25 There may be literally dozens of individuals



-14

1 who might have to be called in those circumstances.

2 Now, I recognize that that's not directly  
3 on point with what we've just been discussing, but I think  
4 it does represent a course that we may be going down on;  
5 and I just wanted to indicate that from our standpoint  
6 we saw no need to litigate the truth or accuracy of Items  
7 A through P.

8 Our position is as expressed in our response  
9 to the order to show cause and notice of violation. It  
10 has not changed.

11 We are not affirming or denying or changing  
12 our position in any way.

13 If the hearing is to shift substantially into  
14 the questions of the veracity of Items A through P, that's  
15 a much different, much longer and much more complex hearing,  
16 I suspect.

17  
18 - - -  
19  
20  
21  
22  
23  
24  
25

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 564-2345

1 JUDGE BECHHOEFER: Would you agree, and I  
2 could almost answer this question for you, but would you  
3 agree that Items A through P are in addition to any of  
4 the other incidents which the Intervenors are submitting  
5 evidence on, cumulative, that is, because if you want  
6 to have us assume that they are cumulative, maybe you  
7 are correct, that we would not have to get into identification.

8 By cumulative, I mean additional.

9 MR. NEWMAN: I'm not sure I have the question,  
10 Mr. Chairman.

11 JUDGE BECHHOEFER: Well, the Intervenors have  
12 introduced evidence and will introduce evidence on certain  
13 incidents.

14 If you would agree that those incidents are  
15 separate and apart from any of the incidents that the  
16 Staff has included in its show-cause order --

17 MR. NEWMAN: If the Intervenors have other  
18 incidents that they want to identify and bring into this  
19 case, it's obviously within the permissible scope of --

20 JUDGE BECHHOEFER: No, I'm talking about any  
21 incidents.

22 If you are willing to have us assume that  
23 any incidents they bring in are additional to those which  
24 the Staff included in its show-cause order, we could follow  
25 that practice; but then you will have to worry about the

1 testimony of your witnesses that they thought that some  
2 of these incidents were occasion, rather than regular.

3           There will be a substantial number if you  
4 want to make the assumption or if we make the assumption  
5 or are forced to make the assumption that the Staff's  
6 unidentified informants are all different from the people  
7 who have been making reports to the Intervenors.

8           There are substantial implications as to that.

9           MR. NEWMAN: I think if we have a situation  
10 such as the one we had the other day where it was pretty  
11 clear that there was a match-up between the incident and  
12 even one or two of the personnel involved, there would  
13 be no reason for us, as I indicated yesterday, based on  
14 the fact that we have extrinsic circumstances that established  
15 that the event was indeed the event reported in the document,  
16 and we do have a close enough relationship between the  
17 unidentified individual and a person that the witness  
18 is able to identify.

19           In those circumstances, it may very well be  
20 that we can proceed to litigate those matters --

21           JUDGE BECHHOEFER: Those are exceptions.

22           MR. NEWMAN: I doubt there will be very many  
23 of those.

24           I think it's certainly a matter that we could  
25 look at case by case.

1 I did want to be very sure, though, that we --  
2 that the Board appreciate how far we may be going if the  
3 decision is made to litigate the veracity of Allegations  
4 A through P.

5 That obviously can be done. It's not a choice  
6 the Applicant would have made.

7 The Applicant would have preferred that the  
8 record remain as it is, indicating that in some circumstances  
9 we believe events of this type probably did occur, which  
10 is the language that we used in the show-cause order.

11 JUDGE BECHHOEFER: I recognize that.

12 MR. NEWMAN: We see absolutely no reason to  
13 pursue any of those matters any further.

14 If the Intervenors have additional matters  
15 and they can be tied in to A through P for some reason,  
16 I guess we'd have to look at those situations as they  
17 develop; but I think that we must be very wary of the  
18 fact that we can be moving down this direction of having  
19 a hearing on really an extraordinary list of issues of  
20 fact, which we had certainly not anticipated, and which  
21 we frankly don't believe is required by the Commission's  
22 Memorandum and Order to the Board.

23 MR. REIS: Mr. Chairman.

24 JUDGE BECHHOEFER: I had one question.

25 What would you say about statements in the



18 1 reports which would tend to either cast aspersions on  
2 the credibility of some of the Intervenors' witnesses  
3 or raise factual questions about their testimony, one  
4 way or the other?

5 The Board sees that as a serious question,  
6 and where it is likely that revealing the names, at least  
7 to the Board and the parties, would be necessary to explore  
8 those areas.

9 MR. NEWMAN: I think those are matters that  
10 are very, very difficult to deal with in the abstract.

11 As I say, I just wanted to point out that  
12 we don't see the need for this particular type of inquiry  
13 into the areas A through P, and I just want the record  
14 to be clear, because I would not want this record to be  
15 looked at by the Commission or by any other reviewing  
16 party as an instance or evidence of the fact that the  
17 Applicant had any desire or interest in controverting  
18 specifically the sub-allegations A through P of Item 1.

19 Our position has not changed and I would not  
20 want any reviewer of this record, including, frankly,  
21 the Division of Inspection and Enforcement, to have any  
22 concern that we were stepping aside or walking away from  
23 the response that we gave to the Notice of Violation No. 1.

24 Our position is unchanged.

25 JUDGE BECHHOEFER: We certainly would not

1 regard it as being a change by --

2 MR. REIS: Mr. Chairman.

3 JUDGE BECHHOEFER: Yes.

4 MR. REIS: I think in view of what has been  
5 said, there's no question that we're just asking for cumulative  
6 evidence, and cumulative evidence in the rules of the  
7 Commission generally should not come in.

8 Now, if the Intervenors --

9 JUDGE BECHHOEFER: Now, Mr. Reis --

10 MR. REIS: -- have other --

11 JUDGE BECHHOEFER: -- let me interrupt you.

12 Evidence is not cumulative -- Multiple incidents  
13 are not cumulative when the number of incidents affects  
14 the responsibility and technical ability of the particular  
15 company to carry out its duties. That's --

16 MR. REIS: I was just getting --

17 JUDGE BECHHOEFER: -- not cumulative.

18 MR. REIS: I was just getting to that.

19 The incidents in the Staff's reports, any  
20 further evidence on them, requiring the names of them,  
21 would just be cumulative as to those instances.

22 If the Intervenors have other instances, they  
23 can bring those instances forward. We can look at them;  
24 we can examine them; we can add them to what is in the  
25 Staff's Investigatory Reports.

1 To go deeper into the Investigatory Reports  
2 for no reason but perhaps a curiosity to get more detail  
3 or find out the exact individual who was involved in this  
4 situation or that situation can have no purpose but to  
5 be cumulative, because we have those instances reported.

6 They are in the Investigative Reports. The  
7 Investigative Reports, as I've pointed out again and again,  
8 if they are not going to be disputed by the Applicants,  
9 there's no basis to dispute them, come in for the matters  
10 they set forth therein, and that's it.

11 We have those lists.

12 Now, if the Intervenor have other lists and  
13 other evidence, they can bring that forward --

14 JUDGE BECHHOEFER: We can't tell --

15 MR. REIS: -- and that's on them to bring  
16 forward.

17 JUDGE BECHHOEFER: We can't tell. We won't  
18 be able to tell from the record whether the Intervenor's  
19 incidents are other incidents or the very same ones without  
20 some identification. We can't tell --

21 MR. REIS: Oh, I think you can tell by the  
22 dates.

23 JUDGE BECHHOEFER: We can't tell that two  
24 or three things didn't happen on one day without positive  
25 identification.

21  
1 MR. REIS: I think that's --

2 JUDGE BECHHOEFER: We will not assume that  
3 it did happen unless we get positive identification. We  
4 cannot do that.

5 We will adhere to the briefing schedule we  
6 established, and we will hear oral argument. Then we  
7 will announce whatever our final decision is shortly thereafter.

8 Mr. Sinkin, are you going to proceed, or are  
9 you, Mr. Jordan?

10 MR. SINKIN: I am.

11 JUDGE BECHHOEFER: Mr. Sinkin? Okay.

12 MR. SINKIN: To the Applicant's Counsel, I  
13 think we will save some time if the panel has available  
14 to them I&E Reports 80-34, Staff Exhibit 78; 81-11, Staff  
15 Exhibit 95; 81-17, Staff Exhibit 100; and the Brown &  
16 Root Report, Applicant Exhibit 32(a).

17 (Documents passed to witnesses.)  
18  
19  
20  
21  
22  
23  
24  
25

- - -



STP  
10  
he

1 JUDGE BECHHOEFER: Would you repeat those numbers  
2 again?

3 MR. SINKIN: 80-34, Staff Exhibit 78. 81-11,  
4 Staff Exhibit 95, and 81-17, Staff Exhibit 100.

5 JUDGE BECHHOEFER: 100?

6 MR. SINKIN: 100. And the Brown & Root report,  
7 Applicant Exhibit 32(a).

8 JUDGE BECHHOEFER: I've got 32(a).

9 MR. AXELRAD: What was that first one, again?

10 MR. NEWMAN: 80-34.

11 JUDGE BECHHOEFER: Off the record.

12 (Discussion off the record.)

13 JUDGE BECHHOEFER: Back on the record.

14 BY MR. SINKIN:

15 Q Mr. Grote, the investigation reported in  
16 Applicants' Exhibit 32(a) was a completely in-house Brown & Root  
17 investigation, is that correct?

18 You did not hire outside special investigators or  
19 outside personnel?

20 BY WITNESS GROTE:

21 A That's correct, except to the extent that we  
22 utilized an outside polygraph company.

23 Q To administer the polygraph?

24 BY WITNESS GROTE:

25 A Yes. We reported on a continuing basis, or I

10-2  
1 reported on a continuing basis the status of our investigation  
2 to HL&P, but with those exceptions it was totally in-house.

3 Q Who were you reporting to?

4 BY WITNESS GROTE:

5 A George Oprea.

6 Q George Oprea. Are you or Mr. Broom aware of an  
7 incident in July of 1980 when the Matagorda Sheriff's Department  
8 recovered a truckload of steel stolen from Brown & Root destined  
9 for the South Texas Nuclear Project?

10 MR. REIS: I object. There's no relevance showing  
11 to the fact that somebody might have stolen a load of steel,  
12 no showing of relevance whatsoever.

13 MR. NEWMAN: I think that question is just totally  
14 without foundation. There needs to be some further foundation  
15 before something like this can be permitted.

16 MR. SINKIN: Mr. Chairman, the question itself is  
17 the foundation question. The second question is the question  
18 where I'm going.

19 If they're not aware of the incident of the stolen  
20 steel in July 1980, there'll be no need for the second question.  
21 If they are, the second question is directly relevant to this  
22 investigation.

23 JUDGE BECHHOEFER: That objection is overruled.

24 BY WITNESS GROTE:

25 A I'm not aware of that.

1 BY MR. SINKIN:

2 Q You're not aware.

3 Has Brown & Root, to your knowledge, had occasion  
4 to hire outside investigators to investigate particular events  
5 taking place at the South Texas Nuclear Project?

6 MR. REIS: I object, Your Honor. I don't see the  
7 relevance of whether they had at times outside investigators or  
8 not outside investigators has any relevance to any matter in  
9 this proceeding.

10 MR. SINKIN: Mr. Chairman --

11 MR. REIS: We are concerned here with specific  
12 instances. Unless they show that there's outside investigators  
13 involved in those instances there's no relevance.

14 MR. NEWMAN: I think in particular, Mr. Chairman,  
15 the question is particularly inapposite in view of the fact  
16 that the witness' response to the very first question was  
17 whether we had utilized -- that is, Brown & Root had utilized  
18 anything except in-house investigators in investigating 81-11.

19 MR. JORDAN: Your Honor, if I may toss in a word  
20 here, since we haven't had a chance to respond yet, the issue  
21 is the significance of the investigation, the weight that  
22 Brown & Root puts on the question whether there ought to be  
23 somebody who's an expert in investigations involved, hiring  
24 somebody who is specially qualified to do that or not, and that's  
25 the kind of issue that is very important to the quality of the



10-4

1 work that was done, so it is a question as to whether they think  
2 there are some instances that are important enough for outside  
3 investigations and some that aren't.

4 MR. SINKIN: Precisely.

5 MR. NEWMAN: The question has been asked and  
6 answered.

7 MR. JORDAN: Not at all, Mr. Chairman.

8 JUDGE BECHHOEFER: I think that --

9 MR. JORDAN: That's absolutely incorrect. The  
10 question that was asked was whether this had been done in-house  
11 or not; and was done in-house. That does not answer the  
12 remaining question.

13 MR. SINKIN: The question that was asked and  
14 answered was this particular investigation, Exhibit 32(a),  
15 conducted in-house. They said yes.

16 The next question was -- given all the objections  
17 it's hard to keep up -- but the next question that I am asking is  
18 has Brown & Root had occasion to hire outside investigators to  
19 conduct investigations of other events at the South Texas  
20 Nuclear Project, and that question has not been answered.

21 JUDGE BECHHOEFER: He can answer that one question,  
22 but let's see where we're going on this.

23 WITNESS BROOM: I'm sorry, sir. Did you say we  
24 should answer it?

25 JUDGE BECHHOEFER: Yes.



10-5

1 BY WITNESS BROOM:

2 A Mr. Sinkin, as far as I know, we have not hired any  
3 outside agency to conduct an investigation.

4 There is a Burns Security Service at the site that  
5 is under the employ of HL&P, and in certain types of matters  
6 I presume there might be a security guard involved in some way,  
7 but no one that we would hire specifically for an investigation,  
8 to my knowledge.

9 That's the only indirect connection I can place to  
10 some outside agency. I can't think of anything else, but there  
11 might be in some other, you know, aspects of the project that  
12 I'm not familiar with.

13 Maybe Mr. Grote knows of instances that I'm not  
14 familiar with.

15 Q Mr. Grote?

16 BY WITNESS GROTE:

17 A I've never been a party to hiring an outside  
18 investigator for any such thing at South Texas nor am I aware  
19 that any has ever been done.

20 Q Fine. Thank you.

21 Dr. Broom, you sent the Brown & Root investigative  
22 report to Mr. Goldberg, is that correct?

23 BY WITNESS BROOM:

24 A Yes, sir, I did.

25 Q Did you indicate to Mr. Goldberg in any way that you

10-6

1 wanted that report to remain confidential?

2 (Witness reviews file.)

3 MR. REIS: Mr. Chairman, I object to the question.  
4 I don't see what the relevance of the confidentiality of the  
5 report is to the issue of the report or matters in the report  
6 or anything else. I don't think it's relevant to this  
7 proceeding.

8 MR. SINKIN: Mr. Chairman, I'm trying to get -- trying  
9 to get a feel for how Brown & Root viewed this event, how they  
10 viewed their investigation of it.

11 We've had expressions of deep concern by Dr. Broom  
12 about other investigations, about not revealing identities of  
13 people, keeping them protected.

14 We have a very different treatment of this  
15 particular investigation. I'm asking Dr. Broom about how he  
16 looked upon this investigation.

17 JUDGE BECHHOEFER: Objection overruled.

18 BY WITNESS BROOM:

19 A No, sir. My transmittal letter to Mr. Goldberg is  
20 a very simple two-sentence transmittal, simply telling him what  
21 this documents, what we had done in regard to the subject of  
22 that investigation.

23 This document does not state to Mr. Goldberg any  
24 concern on my part about the proprietary nature of any of this  
25 information, and I did not communicate any such information or

10-7 1 concern verbally to Mr. Goldberg.

2 BY MR. SINKIN:

3 Q Thank you.

4 BY WITNESS BROOM:

5 A I might comment that since you said that I had said  
6 I was concerned about that type of matter in the past, in this  
7 particular case, at the NRC's exit critique and the actions  
8 which followed, I think that everyone associated with this  
9 over-all incident -- no, that's not true -- "everyone" is too  
10 broad, but the principal participants in this situation were  
11 well known to everyone involved.

12 You understand this whole matter basically involves  
13 a situation involving one foreman who supervises two employees,  
14 I believe, in total, in a totally non-safety-related area of  
15 the project, and it's very hard to look into a situation like  
16 that and not be almost immediately aware of everybody that's  
17 described in the incident.

18 There may have been in the report -- I haven't  
19 looked at it just recently -- there may have been some reference  
20 to someone phoning the NRC, or something like that, and we  
21 certainly didn't try to find out who initiated the contact  
22 with the NRC.

23 But the principals involved, there's just no way to  
24 look into that without knowing who they are.

25 Q You're saying that Brown & Root would be aware of

10-8

1 the people, who they were, their names, their positions,  
2 because it was clear where this event took place?

3 BY WITNESS BROOM:

4 A Well, I'm saying that anyone who was familiar with  
5 the NRC report or the organization or the project in general  
6 would know the people involved here.

7 - - -

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



10-9

1 BY MR. SINKIN:

2 Q Are you saying that Mr. M. L. Borchelt, President  
3 of Central Power & Light Company, would be familiar with those  
4 people?

5 BY WITNESS BROOM:

6 A I don't know that he would be familiar with it if  
7 you asked him today, but he could have, with nothing more than  
8 the NRC's Inspection Report 81-11, and the knowledge of the  
9 project organization, determined very quickly who the people  
10 were involved.

11 Q In I&E Report 81-11 the NRC found that about half  
12 of 14 people interviewed believed that the morale of Brown & Root  
13 employees was low, and they gave reasons: They found such as  
14 repeated transfers, nepotism, favoritism.

15 In the exit interview Brown & Root expressed  
16 concern about the morale problem and committed to making a  
17 determined effort to pinpoint the cause and take appropriate  
18 action.

19 Have you pinpointed the cause of the low morale  
20 expressed by those personnel, and what were those causes?

21 BY WITNESS BROOM:

22 A Mr. Sinkin, we have been looking into the morale  
23 situation on the project for a long time. As a result of this  
24 exit critique, I cannot say that we have pinpointed new or  
25 previously unknown causes to us of factors that affect morale

10-10

1 in a negative fashion.

2 We have been and are continuing to be concerned  
3 about morale and about any steps that we can take to maintain  
4 a higher morale and improve morale on the site.

5 We have taken actions frequently, almost continuously  
6 for an extended period of time, directed toward the morale of  
7 our employees.

8 That is the type of commitment and the type of  
9 concern that I believe that Mr. Grote and I expressed during  
10 the exit critique that you referenced in NRC's Report 81-11.

11 Q Have you in the past determined that the three  
12 items identified by the NRC, repeated transfers, nepotism and  
13 favoritism, are part of the morale problem?

14 You said you didn't find anything new based on this.  
15 Would you say you had found those in the past to be part of the  
16 morale problem?

17 BY WITNESS BOOM:

18 A Mr. Sinkin, those are common complaints on any  
19 construction project.

20 Q Have you had those complaints?

21 BY WITNESS BROOM:

22 A They have the potential for adverse effects on  
23 morale We've had those complaints on this project in the past.

24 BY WITNESS GROTE:

25 A Yes. I've heard those complaints in the past also,

10-11 1 Mr. Sinkin.

2 First of all, I'd like to say about these comments  
3 regarding the exit interview that both Dr. Broom and I attended  
4 that he and I have reviewed this report and I believe this is  
5 an example of an occasion where the report writer reflected his  
6 apparent understanding of some things that were said, but are  
7 not at all consistent with what Dr. Broom and I remember having  
8 been id.

9 Neither one of us take issue with doing the things  
10 that are said here. I just don't remember ever saying that we  
11 were going to do some of the things like pinpoint the cause of  
12 it. I don't recall that we even discussed that with the people  
13 with the NRC.

14 However, there is at the jobsite right now, in my  
15 judgment, a level of morale that's lower than I would like to  
16 see it, and there are a variety of things that I could  
17 attribute that to.

18 One thing particularly is that in the last period,  
19 this year or in late last year, we had a number of reductions  
20 in force, and that frequently contributes to a less than  
21 desirable morale situation.

22 I have heard charges of nepotism and favoritism,  
23 both in connection with this investigation and before, and I  
24 agree with Dr. Broom that that's a not uncommon complaint on  
25 a project like this.



10-12

1 Q Were you able to confirm or deny those reports?

2 BY WITNESS GROTE:

3 A What reports?

4 Q Reports of nepotism and favoritism, or complaints  
5 of nepotism and favoritism.

6 BY WITNESS BROOM:

7 A In conjunction with this specific 81-11 report?

8 Q Let's start with 81-11.

9 BY WITNESS GROTE:

10 A I think that my own investigation of 81-11 confirmed  
11 at least one instance of favoritism.

12 Q Favoritism?

13 BY WITNESS GROTE:

14 A Yes.

15 Q And the prior complaints of nepotism and favoritism?

16 BY WITNESS GROTE:

17 A I assume that there has been some favoritisms. I  
18 don't know of any particular instances of nepotism, but I'm not  
19 saying there hasn't been.

20 BY WITNESS BROOM:

21 A I think we ought to put this in perspective and  
22 say that a specific allegation here, as I remember them, were  
23 that a supervisor had his wife on the payroll at some point in  
24 time, and I think that was true. I don't think that's true  
25 any more. I don't remember when that change occurred, but, yes,



10-13

1 I think that a fellow down there did have his wife on the pay-  
2 roll in some capacity in the same general area, and I don't  
3 think that follows our company policy.

4 I think there was an allegation that some supervisor  
5 liked a young lady that worked for him and gave her some extra  
6 overtime, or something like that, and I think that probably was  
7 true.

8 I don't think it affected the morale of very many  
9 people. I don't think it had any adverse effects on health  
10 and safety of the South Texas Nuclear Project.

11 I don't mean to say that we're not concerned about  
12 all matters like that. We want our people to conduct them-  
13 selves in a proper fashion. But those type instances do occur  
14 on projects. They have occurred on other projects from time to  
15 time. We do find these kinds of things.

16 I m not sure we always find all of that kind of  
17 thing that occurs.

18 Q In 81-11 Brown & Root confirmed that a survey was  
19 conducted by an outside contract agency regarding problem areas  
20 at the plant.

21 Can you tell me what specific questions were asked  
22 in that survey?

23 BY WITNESS BROOM:

24 A Mr. Sinkin, I believe I indicated at the exit  
25 critique that there were two activities th had been performed

10-14

1 at the site that I thought might have been the matters that  
2 were referenced in the discussion with whoever the individual  
3 was that said that in their investigation.

4 The first thing that came to mind was the time lapse  
5 report that I described in these hearings on several occasions.

6 My concern in that regard was that I believe the  
7 individual stated that the results of that survey had not been  
8 made available or made known to him.

9 I do not believe if you go to the South Texas  
10 Project that you will find a vast majority, or even a  
11 significant minority of the people on the jobsite who are not  
12 aware of what that report indicated, because it is discussed  
13 in our response to 79-19.

14 I know for a fact that all of the supervision in  
15 the QA/QC organization have been through that report  
16 specifically in detail and told to communicate with their  
17 people. I can't be as positive about the extent to which that  
18 was done in the construction side of the house, but I know that  
19 for the most part the construction people on the jobsite are  
20 familiar with what is stated in our response to 79-19, and so  
21 I find it hard to believe that unless this is an isolated  
22 instance of a single individual or two, that the time lapse  
23 survey was what was being referenced.

24 The only other thing that I had in mind was that --  
25 or that came to mind was that for six, eight, ten months, or

10-15

1 something like that, we've had a couple of consultant personnel  
2 on the jobsite engaged in what they refer to as team building,  
3 whereby one of these consultants from the MAC organization, by  
4 the way, interviews various people on the job in various groups  
5 and explores the interpersonal or intergroup interfaces that  
6 occur on the job, and this is a planned program that they have  
7 of interviewing people in various groups on the jobsite and  
8 then at later steps in their plan they get the groups together  
9 and discuss with both groups present what I guess you could say  
10 what each other have said about each other, and then they  
11 involve management in those discussions, and so you have a two  
12 and then a three-way street.

13           That whole process is described by the MAC personnel  
14 when they begin these type meetings. Now, some of those  
15 sessions have been held all the way through to completion.  
16 Some of them are still underway. It's an over-all, as I said,  
17 team building effort.

18           It involves interfaces between HL&P and Brown & Root  
19 as well as groups within the organization, and it could be that  
20 this person might have been a part of some stage in that  
21 process that had not been completed yet.

22           Quite frankly, I don't know. That's the only two  
23 situations that come to my mind, and I'm at a loss as to how  
24 to proceed any further.

25           - - -



11-1 1 BY MR. SINKIN:

2 Q Mr. Vurpillat or Mr. Grote, does that description  
3 of a survey being conducted, asking about problems on the site,  
4 raise any other possibility in the minds of either one of you?

5 BY WITNESS GROTE:

6 A Are you talking about the comment in --

7 Q In 81-11.

8 A -- survey?

9 Dr. Broom and I have discussed that subject, and  
10 what he stated summarizes my only knowledge of the survey.

11 BY WITNESS VURPILLAT:

12 A Mr. Sinkin, I'm not aware of any other survey such  
13 as the type described in 81-11 that might have taken place.

14 Q Okay. Thank you.

15 Also in 81-11 the NRC found that Brown & Root  
16 telephone operators did not have the telephone number for the  
17 NRC resident inspector readily available to them.

18 Now, when was the resident inspector assigned to  
19 the South Texas Nuclear Project?

20 BY WITNESS GROTE:

21 A The fall of 1979.

22 Q The fall of 1979?

23 BY WITNESS GROTE:

24 A Yes.

25 Q Do the Brown & Root operators now have his telephone



11-2  
1 number?

2 BY WITNESS GROTE:

3 A As far as I know they did then.

4 BY WITNESS BROOM:

5 A As a matter of fact, I think they have had in the  
6 past, also.

7 Q You disagree with the finding in 81-11, or --

8 BY WITNESS BROOM:

9 A No, sir.

10 I spoke to the investigator and heard him say how  
11 he determined that. He did that by placing a phone call to  
12 an operator on a day, and the operator was not familiar with  
13 that telephone number, or couldn't locate it quickly, or there  
14 was some confusion.

15 I don't think that that necessarily indicates that  
16 if he had phoned a month or six months earlier that you would  
17 not have been given that telephone number, and I think that that  
18 in fact probably was the situation, that if the operator in the  
19 past had known that telephone, and I think that anyone on the  
20 jobsite could certainly have found out Mr. Shannon Phillips'  
21 extension number if they were interested in doing so.

22 Q Dr. Broom, you stated that you were present, you  
23 thought, for one of the interviews conducted during the Grote/  
24 Magnuson investigation. Do you remember which interview that  
25 was?

1 BY WITNESS BROOM:

2 A Yes, sir. I was present during a portion of an  
3 interview with Mr. Hawkin.

4 Q Do you remember the day and time of that interview?

5 BY WITNESS BROOM:

6 A No, sir. I do not.

7 I would have to check it. I do not recall which  
8 day that was.

9 Q Turning a moment to the electrical termination  
10 shack, did Brown & Root conduct a training program last month  
11 for people to operate the electrical termination shack?

12 BY WITNESS BROOM:

13 A I don't know.

14 Q Mr. Grote, do you know?

15 BY WITNESS GROTE:

16 A I don't know, either.

17 A training program last month?

18 Q Training program last month to train people in the  
19 operation of the electrical termination shack.

20 BY WITNESS GROTE:

21 A It's possible that they would have.

22 BY WITNESS BROOM:

23 A Oh, I do know something that occurred last month  
24 that might have resulted in a training session.

25 As I testified earlier, the termination shack is

1 entirely involved in matters not related to safety.

2 In the future when electrical work of a safety-  
3 related nature is begun sometime down the road, work will be  
4 done under procedures which are much more formalized than the  
5 procedure we had been using in the past to control activities  
6 such as, you know, running a line to a temporary construction  
7 area to power construction tools, which is the bulk of the kind  
8 of work, temporary power that this group has been involved in.

9 And I believe it may have been last month, quite  
10 recently, I believe that the procedures covering some of this  
11 work have been instituted that would have required a procedural  
12 training session, and that may be what you have reference to.  
13 I don't know for a fact that that occurred, but I believe it  
14 did, and it could have been within the last month.

15 Q Is the electrical termination shack to become a  
16 focus of greater activity now as you move into safety-related  
17 electrical work?

18 BY WITNESS BROOM:

19 A No. We are not moving into safety-related electrical  
20 work yet, and it has not become a greater focus of attention  
21 of work, is at a pretty low level at the job.

22 Q Why is it at the moment work is at a pretty low  
23 level in the electrical termination shack area?

24 BY WITNESS BROOM:

25 A I believe Mr. Grote has referred to the fact that



1 we have had several layoffs on the project.

2 I think we have also stated earlier that the  
3 project -- the level of activity on the job as a whole has  
4 slowed down considerably. I think Mr. Goldberg referred at  
5 some length, testified at some length as to those circumstances.

6 Q Do you know how many employees are in the electrical  
7 termination shack at the moment?

8 BY WITNESS BROOM:

9 A In the shack?

10 Q Working in the electrical termination shack.

11 BY WITNESS BROOM:

12 A Working in the electrical termination shack, I  
13 would guess -- I'm not sure about this, but I would be  
14 surprised if there had ever been over one full-time employee,  
15 maybe two.

16 BY WITNESS GROTE:

17 A As far as I know we have never had a full-time  
18 person in the termination shack.

19 The termination shack is a point from which they  
20 issue in the morning and receive back in the evening certain  
21 tools used in electrical construction. Somebody would go down  
22 there in the morning to take them out, and come back in the  
23 evening to receive them. And the other times it was kept  
24 locked. In the middle of the day it would be locked up.

25



1 BY WITNESS BROOM:

2 A By the way, I guess that might help the record a  
3 little bit, this termination shack may be a funny term to these  
4 people who are not involved in the construction businss, or  
5 perhaps our jargon for describing activities on the site.

6 This small building is exactly that. It is a place  
7 where electrical tools that are used by the electrical  
8 department are kept, and they are checked in and out, and  
9 "termination" comes from the fact that electricians terminate  
10 electrical lines, and some of this equipment is used in those  
11 terminations; that is, crimpers, and megameters, things like  
12 that. So if that helps make sense out of "termination". It's  
13 not a building that we terminate employees in.

14 ///

15 ///

16 ///

17

18

19

20

21

22

23

24

25

11-7

1 BY MR. SINKIN:

2 Q I understand.

3 Mr. Grote, turning to the Brown & Root  
4 investigation, and your particular qualifications, do you  
5 hold an investigator's license from the State of Texas?

6 BY WITNESS GROTE:

7 A No.

8 Q Have you ever taken the State of Texas  
9 examination for an investigator's license?

10 BY WITNESS GROTE:

11 A No.

12 Q Do you have any professional experience as an  
13 investigator for a law office?

14 BY WITNESS GROTE:

15 A No.

16 Q Or a private investigation firm?

17 BY WITNESS GROTE:

18 A No.

19 Q Have you ever been a peace officer?

20 BY WITNESS GROTE:

21 A No.

22 Q Do you have any investigative experience, other  
23 than working for Brown & Root?

24 BY WITNESS GROTE:

25 A No.

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

11-8

1 Q Have you conducted other investigations for  
2 Brown & Root similar to this one?

3 BY WITNESS GROTE:

4 A No.

5 Q Can you describe to me what you did in preparing  
6 yourself to conduct this investigation?

7 BY WITNESS GROTE:

8 A As I stated yesterday, the decision to make the  
9 investigation was a consequence of an exit interview that I  
10 attended with the NRC on Friday April 10th.

11 In that meeting the NRC investigators that had been  
12 on the job the day before supplied me with the information  
13 that they had gathered during that one day on the jobsite.  
14 I was concerned about what they told me. I made a commitment  
15 to them while we were talking that morning that I would  
16 personally conduct my own investigation of what happened in  
17 connection with the two incidents that were reported that were  
18 of concern to them and to me, and those were the allegations  
19 of what they called a conspiracy to conduct an investigation;  
20 and the second thing was intimidation, or an allegation of  
21 intimidation by a foreman of an employee or employees, perhaps.

22 That afternoon when I got back to my office I  
23 reflected on what I was going to do, and I called Glen Magnuson,  
24 who is with our general counsel's office at Brown & Root, who  
25 was out of town. I called on the telephone and asked him if he

L-9  
1 would meet me down at the jobsite on Monday morning, because  
2 for one thing I didn't personally have any investigation  
3 experience. I don't know that I agree that for my purposes  
4 at least I need to be a detective, but I certainly wanted to  
5 be careful about how it was conducted, and I wanted to be sure  
6 that I didn't violate the rights of any of our employees by  
7 the way I inadvertently would handle a certain situation.

8 So I asked Mr. Magnuson to assist me in looking  
9 into the matter. So, that's the way we got started.

10 Q Is Mr. Magnuson a licensed investigator in the  
11 State of Texas?

12 BY WITNESS GROTE:

13 A I don't have any idea, you know, what his --  
14 whether he would answer yes to any of the questions you asked  
15 me.

16 Q You had some reason, though, to believe that he  
17 would have more expertise in investigation than you did?

18 BY WITNESS GROTE:

19 A Yes.

20 Q Why did you think so?

21 BY WITNESS GROTE:

22 A Well, he's a lawyer, and I talked to him about it  
23 before we got started, and he had had some experience in this  
24 sort of thing.

25 Q When was your first interview of Mr. Jack Hawkins



L-10 1 during this investigation?

2 BY WITNESS GROTE:

3 A It was on Monday afternoon, which would have been  
4 April 13th.

5 Q Had Brown & Root or HL&P interviewed Mr. Hawkins  
6 about 81-11 allegations before that interview, to your  
7 knowledge?

8 BY WITNESS GROTE:

9 A Had Brown & Root interviewed him prior to my --

10 Q Brown & Root, or HL&P, to your knowledge, talked  
11 to Mr. Hawkins about the 81-11 allegations?

12 BY WITNESS GROTE:

13 A I don't know that it would be accurate to say that  
14 Brown & Root interviewed him. I'm aware that on April 10th, the  
15 day after he talked to the NRC that he, I believe, came to our  
16 Assistant Project Manager's office, Harlan Fowler, and told  
17 Mr. Fowler that he had made a statement to the NRC that was in  
18 error. That at the time he made it he thought it was correct,  
19 but that he had upon reflection and talking to some more people  
20 decided it was in error, and on that occasion he wrote out a  
21 statement that he signed for Mr. Fowler, which corrected what  
22 he had said the day before to the NRC.

23 Other than that, I don't know of any interviews  
24 or discussions he had with HL&P or Brown & Root people.

25 Q Did you receive a copy of that statement that he

11-11 1 gave to Mr. Fowler?

2 BY WITNESS GROTE:

3 A Yes. I did.

4 MR. SINKIN: Mr. Chairman, in terms of discovery  
5 related to this whole report, I think we have reached the point  
6 of making our first request, and we would like to have copies  
7 of any and all statements, depositions, or other records  
8 provided by anyone in the Grote/Magnuson investigation, if  
9 those records do indeed relate to that investigation, whether  
10 those records are held by HL&P or Brown & Root.

11 JUDGE BECHHOEFER: Mr. Axelrad or Mr. Newman, as  
12 the case may be, do you have any --

13 MR. NEWMAN: We would like to have that request  
14 repeated. I'm not sure exactly what the scope was, or what  
15 Mr. Sinkin requested.

16 MR. SINKIN: I'm requesting copies of any and all  
17 statements, depositions, or other records provided by anyone  
18 during the Grote/Magnuson investigation that relate to that  
19 investigation that are held by HL&P or Brown & Root.

20 MR. AXELRAD: Could we defer that temporarily until  
21 the next recess? We would like to discuss with both Brown & Root  
22 and HL&P the scope of the request and what position we should  
23 take on that.

24 JUDGE BECHHOEFER: All right.

25 MR. AXELRAD: I'm not suggesting we take a recess

1 now.

2 JUDGE BECHHOEFER: We are getting close to the  
3 time when we would, but at the next recess we will do that.

4 BY MR. SINKIN:

5 Q How as Mr. Hawkins contacted to arrange an  
6 interview?

7 BY WITNESS GROTE:

8 A At the time that we talked to Mr. Hawkins we were  
9 in the main Brown & Root office building on the jobsite, and  
10 we were handling most of the requests to talk to people -- in  
11 fact all of them that I can think of -- through Harlan Fowler,  
12 the Assistant Project Manager, and he sent for him and had him  
13 brought to -- we were using the Site Manager's office, had him  
14 brought to that office.

15 Q Who was present when you interviewed Mr. Hawkins  
16 at that time?

17 BY WITNESS GROTE:

18 A Glenn Magnuson and myself.

19 Q You gave some testimony yesterday about the taking  
20 of notes, and all that, but I do want to be sure for each  
21 interview what we are talking about.

22 Was this interview recorded, tape recorded?

23 BY WITNESS GROTE:

24 A No. It was not.

25 Q Were any notes taken by you?



11-13

1 BY WITNESS GROTE:

2 A No. None.

3 Q Were any notes taken by Mr. Magnuson?

4 BY WITNESS GROTE:

5 A If he wrote anything down, it would have been --  
6 and he and I talked about this afterwards -- names of people  
7 that were mentioned by Jack Hawkins in the course of our  
8 conversation with him.

9 MR. SINKIN: Mr. Chairman, I think our second  
10 discovery request would be any notes made during the  
11 investigation by either Mr. Grote, Mr. Magnuson, or anyone  
12 else present for Brown & Root, or Houston Lighting & Power  
13 during those interviews, all the interviews conducted as part  
14 of this investigation.

15 JUDGE BECHHOEFER: Do you want the same recess  
16 to --

17 MR. NEWMAN: Yes. I think so.

18 In addition to that, I think there may be a question  
19 of privilege as to Mr. Magnuson's documents.

20 JUDGE BECHHOEFER: Are you at a decent breaking  
21 point? We could have a recess now.

22 MR. SINKIN: I have about two more questions in  
23 terms of how this interview was conducted.

24 I might say that I --

25 JUDGE BECHHOEFER: I was just aiming for a recess



1 time.

2 MR. SINKIN: Two more questions -- I might say that  
3 I could run down a list of all the discovery requests that  
4 might require consultation, and they could do them all at one  
5 time.

6 JUDGE BECHHOEFER: Okay. I think that would be  
7 useful, might speed things up.

8 MR. SINKIN: Let me just finish a couple of more  
9 questions about the interview, and then I will do that.

10 JUDGE BECHHOEFER: Then we will take a recess.

11 MR. SINKIN: Fine.

12 BY MR. SINKIN:

13 Q During the interview with Mr. Hawkins, who was  
14 asking questions of Mr. Hawkins, you, Mr. Magnuson, or both?

15 BY WITNESS GROTE:

16 A Both of us were.

17 Q Who asked the bulk of the questions?

18 BY WITNESS GROTE:

19 A I would say it was about even.

20 Q About even.

21 Was a statement for Mr. Hawkins' signature based  
22 on that interview?

23 BY WITNESS GROTE:

24 A No.

25

1-15

1 Q Okay.

2 BY WITNESS GROTE:

3 A It was not.

4 MR. SINKIN: In terms of the discovery requests,  
5 Mr. Chairman, --

6 JUDGE BECHHOEFER: We have two so far.

7 MR. SINKIN: I have two so far, and the third one  
8 coming up.

9 We would like any and all documents given to  
10 Brown & Root or Houston Lighting & Power related to the  
11 investigation of 81-11, such as the statement of Jack Hawkins  
12 to the NRC that was provided by Mr. Hawkins to Mr. Grote and  
13 Mr. Magnuson.

14 ///

15

16 ///

17

18 ///

19

20

21

22

23

24

25

11-16

1 JUDGE BECHHOEFER: Could you repeat that more  
2 slowly?

3 MR. SINKIN: Oh, sure.

4 Any and all documents given to Brown & Root, or  
5 Houston Lighting & Power relating to the events of 81-11  
6 investigated by Mr. Grote and Mr. Magnuson, such as the  
7 statement of Jack Hawkins to the NRC.

8 The next request is for all questions asked,  
9 answers given, mechanically recorded results, and interpretive  
10 reports on the polygraph examinations made as part of the  
11 Grote/Magnuson investigation.

12 We would, additionally, like all memorandums,  
13 documents, notes, or letters, or other documents from Houston  
14 Lighting & Power and Brown & Root related to this investigation  
15 that would not be covered under the previous requests.

16 JUDGE BECHHOEFER: Could you repeat that again,  
17 slowly?

18 MR. SINKIN: Okay. All memorandums, documents,  
19 notes, letters, Houston Lighting & Power, Brown & Root,  
20 possession related to this investigation, but not covered by  
21 the previous discovery requests.

22 JUDGE BECHHOEFER: In other words, anything else?

23 MR. SINKIN: Anything else you've got.

24 And, finally, we would like to have the employment  
25 history with Brown & Root since March of 1980 until the present

1 of the following people: And this is for however short a  
2 duration they were in a particular position.

3 Jack Hawkins, Freda Cortez, Jim Akins, Richard  
4 Stewart, James Kay, Cindy Koenig.

5 MR. AXELRAD: Could you spell it?

6 MR. SINKIN: Koenig is K-o-e-n-i-g. And, finally,  
7 is Biddy Frankum. I think his first name is Clayton.

8 Anywhere that they would be employed within HL&P  
9 or Brown & Root. I see Mr. Akins there. Anywhere within HL&P  
10 or Brown & Root they were employed since March 1980.

11 MR. AXELRAD: What you are asking, if I understand  
12 you correctly, is whether those particular individuals were  
13 employed either at HL&P or Brown & Root between March 1980  
14 and the present.

15 MR. SINKIN: And what their positions were at  
16 each particular time.

17 There's two more. At the end of the Exhibit 32-A,  
18 the Grote report to Broom, it states that Mr. Harlan Fowler  
19 was to conduct his own personal evaluation of the qualifications  
20 of all site supervisory personnel, foreman level and above.

21 We would like to have the results of that  
22 qualifications evaluation.

23 It also says Mr. Fowler was to determine, through  
24 interviews, any other instances of conduct similar to that  
25 uncovered in this investigation. We would like to have the



1-18

1 results of the interviews.

2 I'm sorry. Mr. Harlan Fowler was instructed to  
3 conduct an appropriate number of interviews with craft  
4 personnel and supervisors to determine whether any similar  
5 instances of conduct were found, could be found on the site.  
6 We would like the results of those interviews.

7 With that, Mr. Chairman, we are ready for a break.

8 JUDGE BECHHOEFER: Okay. I would appreciate it if  
9 you would make sure the reporter has all of those names.

10 MR. SINKIN: Yes. I will.

11 JUDGE BECHHOEFER: Why don't you see her during the  
12 break.

13 MR. SINKIN: I will. Thank you.

14 JUDGE BECHHOEFER: We will take -- Do you need  
15 a little more time during this break, a few extra minutes?  
16 Would that be desirable?

17 MR. NEWMAN: Let us see. I think, perhaps, we can  
18 do with 15 minutes, but can we get back.

19 JUDGE BECHHOEFER: Why don't we say 20 minutes, and  
20 give you a little leeway.

21 (A short recess was taken.)

22 ///

23 ///

24 ///

STP  
12-1  
he

1 JUDGE BECHHOEFER: Back on the record.

2 Is the Applicant prepared to respond to the  
3 discovery request?

4 MR. NEWMAN: Yes, Judge Bechhoefer.

5 I'd like to comment first that this discovery request  
6 is extraordinarily burdensome coming when it does, as it does.

7 The Intervenors have had the Grote investigation  
8 for the better part of two weeks now, and here on the very first  
9 day that they have an opportunity to talk with Mr. Grote and  
10 for the first time they identify this list of documents.

11 Nevertheless, we have a very strong interest in  
12 getting on with this proceeding and trying to expedite this  
13 proceeding, and so we will work into tonight to pull these  
14 materials together.

15 I would anticipate that we will have the materials  
16 together sometime tomorrow. We intend to work at it as hard as  
17 we possibly can to get it done. They're perceived right now  
18 perhaps a problem, although we're not even sure of that, the  
19 possibility that some of the notes may fall into some privileged  
20 category.

21 Barring that, I think that we will be able, with  
22 this extraordinary effort at this extraordinarily late date,  
23 to fulfill that request.

24 MR. JORDAN: From my point of view, I certainly  
25 appreciate the gracious willingness to respond, and I am

12-2 1 deeply shocked and distressed at the way that the Applicant has  
2 charged intervenors with, essentially with wrongdoing and at  
3 least misfeasance in failing to make a request earlier.

4 Our understanding was that we would not have an  
5 opportunity for discovery on this point outside of the context  
6 of having the witnesses on the stand. Witnesses are on the  
7 stand and we understood this would be where it was. That is  
8 what has happened. That is precisely what has happened, and  
9 that is what we felt was the ruling of the Board on the second  
10 or third day of this hearing.

11 MR. NEWMAN: Obviously, however, Mr. Chairman,  
12 counsel could have come to our desk at any time over the past  
13 couple of weeks, or made a telephone call for these documents  
14 and the thing could have been done in good time with adequate  
15 opportunity for study of the documents, not only by the parties  
16 but in all fairness to the Board as well.

17 So I think this is an extraordinarily burdensome  
18 procedure and I would hope that it would not be duplicated  
19 later on in the proceeding.

20 JUDGE BECHHOEFER: My only comment is that the  
21 request -- or should be made as soon as they can be made.

22 MR. NEWMAN: Well, obviously, yes. We perhaps have  
23 as strong, or stronger desire to do that than anyone here, but  
24 as we know, Mr. Grote's availability is limited, and I would  
25 ask the Board to consider again our request of last night that

12-3

1 we run late this evening and run late tomorrow evening in  
2 order to assure that Mr. Grote's examination is complete.

3 I think that will be especially true with respect  
4 to tomorrow night, should the documents suggest other questions  
5 to the Intervenors, so I would like to try for us to run late  
6 this evening and tomorrow night.

7 JUDGE BECHHOEFER: Mr. Newman, what do you mean by  
8 "Late"? Do you mean running like 7:00 or do you mean to recess  
9 and come back?

10 MR. NEWMAN: I think whichever alternative would  
11 get us the most hearing time.

12 I suspect that if it were possible to stay in  
13 session until 7:30 or 8:00 this evening, that that would  
14 probably be the most efficient use of everybody's time. There  
15 always seems to be an enormous loss of motion and momentum when  
16 we recess for dinner and then reconvene late.

17 That's a suggestion. Any other suggestion can  
18 work as well. I would just hope that we might get two or three  
19 hours of additional hearing time in today and tomorrow.

20 JUDGE BECHHOEFER: Off the record for a minute.

21 (Discussion off the record.)

22 JUDGE BECHHOEFER: Back on the record.

23 We think we will run until about 7:00 tonight to  
24 see where we go, and see how much more we need tomorrow to  
25 finish Mr. Grote and the rest of the panel.



12-4

1 MR. NEWMAN: We appreciate that.

2 JUDGE BECHHOEFER: Right. We will do our best.

3 Mr. Sinkin, you may go ahead.

4 BY MR. SINKIN:

5 Q Mr. Grote, we were discussing the Hawkins interview,  
6 the first Hawkins interview.

7 Did you conduct a second interview with Mr. Hawkins,  
8 other than the one on Monday, April 13th?

9 BY WITNESS GROTE:

10 A Yes. I'm thinking of one of the times I did talk  
11 to him.

12 The next morning, on Tuesday, I called him at the  
13 jobsite and I asked him a couple of follow-up questions over  
14 the telephone, and then --

15 Q Let's take them one at a time.

16 In that telephone call did you take any notes of  
17 what he said?

18 BY WITNESS GROTE:

19 A No.

20 Q Okay. Was anyone else on the phone, or was it  
21 just you and Mr. Hawkins?

22 BY WITNESS GROTE:

23 A Just me and Hawkins.

24 Q Okay. Next?

25 / / /

12-5

1 BY WITNESS GROTE:

2 A The next time I talked to Mr. Hawkins was on  
3 Thursday, the 16th. I went down to the jobsite and interviewed  
4 several people -- I say several people; a couple of people,  
5 and one of those people was Hawkins, and I asked him a few  
6 follow-up questions to those he had already been asked.

7 I went down to his place of -- his work station,  
8 which in the warehouse, and talked to him.

9 And then the following week on Tuesday he came to  
10 Houston for his polygraph examination, and following that  
11 examination we had him come over to Brown & Root's office and  
12 talked to him late Tuesday afternoon, and then --

13 Q Let me stop you a second.

14 Thursday, the 16th, you go to the jobsite and you  
15 talk to him. Is anyone else present, or is it just you and  
16 Mr. Hawkins?

17 BY WITNESS GROTE:

18 A It was just me and Mr. Hawkins on that particular  
19 occasion. I walked into the warehouse and I just -- right now  
20 I can't recall exactly the purpose -- it was a minor item I  
21 wanted to recheck with him, and I walked into the warehouse on  
22 my way out of the plant to come back to Houston, and asked him  
23 a question or two, and then again -- when was the next time --  
24 Thursday -- that was on Thursday and then the following Tuesday  
25 he came to Houston for his polygraph examination, and I requested

12-6

1 that he come by the office after the polygraph examination  
2 and we talked to him then, and that was the occasion that  
3 Dr. Broom came in and was -- it was in Glen Magnuson's office  
4 and those present were Glen Magnuson, myself, Jack Hawkins,  
5 Dr. Broom was there part of the time, and Larry Ashley, who's  
6 the vice-president of construction, was there for --

7 Q I didn't catch that last name.

8 BY WITNESS GROTE:

9 A Ashley, A-s-h-l-e-y. -- was there for a short  
10 period of time also.

11 Q How about after the day of the polygraph  
12 examination, when did you next talk to Mr. Hawkins, or did you  
13 talk to him?

14 BY WITNESS GROTE:

15 A Yes. There was one other occasion. It was the  
16 following Wednesday -- let's see -- the next day.

17 Q The day after the polygraph?

18 BY WITNESS GROTE:

19 A The day after the polygraph examination. That was  
20 the day that we met -- when I say "we," myself and some HL&P  
21 people -- met in the HL&P conference room with the NRC to  
22 discuss 81-17, and following that discussion we went back over  
23 to Brown & Root's office and telephoned Mr. Hawkins, either  
24 before we left or after we got over to Brown & Root, and had  
25 him come up from the jobsite to talk some more with us, and

12-7

1 that discussion went on into the evening sometime.

2 Q So when Mr. Hawkins came from the jobsite to  
3 Houston, who sat down to talk to him?

4 BY WITNESS GROTE:

5 A Well, there were a number of people that talked to  
6 him. Glen Magnuson and I talked to him by ourselves. We  
7 talked to him in the company of Dick Herr of the NRC. Dick  
8 Herr talked to him by himself.

9 There was another gentleman from the NRC who was  
10 there also, but only in a capacity of listening, I guess. I  
11 can't recall his name offhand, but I can probably reconstruct it  
12 if you want me to.

13 Q Was anyone else present when you and Mr. Magnuson  
14 talked to Mr. Hawkins?

15 BY WITNESS GROTE:

16 A Other than the NRC people?

17 Q Yes.

18 BY WITNESS GROTE:

19 A Part of the time, no.

20 Q NRC people were present part of the time and the  
21 rest of the time it was just you and Mr. Magnuson talking to  
22 Mr. Hawkins?

23 BY WITNESS GROTE:

24 A That's right.

25 Oh, excuse me. I just recalled. Freda Cortez was



12-8

1 there on that occasion also, and she sat in on part of the  
2 discussion.

3 Q Turning to Freda Cortez, when was the first  
4 interview you conducted with Freda Cortez?

5 BY WITNESS GROTE:

6 A On Monday, the 13th, Freda Cortez was absent from  
7 work and so we couldn't talk to her on that occasion.

8 So on Tuesday, the 14th, I had Freda Cortez driven  
9 to Houston from the jobsite, and on that occasion she met in  
10 my office with me and Glen Magnuson.

11 Q And during that interview who asked most of the  
12 questions?

13 BY WITNESS GROTE:

14 A To the best of my recollection, it was approximately  
15 even.

16 Q And was that interview recorded in any way?

17 BY WITNESS GROTE:

18 A No.

19 Q I can shorten this up. Were any of the interviews  
20 you conducted during this investigation recorded in any way?

21 BY WITNESS GROTE:

22 A None of the interviews were recorded to my knowledge,  
23 unless one of the interviewees recorded it unbeknownst to me.  
24 I don't think they did.

25 Q Okay. In terms of the interview on Tuesday, the 14th,

L2-9

1 with Freda Cortez, did either you or Mr. Magnuson make any  
2 notes?

3 BY WITNESS GROTE:

4 A No. Unless Mr. Magnuson may have written down  
5 some names, as he told me later one, he had done. I didn't  
6 notice him taking any of it down.

7 - - -

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

12-10

1 BY MR. SINKIN:

2 Q In any of the interviews you conducted did you  
3 prepare any statements for the people being interviewed to  
4 sign?

5 BY WITNESS GROTE:

6 A No.

7 Q When did you next interview Freda Cortez, if you  
8 did?

9 BY WITNESS GROTE:

10 A The following Wednesday, or eight days later,  
11 which I suppose would have been the 21st. I don't have a  
12 calendar.

13 (Document passed to witness.)

14 BY WITNESS GROTE:

15 A Yes. It was on Wednesday, the 22nd of April.

16 Q Can you recount where and who was present?

17 BY WITNESS GROTE:

18 A Yes. She had telephoned Brown & Root the evening  
19 before and talked to Mr. Magnuson and told him that she may  
20 have been the one that put the documents in the suitcase, and  
21 so we had her driven to Houston the next morning.

22 I had a meeting at 10:30 with the NRC in connection  
23 with 81-17, and unfortunately she didn't arrive until about  
24 10:15 at my office, so I talked to her for about 15 minutes or  
25 20 minutes or so and then left and went downtown to the exit

12-11

1 interview with the NRC.

2 Q Before you go on, the 15-minute interview, who  
3 was present?

4 BY WITNESS GROTE:

5 A Glen Magnuson.

6 Q And yourself?

7 BY WITNESS GROTE:

8 A Yes.

9 Q And then you went downtown. Mr. Magnuson remained?

10 BY WITNESS GROTE:

11 A He remained in my office with Mrs. Cortez for a  
12 short period. When I got downtown the NRC said they wanted to  
13 talk to Freda Cortez, and so I had Glen drive Mrs. Cortez down-  
14 town to the Light Tower.

15 Q Can you estimate for me the period of time that  
16 Freda Cortez and Mr. Magnuson were together alone?

17 BY WITNESS GROTE:

18 A An hour.

19 Q An hour. Thank you.

20 Then you called Mr. Magnuson and --

21 BY WITNESS GROTE:

22 A And then I telephoned Mr. Magnuson and asked him  
23 to drive Freda Cortez downtown so that the NRC could talk to  
24 her.

25 Q And was there another interview with her that day?



12-12

1 BY WITNESS GROTE:

2 A Yes. That's the day that -- following our meetings  
3 downtown we telephoned Jack Hawkins and asked him to drive up  
4 to Houston, and Freda Cortez, Glen Magnuson, myself, Dick Herr  
5 and this other NRC fellow that didn't participate, all went  
6 over to Brown & Root's offices and met in the conference room.

7 Q You mentioned some Houston Lighting & Power people  
8 that were present when the NRC was in Houston. Can you give me  
9 the names of those people?

10 BY WITNESS GROTE:

11 A The HL&P people that were present were never in the  
12 company of Mrs. Cortez.

13 The NRC investigator, Dick Herr, interviewed  
14 Mrs. Cortez in George Oprea's office, and George Oprea and  
15 myself, Dick Frazar.

16 Q Those were the people that were present?

17 BY WITNESS GROTE:

18 A Uh-huh. Glen Magnuson came in later on, but he  
19 was there only part time.

20 Q Could you recount for me as best you can recall the  
21 interview in which you and Mr. Magnuson and Mr. Hawkins and  
22 Mrs. Cortez were in the same room talking, what transpired,  
23 who asked what and who said what?

24 BY WITNESS GROTE:

25 A At the time we were discussing, or we were focusing

12-13  
1 on the occasion back in October when Freda Cortez had learned  
2 of the impending NRC investigation into the termination shack.

3 She had disclosed that information to a number of  
4 people on the job, and I presume that it became common knowledge  
5 at least in the electrical department very quickly.

6 There was an instance that she had mentioned to us  
7 in which Jack Hawkins apparently was concerned about the upcoming  
8 investigation and went down to the pipe shop where Freda was  
9 working at that time, and because Mrs. Cortez had previously  
10 been the person that ran the termination shack and Jack was  
11 then the relatively new foreman of the termination shack, he  
12 asked Mrs. Cortez if there was anything that he could do or  
13 should do to prepare for the NRC investigation.

14 Q Anything else you talked about in that interview  
15 that you can recall?

16 BY WITNESS GROTE:

17 A I'm sure there were some other things that we  
18 talked about in connection with the entire event, but that was  
19 the focus of our discussion.

20 - - -

21  
22  
23  
24  
25

1 Q Did the --

2 BY WITNESS GROTE:

3 A It was a rather brief discussion when we had  
4 both of them together.

5 Q It was brief when you had both of them together?

6 BY WITNESS GROTE:

7 A Yes.

8 Q When you had the brief discussion with both  
9 of them in the room, did you discuss how Mr. Hawkins knew  
10 that the Nuclear Regulatory Commission was coming to investigate?

11 BY WITNESS GROTE:

12 A Yes. I don't recall that it was specifically  
13 that time only, but we did discuss how Mr. Hawkins found  
14 out about it, yes.

15 Q And what did he say?

16 BY WITNESS GROTE:

17 A He said that Bidy Frankum told him.

18 Q That Bidy Frankum told him?

19 BY WITNESS GROTE:

20 A Uh-huh. Bidy Frankum was the general superintendent  
21 of the Electrical Department at that time.

22 Q Did he -- strike that.

23 When was your first interview with Mr. Jim Akins?

24 BY WITNESS GROTE:

25 A I don't recall the date that I interviewed

3-2 1 Mr. Akins.

2 It was in this timeframe, one of those two weeks. I  
3 don't recall the exact date, but I telephoned him either  
4 the week of the 13th of April or the following week. I  
5 don't recall which one.

6 Q Can you tell me why you telephoned Mr. Akins?  
7 What led you to call him?

8 BY WITNESS GROTE:

9 A Uh-huh. Jack Hawkins told me that on a prior --  
10 during a Brown & Root QA audit, I guess it was, of the  
11 termination shack, prior to the October 1980 visit by  
12 the NRC, that he pointed out to Mr. Akins that he had  
13 these three suitcases in the termination shack, each of  
14 which contained an identical piece of equipment. They  
15 were cylinders with a gauge on them.

16 He didn't know what they were for. He didn't  
17 know whether they belonged in the termination. He had  
18 been unable to identify them and didn't know whether they  
19 belonged in there or not.

20 He alleged to me that Mr. Akins had told him  
21 that if he didn't know what they were, he ought to get  
22 them out of there.

23 So I called up Jim Akins to verify that.

24 Q And he verified that?

25 //



1 BY WITNESS GROTE:

2 A Yes. He told me that he did.

3 Q Did you talk to Mr. Akins again in the context  
4 of this investigation?

5 BY WITNESS GROTE:

6 A Yes, I had one other telephone conversation  
7 with him, in which I asked him whether he would be willing  
8 to take a polygraph examination to verify whether or not  
9 he had done that, and he said that he would.

10 Q We never did give him one. I just wanted  
11 to find out whether he would be willing to.

12 Q I see. Was that the last time you talked  
13 to Mr. Akins?

14 BY WITNESS GROTE:

15 A Yes.

16 Q In your report you state that Mr. Akins conducted  
17 a routine surveillance audit of the electrical termination  
18 shack.

19 BY WITNESS GROTE:

20 A Yes.

21 Q Could you tell me, what is a routine surveillance  
22 audit?

23 BY WITNESS GROTE:

24 A A surveillance audit is one in which, in this  
25 particular case, he reviewed the files and the conduct

3-4  
1 of the running of the termination shack against procedures  
2 to determine if there were any violations of the procedures.

3 It was routine in the sense that it was nothing --  
4 it wasn't a special audit investigation. There was no  
5 particular purpose for it.

6 Q Do you know how often Mr. Akins conducted  
7 such audits of the electrical termination shack?

8 BY WITNESS GROTE:

9 A No, I don't.

10 Q To the best of your knowledge, did he conduct  
11 another audit in the period from April 1980 to October  
12 1980, not including the one we've discussed in October  
13 1980, of the electrical termination shack?

14 BY WITNESS GROTE:

15 A I don't know if he did or not.

16 Q In his audit in October of 1980, did Mr. Akins  
17 also review the supervisor's office and the foreman's  
18 office, besides the shack itself?

19 BY WITNESS GROTE:

20 A I don't know whether he did or not.

21 I assumed from my conversation with him that  
22 he didn't, but I have no basis for making that assumption,  
23 other than the fact that he told me that he had made a  
24 surveillance of the termination shack and didn't mention  
25 the other.

1 Q To the best of your knowledge, then, the first  
2 time Mr. Akins saw the suitcases was on October 23rd,  
3 1980, during his audit?

4 BY WITNESS GROTE:

5 A To the best of my knowledge, that's correct.

6 Q Did you ask him if he had ever seen them before?

7 BY WITNESS GROTE:

8 A No, I didn't ask him.

9 Q Did you ask him if he saw the suitcases later  
10 than October 23rd, 1980?

11 BY WITNESS GROTE:

12 A No, I didn't.

13 Q You said that in a routine surveillance audit  
14 he would compare what they were doing, essentially, to  
15 the procedures?

16 BY WITNESS GROTE:

17 A Yes.

18 Q Would he write a report of that audit?

19 BY WITNESS GROTE:

20 A Yes.

21 Q In your understanding of this routine surveillance,  
22 would the presence of unaccounted for equipment be a violation  
23 of procedures?

24 BY WITNESS GROTE:

25 A No. As a matter of fact, when I was talking

3-6 1 to him the first time on the telephone, he said that he  
2 remembered making the statement to Jack Hawkins.

3 He remembered the occasion upon which he made  
4 the statement.

5 I asked him when it was on the telephone,  
6 and he said he couldn't remember exactly when it was.

7 He said when did Jack Hawkins say he had done  
8 it.

9 I said, "Sometime in '80," and so he said,  
10 "That will be helpful to me in looking up my records,  
11 because I recall doing it, but I don't remember the exact  
12 date," and so he started flipping through some paper.

13 I think what he said was he wrote his report  
14 sometime later that month, and that the date was the 23rd  
15 that the investigation had taken place.

16 Q Did you request a copy of that audit report?

17 BY WITNESS GROTE:

18 A No, I did not, because he told me that the  
19 audit report didn't reflect anything about the suitcases.

20 He only looked it up to refresh his memory  
21 as to what occasion he had -- upon what occasion he had  
22 visited the termination shack.

23 Q According to your report, Mr. Akins said to  
24 Mr. Hawkins, and I believe you repeated here today, that  
25 he should remove the suitcases if he could not account



8-7  
1 for them.

2           Is the implication that by moving the suitcases  
3 to the foreman's office, Mr. Hawkins would be following  
4 Mr. Akins' orders?

5 BY WITNESS GROTE:

6           A       Well, I don't know that that was necessarily  
7 the implication, nor do I think I was trying to make any  
8 particular implication by reflecting it.

9           It's simply that, first of all, Jim Akins  
10 had no authority to order Jack Hawkins to do anything.

11           The point -- or at least the way that particular  
12 incident struck me was that it was a possible other reason  
13 that Jack Hawkins would have moved the suitcases, other  
14 than anticipating the NRC coming to visit in the next  
15 few days.

16  
17                           - - -  
18  
19  
20  
21  
22  
23  
24  
25

3-8 1 Q But do you have any reason to believe that  
2 Mr. Hawkins moved the records for a reason other than  
3 the fact the NRC was coming -- moved the suitcases, excuse  
4 me?

5 BY WITNESS GROTE:

6 A Well, I suppose that would be another reason,  
7 that somebody told him or suggested to him that he ought  
8 to move them out of there.

9 Q I see.

10 Did Mr. Akins attempt at any time to account  
11 for the equipment in the suitcases?

12 BY WITNESS GROTE:

13 A To my knowledge, he did not.

14 Q Did you ask him that question?

15 BY WITNESS GROTE:

16 A No, I didn't ask him.

17 Q You say in your report that Mr. Hawkins gave  
18 you a copy of his sworn statement to the NRC.

19 Did Brown & Root ask Mr. Hawkins to request  
20 his statement from the NRC, or did he already have it?  
21 Do you remember?

22 BY WITNESS GROTE:

23 A He didn't already have it.

24 Glen Magnuson asked him if he had a copy of  
25 the statement that he had signed, and he said that he

1 didn't; and Glen Magnuson suggested to him that it was  
2 his right to request a copy of it.

3           The next day, supposedly on that suggestion,  
4 he telephoned the NRC and got a copy of it.

5           Q       Mr. Hawkins called the NRC and requested a  
6 copy?

7 BY WITNESS GROTE:

8           A       Yes. I believe they asked him something like,  
9 "How do we know it's you," and he had to some way verify --  
10 I think they called him back and asked for him, or something.

11          Q       Okay. When was your first interview with  
12 Richard Stewart regarding this investigation?

13 BY WITNESS GROTE:

14          A       On the 13th, the first day that Magnuson and  
15 I were down there.

16          Q       And who was present?

17 BY WITNESS GROTE:

18          A       Glen Magnuson, Biddy Frankum, James Kay and  
19 Spec Stewart.

20                   I think James Kay came in a little bit later,  
21 but he was there at or about that time.

22          Q       And as a group, you discussed the allegations  
23 of 81-11?

24 BY WITNESS GROTE:

25          A       Yes.

B-10

1 Q Did you meet again with Mr. Stewart after  
2 that time, or telephone him or in any way contact him?

3 BY WITNESS GROTE:

4 A He was the one that drove Freda Cortez up  
5 the following Wednesday, the 22nd.

6 He drove her to Houston and he drove her back  
7 down south that evening when we were through.

8 Other than just a number of routine exchanges  
9 with him, we didn't ask him -- to my recollection, we  
10 didn't ask him any more questions.

11 We had gotten the information that we wanted  
12 from him. He had taken a polygraph test and verified  
13 what he had told us.

14 Q When was your first interview with James Kay?

15 BY WITNESS GROTE:

16 A On the 13th.

17 Q Would that be the same group meeting you talked  
18 about?

19 BY WITNESS GROTE:

20 A Same group meeting.

21 Q Did you subsequently interview Mr. Kay?

22 BY WITNESS GROTE:

23 A No.

24 Q And the first meeting with Bidy Frankum?

25 //



B-11

1 BY WITNESS GROTE:

2 A On the 13th?

3 Q The same group meeting?

4 BY WITNESS GROTE:

5 A Well, no. We had much more extensive contact  
6 with Bidy Frankum during this investigation because of  
7 the fact that he was the head of the Electrical Department.

8 He was the first person that we visited when  
9 we got to the job site on the 13th.

10 He accompanied us down to the office you just  
11 mentioned. We went to the termination shack.

12 We worked through him in gathering certain  
13 information, and talked to him on a number of occasions  
14 in person and by telephone after that.

15 Q Did you ever ask Mr. Frankum how he knew the  
16 NRC was coming?

17 BY WITNESS GROTE:

18 A Yes, we did, and he said that he heard it.  
19 He didn't recall where he heard it, but it was common  
20 knowledge that they were coming, or became common knowledge  
21 very quickly.

22 I don't think he said that Freda Cortez told  
23 him.

24 Q Did you tell Mr. Frankum that Mr. Hawkins  
25 had said that Mr. Frankum told him the NRC was coming?

B-12

1 BY WITNESS GROTE:

2 A I don't recall specifically having made that  
3 statement to Mr. Frankum, no. It's possible.

4 Q I might say, if I say, "Did you," and it was  
5 Mr. Magnuson who did, if you would just please --

6 BY WITNESS GROTE:

7 A I'm speaking for both of us.

8 Q All right.

9 When was your first interview with Cindy Koenig?

10 BY WITNESS GROTE:

11 A On Monday, the 13th.

12 Q She was not in the group, though?

13 BY WITNESS GROTE:

14 A No, she was not. We had her brought to the  
15 project manager's office, and we interviewed her in private,  
16 Glen Magnuson and myself.

17 Q Did you talk to her again after that time?

18 BY WITNESS GROTE:

19 A I believe the following Thursday when Magnuson  
20 and I were down on the job site, we asked her a follow-up  
21 question of some manner or variety or another. I believe  
22 it had to do with asking her to remind us of a name she  
23 had given us.

24 Other than that, we had no other contact with  
25 her.

3-13

1 Q When was your first interview with Ernest Wyatt?

2 BY WITNESS GROTE:

3 A On Thursday, the 16th.

4 Q Could you explain the circumstances of that  
5 meeting? Who was present?

6 BY WITNESS GROTE:

7 A Ernest Wyatt was then and is presently an  
8 employee of HL&P.

9 I requested permission to talk to Mr. Wyatt  
10 through Dave Barker's office.

11 Mr. Barker arranged to have us interview  
12 Mr. Wyatt in one of the HL&P offices on the job site.

13 There was Mr. Barker and another HL&P employee,  
14 whose name I can't remember offhand, that were present  
15 when we talked to him.

16 Q When did you first -- Did you interview  
17 Mr. Ernest Wyatt again after that day?

18 BY WITNESS GROTE:

19 A No.

20 Q What was the date that Mr. Wyatt took the  
21 polygraph examination?

22 BY WITNESS GROTE:

23 A It was sometime during the week of April the  
24 20th. I don't recall the exact day.

25 Q When was your first interview with Marie Wyatt?

3-14

1 BY WITNESS GROTE:

2 A I don't recall the exact date. I spoke with  
3 Mrs. Wyatt briefly by telephone at some time. It was  
4 actually after this two-week period. It was sometime  
5 later.

6 I didn't know how to contact her during this  
7 two-week period, and she telephoned me, and I talked to  
8 her at that time.

9 Q She called you?

10 BY WITNESS GROTE:

11 A Yes.

12 Q Regarding the investigation about 81-11?

13 BY WITNESS GROTE:

14 A No.

15 Q About a separate matter?

16 BY WITNESS GROTE:

17 A Yes.

18 Q Who else did you or Mr. Magnuson interview  
19 in your investigation of 81-11?

20 I think I've run through the names that appear  
21 in your report. Is there anyone else you talked to?

22 BY WITNESS GROTE:

23 A We talked to a couple of other people that  
24 were -- turned out not to be very helpful to us in the  
25 investigation.



3-15

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 One was Barbara Wilson, who was an employee  
2 in the Electrical Department.

3 Another one was -- If you'll give me a few  
4 moments, I'll have to think of his name.

5 (Pause.)

6 Well, my mind has gone blank right now. I'll  
7 come up with it later.

8 Q Is it a Brown & Root or HL&P employee?

9 BY WITNESS GROTE:

10 A Brown & Root.

11 Q Brown & Root?

12 BY WITNESS GROTE:

13 A Uh-huh.

14 Q Did you talk to a Mr. Eric Avery about 81-11?

15 BY WITNESS GROTE:

16 A No, I did not.

17 Q Eric Avery, A-v-e-r-y.

18 BY WITNESS GROTE:

19 A No.

20  
21  
22  
23  
24  
25

- - -

4-1 1 BY MR. SINKIN:

2 Q Just to reconfirm some things in your report,  
3 Mr. Grote, it says that Mr. Frankum was terminated from the  
4 job for theft of company property; is that correct?

5 BY WITNESS GROTE:

6 A That's correct.

7 Q Do you consider that a fairly serious charge?

8 BY WITNESS GROTE:

9 A I certainly do.

10 Q Are you aware of where Mr. Frankum is working today?

11 BY WITNESS GROTE:

12 A I --

13 MR. REIS: Mr. Chairman, I object. I don't see  
14 the relevance.

15 MR. SINKIN: You will shortly, Mr. Reis, if you  
16 will just be patient.

17 MR. REIS: That's no answer to an objection.

18 MR. SINKIN: Well, I can try, can't I?

19 (Laughter.)

20 MR. SINKIN: I'm going somewhere with this, --

21 JUDGE BECHHOEFER: Okay. Are you going to connect it?

22 MR. SINKIN: -- Mr. Chairman, that I do consider  
23 relevant.

24 I await your ruling.

25 JUDGE BECHHOEFER: Objection overruled.

4-2  
1 BY MR. SINKIN:

2 Q Are you aware Mr. Frankum is working today?

3 BY WITNESS GROTE:

4 A No, I am not aware where he is working, or if he is  
5 working.

6 Q To your knowledge, does Brown & Root have a power  
7 plant maintenance job in Thompson, Texas, just outside of  
8 Rosenberg?

9 BY WITNESS GROTE:

10 A It's possible that we have a maintenance job there.  
11 Are you talking about the HL&P plant?

12 Q Did Brown & Root build the plant?

13 BY WITNESS GROTE:

14 A Beg your pardon?

15 Q Did Brown & Root build the plant?

16 BY WITNESS GROTE:

17 A We built two of the units there.

18 Q In Thompson, Texas?

19 BY WITNESS GROTE:

20 A (No response.)

21 Q Mr. Broom, do you have any information about  
22 Thompson, Texas?

23 BY WITNESS BROOM:

24 A I'm not familiar with where Thompson is, to be  
25 truthful.

1 Q It's within five or six miles of Rosenberg, Texas.

2 BY WITNESS GROTE:

3 A . The only plant we have built near Rosenberg, are  
4 two units of the Parish Project.

5 Q Excuse me.

6 BY WITNESS GROTE:

7 A Two units of the Parish Plant.

8 Q The Parish Plant.

9 BY WITNESS GROTE:

10 A Which is an HL&P owned facility.

11 Q Is that a coal power plant?

12 BY WITNESS GROTE:

13 A Yes.

14 BY WITNESS BROOM:

15 A I'm not aware of any maintenance work we have  
16 underway there at the present time. I believe -- I stand to be  
17 corrected -- we have -- As a matter of fact, I don't believe  
18 we have any employees there now. I believe we have had one or  
19 two people of start-up engineering-type role that were there  
20 until fairly recently. I don't even think they are there now.

21 We might have a small job there, but I'm not aware  
22 of it if we do.

23 MR. SINKIN: I suppose I should direct this to  
24 Mr. Newman. I'm not sure.

25



1 BY MR. SINKIN:

2 Q If possible, I would like for you to check with  
3 Brown & Root and determine if Mr. Frankum is, indeed, employed  
4 in the Thompson, Texas area by Brown & Root.

5 MR. NEWMAN: We will check on it.

6 MR. SINKIN: That is our information, that he is  
7 employed by Brown & Root in that area.

8 MR. NEWMAN: Can you give me the source of your  
9 information? It would shorten it.

10 MR. SINKIN: No. I'm afraid I can't.

11 WITNESS BROOM: I didn't understand what you said.  
12 You can't give us that information?

13 MR. SINKIN: No. I've given you the information we  
14 have. As far as the source of the information, I'm afraid I  
15 can't divulge that.

16 MR. NEWMAN: No. Is it a document that you have,  
17 or -- I am not asking for the names of individuals, but if it  
18 is in some sort of document that we can look at.

19 MR. SINKIN: No, it is not in a document, no,  
20 Mr. Newman.

21 MR. NEWMAN: And --

22 WITNESS BROOM: My problem in doing what you have  
23 asked to be done is we have talked about a job that we  
24 supposedly have near Thompson, Texas, and what I am trying to  
25 find out is if I find out if he is on -- if he is involved in any

1 maintenance work at the Parish Project, is that going to be  
2 sufficient, or is it some other part of our company, or --

3 MR. SINKIN: I will repeat for you the information  
4 we have, and you can take it from there.

5 Our information is that Mr. Clayton Frankum is now  
6 employed by Brown & Root in the Thompson, Texas, area. That the  
7 nature of the work is power plant maintenance.

8 That may be incorrect. It may be correct. The  
9 essential item that we are looking for is does Mr. Clayton  
10 Frankum now work for Brown & Root?

11 WITNESS BROOM: I suppose the simplest way to find  
12 that out is to call Mr. Frankum, if we can do that.

13 MR. SINKIN: That's fine.

14 BY MR. SINKIN:

15 Q Mr. Grote, your report shows that Mr. Richard  
16 Stewart was terminated from the job for negligence and failing  
17 to account for company property, and that there were other  
18 considerations of job performance which contributed to the  
19 decision to terminate Mr. Stewart.

20 In terms of the other considerations of job  
21 performance, do you know if th NRC ever conducted an  
22 investigation that involved an allegation against Mr. Stewart?

23 BY WITNESS GROTE:

24 A I am hesitating because I am not really sure whether  
25 they ever investigated an allegation against Mr. Stewart.

1 They did investigate an allegation, and upon their  
2 investigation became aware of Mr. Stewart, and became aware of  
3 his connection with the allegation. I don't know that he was  
4 among those that were alleged to have done anything originally.

5 They knew of him, and they mentioned him to me.

6 Q I would ask your counsel to show you NRC I&E  
7 Report 80-21, Staff Exhibit No. 67.

8 BY WITNESS GROTE:

9 A I am familiar with that report.

10 Q The allegation No. 1 is that individual K falsified  
11 permanent plant maintenance records. Are you aware of whether  
12 Individual K is Mr. Richard Stewart?

13 BY WITNESS GROTE:

14 A I think I know who Individual K is, and if he is  
15 who I think he is it is not Spec Stewart.

16 Q Do you know if Mr. Stewart was ever found by the  
17 NRC to have been involved in falsification of records?

18 BY WITNESS GROTE:

19 A I don't know that he was ever found to be involved  
20 in falsification of records, no.

21 Q Do you know if it was ever alleged?

22 BY WITNESS GROTE:

23 A I don't think it was ever alleged that he was, no.

24 Q Was Mr. Stewart involved in 80-21?  
25

1 BY WITNESS GROTE:

2 A. Yes.

3 Q Do you know where --

4 BY WITNESS GROTE:

5 A. I think so.

6 Q You think so?

7 BY WITNESS GROTE:

8 A. Yes.

9 Q Okay.

10 Can you give me some insight into the other  
11 considerations of job performance that contributed to the  
12 decision to terminate Mr. Stewart?

13 ///

14

15 ///

16

17 ///

18

19

20

21

22

23

24

25



1 BY WITNESS GROTE:

2 A Yes. It has been some time since I reviewed the  
3 details of 80-21. That is the number, isn't it, 80-21?

4 Q Yes.

5 BY WITNESS GROTE:

6 A So I have to read the whole thing to refresh my  
7 memory, but generally my recollection is that associated with  
8 this allegation of falsification of records there was also a  
9 practice that was carried on by this person, Individual K, of  
10 not carrying maintenance records with him, or having his people  
11 not carry maintenance records with them when they went out to  
12 inspect certain pieces of equipment. His logic being that he  
13 was afraid it would get dirty, or be in some way -- and it came  
14 out in this investigation that, in our own follow-up  
15 investigation, or I guess you would call it investigation of  
16 the facts of the matter that Spec Stewart, who was Individual K's  
17 supervisor, I believe, had been aware of that part of what was  
18 viewed to be at least bad judgment on the person's part. It was  
19 not the falsification part that he was aware of.

20 And, so, as a consequence of that a decision was  
21 made to put Mr. Stewart in non-safety-related work. And so that  
22 was another factor in his past performance that was considered  
23 in this.

24 Q Do you know where Mr. Stewart is now working?

25

1 BY WITNESS GROTE:

2 A I believe he is working at a non-nuclear Brown & Root  
3 Project.

4 On his termination from the project, we so instructed  
5 that the box marked "Subject to Rehire" and "Not subject to  
6 Rehire" be checked "Subject to Rehire." And we had a note put  
7 on the slip that said "Subject to Rehire on Non-Nuclear Work."

8 Q Non-nuclear work?

9 BY WITNESS GROTE:

10 A Yes.

11 Q Do you know where the job is that he has been rehired  
12 on?

13 BY WITNESS GROTE:

14 A I think it is a project that we have over in  
15 Mississippi, but I'm not --

16 Q Would that be Pascagoula, Mississippi?

17 BY WITNESS GROTE:

18 A I think so, yes.

19 Q Which box did you check on Mr. Frankum?

20 BY WITNESS GROTE:

21 A Not subject to rehire.

22 Q On Mr. Hawkins?

23 BY WITNESS GROTE:

24 A Not subject to rehire.

25 Q Mr. Kay?

1 BY WITNESS GROTE:

2 A Subject to rehire.

3 Q Just to clear up one minor item, in the beginning of  
4 your investigative report you state that "I committed to the NRC  
5 that Brown & Root would conduct a thorough of the department as  
6 a whole."

7 Earlier you testified that you committed to  
8 investigating the allegation of the suitcases, and the allegation  
9 of intimidation.

10 Can you resolve that difference between the two?

11 BY WITNESS GROTE:

12 A (No immediate response.)

13 Q I guess my question would be what precisely do you  
14 remember that you committed to the NRC that you would  
15 investigate?

16 BY WITNESS GROTE:

17 A The commitment was to look into the allegations of  
18 construction, of investigation into intimidation of employees.  
19 In order to do that we were going to look at the situation in  
20 the department as a whole, the department being the temporary  
21 electrical department, because as a minimum we felt like we  
22 needed to talk to a cross-section of people in that whole  
23 department to get at the allegation of intimidation.

24 Q I see. Did you verify the location of the equipment  
25 cases, where they were actually put after being removed from the



1 electrical termination shack?

2 BY WITNESS GROTE:

3 A Yes.

4 Q How did you go about verifying that?

5 BY WITNESS GROTE:

6 A We talked to a number of people. When we went onto  
7 the jobsite they were still in the location that they had  
8 alleged -- they were alleged to have been since last October.

9 Q Did you ever determine how the equipment cases  
10 originally were placed in the electrical termination shack?

11 BY WITNESS GROTE:

12 A Yes.

13 This fellow who I am having a hard time remembering  
14 his name, was the prior foreman of the termination shack back  
15 before April 1980, up to April 1980, and he told us that he had  
16 ordered the equipment cases.

17 The compressed gas cylinders -- I suppose it is  
18 nitrogen -- were to be used on pneumatic crimpers in the event  
19 there was an unavailable source of compressed air and nitrogen  
20 nearby. And to his knowledge they had never been used while he  
21 was the foreman. They had simply been sitting there ever since.

22 Q You said he ordered them.

23 BY WITNESS GROTE:

24 A Yes.

25 Q Did you ask him if there were any records associated



1 with those documents that came to the electrical termination  
2 shack, or --

3 BY WITNESS GROTE:

4 A Yes.

5 Q -- were generated in the electrical termination  
6 shack?

7 BY WITNESS GROTE:

8 A Yes.

9 Q Were there such documents?

10 BY WITNESS GROTE:

11 A No. They were in the tool room.

12 The records in the electrical termination shack  
13 related to those tools that required periodic cut calibration,  
14 and, therefore, the records on the suitcases happened to be down  
15 in the tool room, the main tool room.

16 Q We are dealing with an investigation of events that  
17 occurred, roughly, six months prior to your conducting  
18 interviews. Did you do anything particular to refresh the  
19 memory of the people you were talking to about the events you  
20 were asking them about?

21 For example, did you show them 80-34?

22 BY WITNESS GROTE:

23 A I can't recall doing anything specifically to refresh  
24 their memory, no.

25 Q The report states that on October 28th Mr. Hawkins

1 talked to Mrs. Cortez. What is the reason that you say October  
2 28th; what is the source for that date?

3 BY WITNESS GROTE:

4 A I am trying to remember who all told me, confirmed  
5 that date. I know I got it from Freda Cortez.

6 I believe that upon discussion with several people  
7 we zeroed in on that date, and there was no question in  
8 anybody's mind that that was the timeframe.

9 Q Okay. You state here that you interviewed Jack  
10 Hawkins, the foreman of the termination shack, who told us that  
11 on October 28th, 1980 he had talked to Freda Cortez, a clerk who  
12 had told him that the NRC was coming on the site the next day.

13 MR. NEWMAN: Mr. Sinkin, not to disturb your rhythm,  
14 but could you identify where you are reading from, so the witness  
15 can read along with you?

16 MR. SINKIN: Third paragraph, first page, first line.  
17 I didn't quite finish the sentence, but it is that first  
18 sentence I'm talking about.

19 BY WITNESS GROTE:

20 A That's correct.

21 BY MR. SINKIN:

22 Q All right.

23 BY WITNESS GROTE:

24 A As I read that, I suppose the implication could have  
25 been that she was the first person that told him, and originally

1 Jack Hawkins did say that she was the first person that told him,  
2 but he, again, refreshed his memory, after he thought about it for  
3 awhile, and recalled that the first person to tell him was Bidy  
4 Frankum.

5 Q Do you remember when Mr. Hawkins first told you that  
6 Freda Cortez had told him and then changed his mind to Mr. Frankum,  
7 which interview with Mr. Hawkins that was?

8 BY WITNESS GROTE:

9 A The first time he told us was on the 13th, Monday the  
10 13th. I can't recall if he changed it on that occasion, or if it  
11 was the occasion that Thursday when we went back on the jobsite.  
12 I believe it was on Monday in the course of our discussion with  
13 him that he recalled that she was not the first person to mention  
14 it to him.

15 Like I said, it was common knowledge very quickly.

16 ///

17  
18 ///

19  
20 ///

21  
22  
23  
24  
25

5-1  
ed  
1 Q You say that Mr. Hawkins went down to the  
2 pipe shop to talk to Mrs. Cortez about what to do?

3 BY WITNESS GROTE:

4 A Yes.

5 Q That would be after Mr. Hawkins said Mr. Frankum  
6 had told him the NRC was coming?

7 BY WITNESS GROTE:

8 A Yes.

9 Q Would it be before the first time that Mrs. Cortez  
10 talked to him about the NRC coming?

11 Is that the first time that Mr. Hawkins and  
12 Mrs. Cortez talked about the NRC coming, to your knowledge?

13 BY WITNESS GROTE:

14 A My impression was that Bidly Frankum was the  
15 first person to tell Jack Hawkins, and he telephoned  
16 Freda Cortez, and my impression was that --

17 Q Excuse me. By "he," you mean --

18 BY WITNESS GROTE:

19 A Jack Hawkins telephoned Freda Cortez, and  
20 either she told him or he said something to her -- I believe  
21 she told him before they got started talking very good,  
22 or asked him if he knew about it yet; and he said, "Yes."

23 He requested an opportunity to come down to  
24 the pipe shop and talk to her.

25 Q Do you know how many times Mr. Hawkins went



5-2

1 to the pipe shop, if he went more than once?

2 BY WITNESS GROTE:

3 A I can't recall if he -- offhand. My sense  
4 is that he just went one time. It's possible that he  
5 went more than once.

6 Q And did Mr. Hawkins and Mrs. Cortez talk about  
7 the suitcases?

8 BY WITNESS GROTE:

9 A Not to my knowledge. Neither one of them  
10 told me that they had talked about the suitcases.

11 Q I believe you have 80-34, the I&E 80-34 report  
12 there and available to you, if you would turn to that  
13 for a moment.

14 JUDGE BECHHOEFER: What exhibit is that?

15 MR. SINKIN: Staff Exhibit No. 78.

16 BY MR. SINKIN:

17 Q If you'll turn to page 3 -- no, excuse me --  
18 page 4, under the "Investigative Findings," Allegation  
19 No. 1, it states that, "On October 28th, 1980, Individuals  
20 A and B were interviewed in Bay City, Texas."

21 Do you know who either Individual A or Individual  
22 B is?

23 MR. NEWMAN: Mr. Chairman, I'm afraid that  
24 we are again at that point where the NRC confidential  
25 informants are being discussed and their identification

5-3 1 being requested.

2 I know of -- There's no extrinsic circumstances  
3 here that would suggest that the events can be correlated  
4 or the people can be correlated.

5 I would think this would be one of the areas  
6 where there would be some difficulty in proceeding under  
7 the Board's ruling.

8 MR. REIS: Mr. Chairman, further, I would  
9 point out, at least with reading the first few paragraphs  
10 of this, that these people are strictly informants. They  
11 don't see to be protagonists in the action.

12 They are ones who report what happened; and,  
13 therefore, when we're looking at actions, there's no reason  
14 to have the names of those who informed.

15 MR. SINKIN: Mr. Chairman, I point out that  
16 we have a very significant difference here from other  
17 reports, in that Brown & Root has done their own report  
18 in which they named the names of everybody involved.

19 They have mailed that report to 31 people,  
20 including a number of people outside either Brown & Root  
21 or Houston Lighting & Power, and essentially made this  
22 report public.

23 Pursuing the identities of people in the I&E  
24 Reports that have been made public through a Brown & Root  
25 document, I can't see that we're in the same situation

5-4 1 as trying to find out who is who in the order to show  
2 cause.

3 MR. NEWMAN: Mr. Chairman, that comment has  
4 to be totally irrelevant.

5 We're not talking about 80-34. We're talking  
6 about 81-11.

7 MR. SINKIN: You find no connection between  
8 the two?

9 MR. NEWMAN: It may be apparent to you. It's  
10 not to me.

11 MR. SINKIN: Well, let me see if I can establish  
12 one.

13 BY MR. SINKIN:

14 Q Mr. Grote, to your knowledge, was the NRC  
15 investigation that led to hiding the suitcases -- in other  
16 words, when they heard the NRC was coming, they hid suitcases.

17 To your knowledge, was that NRC investigation  
18 No. 80-34?

19 MR. NEWMAN: Mr. Chairman, I'm going to object  
20 to the characterization that suitcases were hidden. All  
21 we know -- That has a certain connotation which I think --

22 MR. SINKIN: I will rephrase that to "moved."

23 MR. NEWMAN: Yes, I think that would be a  
24 fairer statement.

25 //

1 BY MR. SINKIN:

2 Q Having rephrased it to "moved," Mr. Grote,  
3 were the suitcases moved in response to the pending NRC  
4 investigation that was later reported as 80-34?

5 BY WITNESS GROTE:

6 A Well, I'm not sure I know exactly why the  
7 suitcases were moved, but it was just before Investigation  
8 80-34.

9 Q Okay. If we were to assume for argumentation  
10 sake that they were moved because the NRC was coming,  
11 it would be your opinion it was the NRC Report 80-34?

12 MR. NEWMAN: Objection. Counsel is testifying.

13 MR. SINKIN: That's fine. I appreciate the  
14 elevation, Mr. Newman.

15 JUDGE BECHHOEFER: I take it you are withdrawing  
16 that?

17 MR. SINKIN: I withdraw the question, Your  
18 Honor.

19 MR. REIS: Mr. Chairman, for clarification  
20 on the record, I would call the Board's attention to Staff  
21 Exhibit 100, which is a subsequent investigation that  
22 deals with how they found out the NRC was coming; and  
23 in there on page 4 --

24 JUDGE BECHHOEFER: Hold on a minute until  
25 I get up to 80-34.



1 MR. SINKIN: 81-17.

2 JUDGE BECHHOEFER: I was just trying to pull  
3 it out of the file.

4 Okay, I've got it.

5 MR. REIS: Exhibit 100.

6 My help in this way does not lessen my objection  
7 to having them named. I just think we ought to tie things  
8 together when we can easily do so.

9 MR. SINKIN: Mr. Chairman, our position is  
10 that since the events dealt with in 80-34, 81-11 and 81-17  
11 involve the same basic people, that identifying them in  
12 terms of these reports and correlating the three reports  
13 with each other builds a complete record and doesn't violate  
14 any confidentiality, because we're not asking the NRC  
15 to tell us.

16 We're asking Mr. Grote to tell us.

17 JUDGE BECHHOEFER: Well, under our ruling,  
18 only if he can do it positively.

19 If he just suspects, that's not worth much.  
20 If he can identify the people positively, then he may  
21 answer under our prior ruling.

22 MR. SINKIN: Okay.

23 BY MR. SINKIN:

24 Q Mr. Grote, let's start with page 4 of 80-34,  
25 "Individuals A and B were interviewed in Bay City, Texas,

5-7 1 on October 28th."

2 Can you tell me who Individuals A and B are?

3 BY WITNESS GROTE:

4 A No.

5 Q Moving to Individual C, interviewed on October  
6 29th, can you tell me who Individual C is?

7 JUDGE BECHHOEFER: Wait a minute. Where is  
8 it?

9 MR. SINKIN: I'm sorry. Same page, next paragraph,  
10 "Interview of Individual C." Page 4.

11  
12 - - -  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

5-8

1 JUDGE BECHHOEFER: Okay.

2 WITNESS GROTE: It would require me to speculate.

3 I don't know for sure who that is, no.

4 BY MR. SINKIN:

5 Q On page 5, "Interview of HL&P supervisor on  
6 October the 30th, Individual D," do you know who Individual  
7 D is?

8 BY WITNESS GROTE:

9 A No, I don't.

10 Q To wrap it up, how about "Interview of B&R  
11 supervisor," same page, "Individual E on October 30th"?

12 BY WITNESS GROTE:

13 A No, I don't.

14 To put this in perspective, I haven't studied  
15 this Investigation Report in some time. I could speculate  
16 and conclude if I studied it, but offhand, I don't know  
17 who any of those are.

18 Q Did you study this Investigative Report before  
19 you began your investigation?

20 BY WITNESS GROTE:

21 A Yes.

22 Q Turning to 81-11 on page --

23 JUDGE BECHHOEFER: Wait one minute.

24 Off the record for a minute.

25 (Discussion off the record.)

5-9

1 JUDGE BECHHOEFER: Back on the record.

2 At this point the Board wishes to point out  
3 that these are the types of documents which we would entertain  
4 a motion to strike.

5 It's probably premature at this time because  
6 the Staff witness is not yet here; but I would like to  
7 inquire of the Intervenors would you move -- either one  
8 of you -- would you move to strike this document, particularly,  
9 which is --

10 MR. SINKIN: 80-34?

11 JUDGE BECHHOEFER: We have Staff Exhibit 78,  
12 and we have --

13 MR. SINKIN: Well, from the position of CCANP,  
14 we would not move to strike this document.

15 However, we are placed in the most difficult  
16 position of having three I&E Reports that all relate to  
17 each other, and then having a contractor investigative  
18 report that names all the individuals publicly, and being  
19 unable to tie the I&E report to the contractor's report  
20 to determine the veracity of one or the other.

21 MR. JORDAN: I haven't made a final decision  
22 on that point, but my inclination at this point is to  
23 move to strike in this kind of situation; but I would  
24 obviously be intending to do it quite a bit later when  
25 the Staff's case comes on.



5-10

1 JUDGE BECHHOEFER: All right. Well, we're  
2 trying to --

3 MR. JORDAN: For example, if we're looking  
4 for an example that we can brief, here's an example.

5 JUDGE BECHHOEFER: Yes, this is what the Board  
6 was thinking of.

7 This is the kind of situation where perhaps  
8 not every individual, but certainly, many of those individuals  
9 should be identified.

10 I'm not positive about the informants themselves,  
11 A and B, on one of those reports, but I would think that  
12 at least the actors who were identified, and perhaps the  
13 informants, also, should be identified, and those are --  
14 at least, we would like you to brief that, because again,  
15 that would be an example of the situation where --

16 R. NEWMAN: Mr. Chairman, it's not immediately  
17 clear to me that there are in this series of questions  
18 individuals who are not confidential informants.

19 I don't see in any of the questions that have  
20 been asked of protagonists, other than a confidential  
21 NRC informant.

22 MR. REIS: We would have to look at it and  
23 see. I am not prepared to say at this point.

24 JUDGE BECHHOEFER: Well, I'm not asking you  
25 to say at this point --

5-11

1 MR. REIS: Whether it is -- whether if one  
2 falls in one classification, he's automatically excluded  
3 from another. We have to look at that.

4 JUDGE BECHHOEFER: All right. All I am saying  
5 is that the persons or the letters which have just been  
6 identified are ones that you might well address in your  
7 respective briefs, because that is a specific situation  
8 where it may well be that we ought to have -- in fact,  
9 it seems to us that we should have identification of at  
10 least some of these individuals, particularly where some  
11 of them have been named -- if some of them have been named  
12 in the Applicant's Exhibit 32(a).

13 MR. REIS: It could be very well, Mr. Chairman,  
14 that these people are all informants.

15 Informants can include people who can identify  
16 records and only where the case can be made solely from  
17 records.

18 In some of these situations, looking at it  
19 quickly here, it seems that it is matters that could be  
20 made solely from records and are things that could be  
21 developed solely from records, and so they can be developed  
22 in other manners and the people who point out the records  
23 are not particularly relevant.

24 So they maybe all fall in the classification  
25 of informants. I am not sure. I'd have to look at it

5-12

1 further.

2 JUDGE BECHHOEFER: Well, I'm not trying to  
3 get you to take a position now.

4 I'm just pointing this out as a specific example  
5 of an area which you could include in your brief and which  
6 we could talk about it in oral argument.

7 MR. NEWMAN: Mr. Chairman, may I just add  
8 one --

9 JUDGE BECHHOEFER: Others may come up before  
10 we --

11 MR. NEWMAN: Just one clarifying remark. I  
12 don't want to be misunderstood.

13 I indicated before this involved all NRC confidential  
14 informants. I'm not implying that I have the basis for  
15 knowing who falls into that --

16 JUDGE BECHHOEFER: Oh, I certainly recognize  
17 that.

18 MR. NEWMAN: It just occurred to me that we  
19 were talking about Individuals A, B, C, D, E, and in those  
20 situations, I take them to be confidential informants.  
21 I don't know that for a fact.

22 MR. SINKIN: Perhaps, Mr. Chairman, it would  
23 be helpful somewhere along the line here if the NRC could  
24 explain precisely the process they use in granting confidentiality.

25 JUDGE BECHHOEFER: Well, perhaps in their

5-13

1 brief or in oral argument, they can do so.

2 I don't think that's testimony, as such, but  
3 Mr. Reis could let us know that perhaps.

4 MR. SINKIN: I understand.

5 JUDGE BECHHOEFER: Would this be a good time  
6 to take a short break?

7 MR. SINKIN: Fine.

8 JUDGE BECHHOEFER: Okay. Let's take 15 minutes.

9 (Recess taken.)

10

11

- - -

12

13

14

15

16

17

18

19

20

21

22

23

24

25



EVENING SESSION

6:00 P.M.

JUDGE BECHHOEFER: Back on the record.

Mr. Sinkin, you may proceed.

MR. SINKIN: Thank you.

BY MR. SINKIN:

Q Mr. Grote, turning to I&E Report 81-11, Staff Exhibit No. escapes me at the moment --

MR. REIS: 95.

Q -- 95. Thank you. Starting on Page 5, do you know who Individual A is?

BY WITNESS GROTE:

A. No.

Q Let me ask you just to review Allegation No. 1, and see if you know who any of the people are who are identified by letter?

BY WITNESS GROTE:

A Mr. Sinkin, I have reviewed this report before, and I think my general feeling is that there are some people on here who I can probably speculate as to who they are.

There are probably even two or three people on here that I am fairly sure I know who they are. Maybe I need some guidance as to how far I should go in speculation about people.

JUDGE BECHHOEFER: Well, we don't want you to speculate.

1 WITNESS GROTE: I can speculate about most of them.

2 JUDGE BECHHOEFER: If you can be positive, you can  
3 do it, but if you cannot be positive --

4 WITNESS GROTE: Well, for example, it says: "Talked  
5 to a Brown & Root foreman who intimidates," or that a Brown & Root  
6 foreman intimidates employees who talked to HL&P personnel, or  
7 who talked to B&R supervisory personnel.

8 I am pretty sure I know who that is, based upon my  
9 conversations with people at the jobsite, but I can't be sure.  
10 I can't be positive that I know who it is.

11 I'm not trying to make a delimma for you, Mr.  
12 Chairman, I just can't be absolutely positive I know who he is.

13 WITNESS BROOM: I might expand upon that. I think  
14 that -- Excuse me. I was just going to add a word to what  
15 Mr. Grote said.

16 In looking into this matter, I think conversations  
17 with a number of people led us to believe that we know who that  
18 is alleged to have been, but I would have the same problem that  
19 Mr. Grote has. It could be that somebody made a statement to  
20 the NRC and had another individual in mind. We don't know who  
21 those individuals are, and we can't prove that absolutely  
22 positively, but it is similar to the situation I was in  
23 yesterday, I guess I'm, oh, I don't know, 90 percent sure, 80  
24 percent, you know, something like that, but I couldn't be  
25 positive.

6-3 1 WITNESS GROTE: Look at Allegation No. 3 on Page 6,  
2 for example. It says: Brown & Root personnel in the electrical  
3 department termination shack are not qualified, including a  
4 foreman who scored 30 on a recent electrical examination."

5 From that I might conclude that's a termination shack  
6 foreman, but I have other reason to believe that that is not the  
7 foreman they are talking about in that case, because I know who  
8 the alleged person that made a 30 on -- at least I know of some-  
9 body that was alleged to have made a 30 on an examination, and  
10 he certainly was not the foreman of the termination shack.

11 JUDGE BECHHOEFER: Well, that's all the more reason  
12 not to identify the person.

13 WITNESS GROTE: As I went through this before I  
14 would read individual so and so, and I would think, well, that's  
15 probably so and so. I can recall going down later on, and  
16 realizing that the so and so I thought it was, was not the person  
17 because of something else that was said later on, and so ....

18 BY MR. SINKIN:

19 Q Let me try Allegation No. 5, Mr. Grote, --

20 BY WITNESS GROTE:

21 A Okay.

22 Q -- since it is most clearly related to your  
23 investigation.

24 In the investigative findings it says that interview  
25 of Individual C resulted in the reported observation by

1 Individuals E and R, that they witnessed the removal of the  
2 equipment.

3 BY WITNESS GROTE:

4 A Uh-huh.

5 Q Did your investigation reveal two people who  
6 witnessed the removal of the suitcases?

7 BY WITNESS GROTE:

8 A My investigation revealed that Ernest Wyatt told  
9 me, he along with some other fellow that I don't believe he  
10 identified, saw.

11 Q Ernest Wyatt saw the removal of the suitcases?

12 BY WITNESS GROTE:

13 A Uh-huh. I don't know if he's the only one that  
14 saw it.

15 Q He's the only one your investigation discovered who  
16 saw it?

17 BY WITNESS GROTE:

18 A That's correct. So I guess I could presume that  
19 maybe he was E or R, but I don't know that to be the case,  
20 because it is certainly possible that somebody else saw it.

21 Q Well, on Page 9, a search of Individuals U and V  
22 jointly shared office disclosed three gray suitcases. Is there  
23 any doubt in your mind who U and V are?

24 BY WITNESS GROTE:

25 A No. I'm not sure which one is which.



1 Q Which one is which, I understand. You know who U and  
2 V are?

3 BY WITNESS GROTE:

4 A I think so, yes.

5 Q Could you tell me who U and V are?

6 BY WITNESS GROTE:

7 A One of them would be Spec Stewart, and the other one  
8 would be James Kay, because they share an office, and it was in  
9 their office that the three suitcases were discovered by the  
10 NRC investigators.

11 Q Further on down on the same page --

12 BY WITNESS BROOM:

13 A I would correct that, and make that past tense.  
14 They shared an office. I heard him say present tense, I thought.

15 MR. SINKIN: That's fine.

16 WITNESS GROTE: Okay.

17 ///

18  
19 ///

20  
21 ///

22

23

24

25

1 BY MR. SINKIN:

2 Q Further on down in the third paragraph, the large  
3 paragraph, the last sentence: "Individual T advised that  
4 Individual N assisted him in straightening up the termination  
5 shack, and that the documents were placed inside the suitcases  
6 by either himself or Individual N."

7 Is there any doubt in your mind as to who Individual  
8 T and Individual N are?

9 BY WITNESS GROTE:

10 A Let me read the sentence before it.

11 No, there is no doubt in my mind.

12 Q Who is Individual T?

13 BY WITNESS GROTE:

14 A He is Jack Hawkins.

15 Q And Individual N?

16 BY WITNESS GROTE:

17 A It would had to have been Cindy Koenig.

18 Q Well, we are doing pretty well on Allegation 5.

19 On the previous page on Page 8, the last paragraph  
20 Individual D remarked that about 9:45 a.m. he saw Individuals  
21 T and U exit the termination shack.

22 We have already determined that U is either Spec  
23 Stewart or James Kay, from your previous identification of U and  
24 V.

25 Can you tell me who Individual T --

1 MR. NEWMAN: I'm going to object to this question,  
2 because even if --

3 MR. SINKIN: That's fine. If he has already  
4 identified Individual T.

5 MR. REIS: Mr. Chairman, I want to register an  
6 objection to this line of questions. I think we getting to  
7 curiosity here that is nothing more than identifying these  
8 people.

9 It is not necessary. The incidents are admitted.  
10 We know that they were Brown & Root employees. We know that  
11 the offices they held, generally foreman, generally supervisors.  
12 I don't see where we need any more of this stuff, except to  
13 satisfy a curiosity, to put names on letters, and it is nothing  
14 more than a curiosity that doesn't help in this record, or any  
15 part of this proceeding whatsoever.

16 It doesn't help in establishing whether or not these  
17 matters took place. I think we have it established the suitcases  
18 went out of the office.

19 MR. SINKIN: I'm certain, Mr. Chairman, we have it  
20 established the suitcases did leave the office. I don't have  
21 any question about that.

22 As to the roles played by particular individuals,  
23 we have the NRC's version of what took place, and we have  
24 Brown & Root's version of what took place.

25 The only real method of comparing them is to know

1 who the NRC report would refer, and who the Brown & Root report  
2 would refer to. That is what I am attempting to determine.

3 MR. REIS: That would only matter if they differed  
4 in some critical situation, or material thing, that were material  
5 to what is being established here.

6 And what we are doing is we are engaged in an  
7 irrelevant discussion. We have been for 20 minutes now trying  
8 to identify people.

9 MR. NEWMAN: Mr. Chairman.

10 MR. REIS: This is just the point that I was getting  
11 at, that it is not necessary in very, very many instances, and  
12 that's why we have to have the facts, to know whether there is  
13 any relevance to this whatsoever. We know that a B&R employee  
14 did it. We know that it was a B&R foreman. Where do we go  
15 from there?

16 MR. NEWMAN: And I would add my concern in that  
17 regard, too, Mr. Chairman.

18 MR. REIS: I think we are just wasting time.

19 MR. NEWMAN: I don't think that there is any  
20 material difference, at least anything that would be of  
21 significance.

22 WITNESS GROTE: May I be helpful in that regard?  
23 I think that I can say that --

24 MR. NEWMAN: No. Excuse me. I want to complete  
25 my statement.



6-9 1 At least anything that would assist in developing a  
2 record for decision making, and I don't believe that we have  
3 really gotten from Mr. Sinkin anything that would indicate a  
4 significant direction to his line of cross-examination, and I  
5 think what we are doing here is counting fly specs, and not  
6 really advancing the record.

7 Frankly, we don't have contentions that relate to  
8 this issue, and -- But beyond that, it just doesn't appear to  
9 me that there is anything useful coming out for decision-making  
10 purposes.

11 Unless Mr. Sinkin can identify some major difference,  
12 some crucial element that he intends to prove, then it is just  
13 a matter of idle curiosity.

14 MR. SINKIN: Mr. Chairman, I will move to another  
15 line of questioning, and cease my attempts to determine who the  
16 people are in the NRC reports about these events.

17 I would also note that Mr. Newman states there is  
18 no contention related to these events. I don't believe that is  
19 quite accurate, in that this report does deal with intimidation,  
20 the NRC investigative report deals with intimidation.

21 MR. NEWMAN: Mr. Chairman, I think it has been  
22 clear, though, that the intimidation and harassment that we  
23 have been talking/ involves quality-related areas and QA/QC  
24 personnel, and neither is involved in this case, which really  
25 exacerbates the waste of time.

6-10 1 JUDGE BECHHOEFER: Well, I would like my recollection  
2 refreshed. I remember that we declined to adopt the new  
3 contention on this subject, on the basis that it was agreed that  
4 the subject could be litigated without.

5 MR. SINKIN: That is not my precise recollection.  
6 I believe that -- Oh, I'm sorry. That's earlier in this  
7 proceeding.

8 JUDGE BECHHOEFER: Early in the proceedings.

9 MR. JORDAN: That is my recollection. I believe  
10 Mr. Sinkin wasn't there on that date.

11 MR. REIS: Mr. Chairman, I think it can be litigated.  
12 I would disagree with Mr. Newman on that.

13 But my disagreement is that we are litigating, we  
14 are spending time on a matter that is pretty well settled and  
15 agreed, and there is no showing of any evidence, and we are  
16 just wasting time, and, therefore, from my point of view it is  
17 cumulative and irrelevant to what we are engaged in.

18 I think it does go to character and competence,  
19 and the ability to control their organization. I think there  
20 are possible findings that could be made on that in the  
21 situation, so I would disagree with Mr. Newman on it.

22 But I certainly think that Mr. Sinkin was well  
23 advised to stop this line of questioning because I think we  
24 are just wasting time.

25 JUDGE BECHHOEFER: Well, anyway, he has advised that  
he isn't going on.

17-1

1 Q Returning to your report, Mr. Grote, on Page 3,  
2 in the second paragraph, about two-thirds of the way down,  
3 actually the sentence begins just about the middle of the  
4 paragraph, the sentence beginning, "In a statement given to  
5 Harlan Fowler," do you see that sentence?

6 BY WITNESS GROTE:

7 A Yes.

8 Q If you would just read that sentence.

9 BY WITNESS GROTE:

10 A You want me to read the sentence?

11 Q Just to yourself, just to refresh your memory.

12 BY WITNESS GROTE:

13 A Oh, okay. Okay.

14 Q It states that in giving his statement to Mr. Fowler  
15 Mr. Hawkins said he had no idea who placed the documents in the  
16 suitcases; is that correct?

17 BY WITNESS GROTE:

18 A Right.

19 Q If you will turn to Page 4, at the top, actually  
20 starting at the bottom of Page 3 and then moving up to Page 4,  
21 that sentence, if you'll refresh your memory on that sentence.

22 BY WITNESS GROTE:

23 A Okay.

24 Q Mr. Hawkins in that sentence is saying he felt  
25 responsible for the actions of Cindy Koenig, his subordinate,

17-2

1 who he felt he felt, quote, must have, unquote, put the documents  
2 in the case.

3 BY WITNESS GROTE:

4 A Right.

5 Q Can you tell me, the quotation marks around must  
6 have, from what source is that quoted? Is that your quoting  
7 his verbal words?

8 BY WITNESS GROTE:

9 A Yes.

10 Q Did you explore with Mr. Hawkins the difference  
11 between saying to Mr. Fowler he had no idea who placed the  
12 documents in the suitcase and later saying Cindy Koenig must  
13 have placed the documents in the suitcase?

14 BY WITNESS BROOM:

15 A Wait a minute. Wait a minute.

16 BY WITNESS GROTE:

17 A I'm sorry.

18 BY WITNESS BROOM:

19 A I'd like to comment on that, Mr. Sinkin.  
20 I think you got the cart before the horse.

21 BY WITNESS GROTE:

22 A That's right. He's got it backwards.

23 BY WITNESS BROOM:

24 A I think you're misreading the whole paragraph.

25 Q Well, straighten me out, please.



17-3  
1 BY WITNESS GROTE:

2 A He, in his statement to the NRC, said that Cindy  
3 Koenig or -- he said that he and/or Cindy Koenig -- I've  
4 forgotten the exact words in the statement, we'll get it, but  
5 it was "must have" or "might have," I believe were the words he  
6 used in that statement, placed the documents in the suitcases.

7 The next day he, upon reflection and upon having  
8 talked with Cindy Koenig in the meantime -- he didn't have an  
9 opportunity to talk to Cindy before the NRC investigator got  
10 him off by himself and persuaded him to sign a statement.

11 After he signed the statement he talked to Cindy  
12 Koenig and she told him that she hadn't done it, and upon  
13 reflection he said he refreshed his memory, that the occasions  
14 that he went through the files with Cindy was when they were  
15 in preparation for the NRC -- or at the time of the NRC audit  
16 or the preparation for the NRC investigation.

17 It was at a time at or about that time when they  
18 were changing the filing system of the termination shack. In  
19 any event, so the next day he went to Harlan Fowler and he  
20 said, "I made a misstatement to the NRC; the facts are that I  
21 don't know who put the documents in the suitcases."

22 Later when he talked to me, I kept focusing on that,  
23 why would you sign a sworn statement to the NRC that was  
24 something you weren't sure about; why would you admit to some-  
25 thing that you weren't sure about, and he told me that he felt

17-4

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 responsible for Cindy Koenig since she worked for him, that he  
2 couldn't figure out any reason why those documents would have  
3 been in there unless either he or Cindy had done it, but he  
4 couldn't specifically recall it at the time the NRC  
5 investigators were talking to him, and since they were in there  
6 clearly, and since he was rather confused and somewhat, well,  
7 scared by being confronted suddenly by the NRC, that he admitted  
8 it and he felt like Cindy must have done it when she was  
9 cleaning up something around the termination shack, and so  
10 therefore under what he felt like was some pressure from the  
11 investigator to make a statement and sign a sworn statement  
12 he signed one that admitted that he and/or Cindy had done it,  
13 and it was in the exit interview on April the 10th Dick Herr  
14 told me that those words "might have" or "must have" done it  
15 in the sworn statement were a problem that he had had with Jack  
16 Hawkins, that he tried to get Jack Hawkins to admit doing it  
17 but he wouldn't come right out and sign a statement that said  
18 that he had done it, and he said it has a somewhat qualified  
19 statement that he might have or must have done it. So that's  
20 what that means.

21 Q Did Cindy Koenig take a polygraph test?

22 BY WITNESS GROTE:

23 A Yes.

24 Q Was she asked if she participated in putting the  
25 records in the suitcases?

17-5

1 BY WITNESS GROTE:

2 A Yes.

3 Q What was her answer?

4 BY WITNESS GROTE:

5 A Her answer was no.

6 Q Did the interpretation of the polygraph indicate  
7 she was telling the truth?

8 BY WITNESS GROTE:

9 A Yes, it did.

10 Q Did Freda Cortez take a polygraph?

11 BY WITNESS GROTE:

12 A Yes.

13 Q Was she asked if she participated in putting the  
14 records in the suitcases?

15 BY WITNESS GROTE:

16 A Yes, she was.

17 Q What was her answer?

18 BY WITNESS GROTE:

19 A She said no, and it was interpreted as being  
20 truthful.

21 Q Marie Wyatt?

22 BY WITNESS GROTE:

23 A No. She was not asked to, nor did she take a  
24 polygraph test.

25 Q Ernie Wyatt?

L7-6

1 BY WITNESS GROTE:

2 A Yes, he was asked.

3 Q He took a polygraph test?

4 BY WITNESS GROTE:

5 A Yes.

6 Q He was asked if he had hidden the records?

7 BY WITNESS GROTE:

8 A He was asked if he knew anything about how the  
9 documents got in the suitcases. He answered no, he did not,  
10 and it was interpreted as being truthful.

11 Q Biddy Frankum?

12 BY WITNESS GROTE:

13 A Biddy Frankum was also, with the same results.

14 Q Spec Stewart?

15 BY WITNESS GROTE:

16 A Yes. Same results.

17 - - -

18

19

20

21

22

23

24

25



L7-7

1 BY MR. SINKIN:

2 Q Did Jack Hawkins take a polygraph test?

3 BY WITNESS GROTE:

4 A Yes, he did.

5 Q Was he asked if he participated in putting the  
6 records in the suitcase?

7 BY WITNESS GROTE:

8 A He was asked if he -- I can't get the exact  
9 question, but if he knew how the documents got in the suitcases,  
10 yes.

11 Q What was his answer?

12 BY WITNESS GROTE:

13 A He answered no, he did not, and that was interpreted  
14 as being not truthful.

15 Q Not truthful?

16 BY WITNESS GROTE:

17 A Yes.

18 Q Was there a second polygraph test with the same  
19 results?

20 BY WITNESS GROTE:

21 A As reflected in my report, yes.

22 Q Your report states that if Mr. Hawkins' denial of  
23 participation in the record hiding is true, the only plausible  
24 explanation is that the records were removed from the files and  
25 placed in the suitcases by one or more persons in an attempt to

17-8

1 embarrass individual employees, the company, the project or  
2 the department, using the NRC as the vehicle to expose some  
3 grievance.

4 Do you believe Mr. Hawkins' denial of participation  
5 in the record hiding?

6 BY WITNESS GROTE:

7 A I believe it's a very strong -- I don't know for  
8 absolute certainty what happened in connection with those  
9 documents. I wish that I did.

10 I set out in the conduct of the investigation to  
11 try to find out. My sense or perception would be that there's  
12 a strong possibility that he did not participate nor know how  
13 the documents got in the suitcases, notwithstanding the results  
14 of the polygraph test. I'm not an expert on polygraph tests.  
15 I've read some things about them and their reliability or their  
16 nonreliability.

17 I understand that they're not 100 percent reliable.  
18 To understand that statement you'd have to -- I'd have to  
19 explain to you my perceptions of Mr. Hawkins and the kind of  
20 person he is.

21 Q I wou'd appreciate that.

22 BY WITNESS GROTE:

23 A Okay. He's very young. I think he's 25 years old.  
24 He was very easily led. In our discussions it concerned me  
25 greatly that in our questioning of Mr. Hawkins he would nod

17-9

1 his head continually like he was agreeing with what we were  
2 saying, even if he weren't agreeing with what we were saying.

3 He was uneasy. We tried to treat him with respect  
4 and gentleness, but of course he was nervous every time he  
5 talked to us. He was tremendously concerned about the potential  
6 for criminal action being taken against him as a consequence of  
7 his incorrect signed sworn statement.

8 Based upon -- that's a real brief description of  
9 my reaction to him. I wouldn't be surprised if he -- this was  
10 a subject that had been talked about so much, that he would have  
11 some sort of reaction to being asked that question, but I can't  
12 be certain.

13 My sense is that based upon that, but more  
14 importantly based upon the other evidence that we got,  
15 specifically the nature of the documents that were found in  
16 the suitcase, I could find no possible motive for Mr. Hawkins  
17 to have placed the documents in the suitcase or to have  
18 participated in their placing.

19 Q At the time you questioned Mr. Hawkins was he aware  
20 that the NRC was considering turning their evidence related to  
21 the suitcases and the documents over to the Justice Department?

22 BY WITNESS GROTE:

23 A At the time -- no, I don't believe that he was.  
24 At the time we talked to him, the times we talked to him, on  
25 one occasion he asked Glen Magnuson whether it was possible

17-10

1 he could be in legal straits as a consequence of it, and Glen  
2 told him he didn't know what if any action the NRC would take,  
3 but he did indicate there was some possibility that there would  
4 be a problem in that regard.

5 Q Were you aware that the NRC was considering turning  
6 the evidence over to the Justice Department regarding obstruction  
7 of an NRC investigation?

8 BY WITNESS GROTE:

9 A I came to be aware of that at some time. I don't  
10 recall -- it wasn't during that two-week period.

11 Q If you believed Mr. Hawkins' denial of participation  
12 in the record hiding who did you or do you suspect as the  
13 individuals who were trying to embarrass individual employees,  
14 the company, the project or the department, using the NRC as  
15 the vehicle to expose some grievance?

16 MR. NEWMAN: Mr. Chairman, I think I'll object to  
17 that question on the grounds that it just calls for pure  
18 speculation.

19 The witness has stated the extent of his under-  
20 standing, and no further statement, I think, can produce a  
21 useful response for the record.

22 MR. SINKIN: Mr. Chairman, maybe I can back up and  
23 ask a question.

24 BY MR. SINKIN:

25 Q Do you suspect anyone in particular of having



17-11

1 hidden the records?

2 MR. REIS: Mr. Chairman, I don't think that -- I  
3 object on the grounds of relevance.

4 MR. NEWMAN: On the grounds of what?

5 MR. REIS: Relevance.

6 MR. SINKIN: Mr. Chairman, this report says, "The  
7 only plausible explanation we could formulate after our  
8 examination of the persons and documents involved is that they  
9 were apparently removed from the files and placed in the  
10 suitcases by one or more persons in an attempt to embarrass  
11 individual employees, the company, the project, or the  
12 department, using the NRC as the vehicle to expose some  
13 grievance."

14 I want to know what is the basis on which that is  
15 the explanation. What possible evidence does he have to  
16 conclude that that is why the records were hidden? Does he  
17 suspect there was someone who did that with that motive, or  
18 is this statement idle speculation?

19 JUDGE BECHHOEFER: Yes. You can ask that question.

20 BY WITNESS GROTE:

21 A I'll be happy to answer that question. I would  
22 agree that that statement is speculation. I don't know that  
23 it's idle speculation.

24 The reason that I made it is that the very first day  
25 we entered into the investigation we had the 95 pieces of paper

17-12  
1 brought to us that had been found in the one suitcase. At  
2 that point in time I guess I would have to say that I was  
3 inclined to believe that the original conclusion of the NRC  
4 was probably correct, that I expected to find some sort of  
5 pages that had something on them that was to be hidden.

6 I don't know what I expected. Maybe they would  
7 relate to some items that had been stolen. Maybe it would  
8 relate to having some entries crossed out. I knew that it was  
9 not a safety related area and that the documents that were  
10 kept in the termination shack were not required by any  
11 commitment to the NRC, but nevertheless I expected that someone  
12 was fearful that something would be found in an audit or an  
13 investigation that would embarrass them, and therefore they  
14 had -- they were hiding it, so we -- Glen Magnuson and I sat  
15 down with these 95 sheets of paper and we began to go through  
16 them one by one, and we had Cindy Koenig sit with us, who had  
17 previously worked in the termination shack and was familiar  
18 with the files.

19 I might say that prior to that we had gone down to  
20 the termination shack and gone through the files and gained  
21 some understanding of what was in the files and what kind of  
22 filing system there was there, and the nature of the records  
23 that were kept there, and that sort of thing.

24 As we went through the pages one by one we  
25 individually would ask Cindy to explain to us what the

17-13

1 significance of a page was.

2 All of the records were either sign-out or sign-off  
3 sheets. There were some recall notices to the calibration lab  
4 where items would be on some periodic basis recalled for  
5 recalibration, routine records like that.

6 Each of those pages had some reference to an item  
7 number. Every item in the termination shack, or all the tolls  
8 have a number. Every one of them says ST-CC-some sequence  
9 number. We began to notice that the same sequence -- the same  
10 number would appear over and over, 0089 I think was one of them,  
11 or something like that.

12 So we began to stack the pieces of paper that  
13 related to numbers in pile and we finally got through and we  
14 had four piles. We had every single one of those 95 sheets  
15 relating to four items from the termination shack, a crimper,  
16 two meggers and a Simpson meter, and so we went through the  
17 pages with Cindy one by one and asked, and tried to determine  
18 if she could find -- or we could see by inspection if there was  
19 any erasures or late entries or items that had been checked out  
20 that didn't have an entry for being checked back in, or anything  
21 of that nature that would be out of order, and there was nothing  
22 that we could find that was out of order.

23 So then I thought, well, maybe they're stolen. So  
24 I asked for the file folders on those four items, and the file  
25 folders were still down at the termination shack in the filing

17-14  
1 cabinet, empty, as if someone had taken the entire contents of  
2 four file folders out, but they hadn't taken the file folders  
3 themselves out. They were still down in the filing cabinet.

4           So we asked for the four tools, or the four items  
5 be brought into the office and we laid our hands on them and  
6 looked at them, and there was a couple of them that were broken  
7 but they were where they should have been, down in the  
8 calibration lab. That's where broken items go. In fact, they  
9 were all down in the calibration lab, and the four file folders  
10 were in the file drawer where they kept items that were inactive  
11 and down in the calibration lab.

12           In short, we could find nothing at all that was  
13 out of order with any of those documents, and there was  
14 certainly nothing that anybody would want to hide on those  
15 documents, and so the most persuasive thing that convinced me  
16 that it was malicious, a malicious act to put them in the  
17 suitcase rather than someone trying to hide something or  
18 trying to obstruct an NRC investigation was that there was  
19 nothing to hide on those four groups of documents.

20           - - -



1b

1 Q Did you happen to notice what the last-dated entry  
2 was on any of those four documents?

3 BY WITNESS GROTE:

4 A I didn't notice what the date was. I did notice  
5 that there was no date beyond the late October period of time  
6 that the suitcases were removed.

7 Q There was no date after the time the suitcases  
8 were moved?

9 BY WITNESS GROTE:

10 A You know, I thought that would be maybe something  
11 that would determine that the documents had been put in there  
12 after the suitcases were moved, but the fact was there were  
13 some of them didn't have any entries that went way before the  
14 October date also. There was not -- it was not like some of  
15 the things were being used every day. So, that was necessarily  
16 something that would have -- although it would have been more  
17 persuasive, of course, if it had happened after the three  
18 suitcases were moved.

19 The question that was in my mind was whether the  
20 documents were in the suitcases when they were moved or whether  
21 they were put in somewhat later, and I could not prove one way  
22 or the other whether they were in there or not by virtue of  
23 the dates.

24 Q So, to the extent you found nothing wrong with the  
25 documents --

1 BY WITNESS GROTE:

2 A Um-hum?

3 Q -- you reached a conclusion in your own mind that  
4 the documents had been hidden for malicious reasons?

5 BY WITNESS GROTE:

6 A No, I didn't. I said while ago that I don't  
7 really know who or why the documents were moved. I can't  
8 be sure that Jack Hawkins didn't stick them in there for  
9 some reasons that I don't know about.

10 Q How did you determine that the tools in the  
11 suitcases belonged in the main tool room?

12 BY WITNESS GROTE:

13 A I called this foreman whose name I couldn't  
14 recall while ago, but Skip Owens is the correct name, and  
15 he had been the foreman up until April of 1980, before Jack  
16 Hawkins, and as I said before, he --

17 Q He told you that he had ordered them?

18 BY WITNESS GROTE:

19 A Yes, um-hum.

20 Q I see.

21 BY WITNESS GROTE:

22 A Yes.

23 Q Did you search the electrical termination shack to  
24 see if there might be any records for those tools in the  
25 electrical termination shack?

1 BY WITNESS GROTE:

2 A No, I didn't. I didn't suspect that there would  
3 be because I had been told by several people that there were  
4 not.

5 Q You were told by several people that they weren't?

6 BY WITNESS GROTE:

7 A Um-hum.

8 Q Attached to the back of your report are two documents.  
9 The second document is a notice to all STP employees. Do you  
10 see that document?

11 BY WITNESS GROTE:

12 A Yes, I do.

13 Q Where is that notice posted on the plant site?

14 BY WITNESS GROTE:

15 A I can't -- Mr. Sinkin, I'm not able to answer  
16 that question. I believe, if I'm not mistaken, and Dr. Broom  
17 can help me here, that this was a notice that was given to all  
18 employees, and I believe it's also posted in some certain  
19 locations, but I'm not positive.

20 BY WITNESS BROOM:

21 A Yes. I instructed that this document be posted on  
22 appropriate bulletin boards on the site -- I can't give you the  
23 specific locations -- in advance of it being distributed to the  
24 employees, individual copies. I don't know. I got a report  
25 back from my administrative man down there that said it was

1 posted in a number of areas, but I don't have a map or a  
2 location of the Bulletin boards. I understand it's posted in  
3 a number of places.

4 Q The notice says that employees are encouraged to  
5 communicate any job-related problems to their supervisor without  
6 fear of reprisal?

7 BY WITNESS BROOM:

8 A Yes, sir, it does.

9 Q Are there any committees of Brown & Root involved  
10 in the South Texas Nuclear Project which include representatives  
11 of the labor force below the supervisor level, such as foremen  
12 or craftsmen?

13 BY WITNESS BROOM:

14 A Mr. Sinkin, we're an open-shop contractor, we have  
15 no such organizations of employees. We have an open-door policy  
16 that I think I've described here in these hearings at some  
17 length whereby any employee at any level has access to any level  
18 of management for any reason at any time. So, that's the  
19 mechanism that --

20 BY WITNESS GROTE:

21 A I don't understand the committees that you're  
22 speaking of, Mr. Sinkin.

23 Q Well, we've heard about various committees that  
24 operate at the plant site for discussion of progress of the  
25 work or other purposes of the --



1 BY WITNESS BROOM:

2 A I'm confused.

3 Q Okay.

4 BY WITNESS BROOM:

5 A Committees? I don't know of such a committee.

6 Q Okay. Let me withdraw that question for the  
7 moment.

8 Your statement of the open-door policy is that  
9 employees have access all the way up the line?

10 BY WITNESS BROOM:

11 A That is correct.

12 BY WITNESS GROTE:

13 A Yes, sir, that is correct.

14 Q So that the statement here, "Employees are  
15 encouraged to communicate any job-related problems to their  
16 supervisor without fear of reprisal," is not meant to exclude  
17 reporting it to other people?

18 BY WITNESS BROOM:

19 A That is correct. We've stated in writing to all  
20 of our employees our open-door policy. This statement is  
21 encouraging them to feel free to bring any problem to their  
22 immediate supervisor, which is the way you would expect problems  
23 to be dispositioned in the normal course of business, without  
24 any fear of reprisal.

25 Q Mr. Grote, do you know if there was an HL&P

1 representative that had any regular contact with the electrical  
2 termination shack?

3 BY WITNESS GROTE:

4 A I don't know. No, I don't know.

5 Q Do you know of any HL&P employee who had irregular  
6 contact?

7 BY WITNESS GROTE:

8 A No, I don't know.

9 Q I just wanted to be sure I had covered all the  
10 bases.

11 BY WITNESS GROTE:

12 A Okay.

13 (Counsel conferring.)

14 Q Mr. Grote, have you ever listened to or been  
15 informed of the content of a tape that was provided to the  
16 Nuclear Regulatory Commission in March of this year that led  
17 to the investigation that became 81-11?

18 BY WITNESS GROTE:

19 A Have I ever listened to --

20 Q -- or been informed of the contents of --

21 BY WITNESS GROTE:

22 A -- or been informed of the contents of --

23 No.

24 MR. REIS: Mr. Chairman, I would object on the  
25 grounds of relevance. I don't know where we're going.

1 MR. SINKIN: The question has been answered,  
2 Mr. Reis, that's fine.

3 WITNESS GROTE: -- sorry.

4 JUDGE BECHHOEFER: The Board would like to -- we  
5 were wondering when you were going to get to the tapes --

6 MR. SINKIN: I'm at the tapes.

7 JUDGE BECHHOEFER: The Board, itself, would like  
8 to either hear or see a transcript of such portions of the  
9 tape that are relevant to what we're talking about. To the  
10 extent questions are asked about that, the Board does not want  
11 to be the only body here that hasn't heard it or been exposed  
12 to it.

13 MR. SINKIN: Well, I'm not even sure whether the  
14 NRC officially released the tape to the Applicants or not.

15 WITNESS BROOM: I have not heard the tape. Maybe  
16 I'm not the only one here, but I have not heard the tape.

17 JUDGE BECHHOEFER: Well, join the crowd. We haven't  
18 heard it.

19 MR. NEWMAN: We haven't heard it either.

20 (Laughter.)

21 MR. REIS: An attorney from Mr. Newman's and  
22 Mr. Axelrad's office did listen to the tape in our office, and  
23 I think that at that time they had a tape recorder and they  
24 recorded it as well. I presume, since our agreement was that  
25 they were not to give it to anybody in the organization

1 of their client or Brown & Root, that they did not. Now, I guess  
2 we could get a statement from Counsel on the effect of whether  
3 that happened.

4 MR. COWAN: Mr. Hudson from our office has listened  
5 to the tape. He's the only person I know of who's listened to  
6 it.

7 MR. AXELRAD: I listened to the tape with Mr. Hudson  
8 and there may have been other attorneys from Brown & Root --  
9 from Baker & Botts who listened to the tape at the same time.  
10 I am not aware of anyone else having listened to the portions  
11 of the tape that we have.

12 MR. REIS: In addition to that, an associate of  
13 the firm listened to the tape in our office at the time the  
14 recording was made, but I have no information, certainly, that  
15 it went any further than the attorneys. I thought that was the  
16 agreement, that it was to go no further than the attorneys.  
17 Maybe I was wrong. There was a protective order to that  
18 effect.

19 (Board conferring.)  
20  
21  
22 ---  
23  
24  
25



300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 MR. REIS: Mr. Chairman, I know the witness answered  
 2 and that there is no call for the ruling on relevance, but it  
 3 would go to impropriety of counsel rather than anything else  
 4 that is involved directly in these proceedings, and this is not  
 5 an inquiry into the proprieties of counsel and, therefore, it  
 6 is totally irrelevant.

7 JUDGE BECHHOEFER: Well, to the extent that there  
 8 are going to be questions about it, the Board would like to  
 9 hear or see the tape, preferably see a reproduction of it.  
 10 We would, obviously, keep it in the same confidence that  
 11 everybody else is required to. I also question whether  
 12 questions can be asked -- what questions can be asked, given  
 13 the protective order.

14 MR. SINKIN: The only question I had, Mr. Chairman,  
 15 was whether Mr. Grote had any knowledge of who the individuals  
 16 who made that tape were, and, if so, how did he get that  
 17 knowledge. Those were the only two questions I wanted to ask  
 18 about the tape.

19 (Board conferring.)

20 MR. REIS: Mr. Chairman, those questions would be  
 21 collateral to this proceeding unless they're relevant.

22 They are not probative of any issue in this case.

23 JUDGE BECHHOEFER: Mr. Sinkin, did you ask the  
 24 witness whether he had ever heard the tape?

25 MR. SINKIN: I asked him if he had heard the tape

1 or had been informed of the contents of the tape, and his answer  
2 was no. I did not ask him if he knew who the individuals were  
3 who are on the tape.

4 JUDGE BECHHOEFER: Okay.

5 MR. SINKIN: That was the last question that I had.

6 JUDGE BECHHOEFER: Well, if he hasn't hear it or  
7 heard of it, how could he know?

8 MR. SINKIN: It is conceivable that he could be  
9 told so-and-so and so-and-so made a tape that went to the NRC  
10 without being told the contents of the tape. I mean, he could  
11 be told that that's why 81-11 happened, for example.

12 I don't want to speculate about what he'll answer,  
13 but that's conceivable. He could have been told that so-and-  
14 so and so-and-so made a tape, and that might have been part of  
15 his preparation for the investigations.

16 JUDGE BECHHOEFER: Well, you can ask that one  
17 question, and if you get into the tape, we don't want any  
18 details without us having knowledge of it.

19 MR. SINKIN: I understand.

20 JUDGE BECHHOEFER: You may answer the particular  
21 question.

22 (Witnesses conferring.)

23 BY WITNESS GROTE:

24 A Actually, I'm a little unclear as to --

25 Q Before you answer, Mr. Grote, could you tell me

1 what you and Mr. Broom just conferred about?

2 BY WITNESS BROOM:

3 A Yes. I -- I --

4 BY WITNESS GROTE:

5 A I would be happy to.

6 BY WITNESS BROOM:

7 A -- can I comment on that?

8 BY MR. SINKIN:

9 Q Dr. Broom. Excuse me. Yes.

10 BY WITNESS BROOM:

11 A Well, you were referring to the fact that we might  
12 feel that as a result of this tape 81-11 occurred. Well, the  
13 NRC's inspection report says that.

14 Q I understand that. So that you would be aware  
15 there had been a tape made that led to 81-11?

16 BY WITNESS BROOM:

17 A It says, "review of tape," and I --

18 Q I understand that perfectly well --

19 MR. REIS: Mr. Chairman --

20 Q -- and the only question I --

21 Mr. Grote, you know the question.

22 BY WITNESS BROOM:

23 A That's what I mentioned to Mr. Grote.

24 Q Okay. You know the question, Mr. Grote?

25 MR. AXELRAD: No. What's the question?

1 MR. REIS: Yes, what's the question?

2 BY MR. SINKIN:

3 Q The question is, do you know the names of the  
4 individuals who made the tape that is referred to in 81-11?

5 MR. REIS: Again, it's totally irrelevant.

6 MR. SINKIN: We've had a ruling on that.

7 MR. JORDAN: We've had a ruling.

8 JUDGE BECHHOEFER: We have overruled that objection.

9 You can answer that question, if you know.

10 BY WITNESS GROTE:

11 A I'm not sure if I know who was on that tape.

12 (Laughter.)

13 A That's the honest answer. I know of an individual  
14 that told me that they were taped without their knowledge, and  
15 I assume from that disclosure to me that it was part -- at least  
16 part of this tape; but I don't know that to be the fact.

17 BY MR. SINKIN:

18 Q Is that the first knowledge you had of who might  
19 have been on the tape?

20 BY WITNESS GROTE:

21 A That's the only knowledge I have about who might  
22 be on the tape.

23 Q Fine.

24 BY WITNESS BROOM:

25 A You didn't ask me that question, but I will answer



1 it anyway.

2 Q Have at it.

3 BY WITNESS BROOM:

4 A I didn't even have that much information.

5 Q Okay.

6 BY WITNESS BROOM:

7 A I had heard that statement from Mr. Grote, but  
8 I had no knowledge whatsoever other than his comment of the  
9 number of people or who or if there was more than one or who  
10 was on the tape or what the tape's about, other than what this  
11 report from the NRC says.

12 Q Fine.

13 Have you, by any chance, had an opportunity at any  
14 of the breaks to check on the employment status of Mr. Frankum  
15 and Mr. Stewart?

16 BY WITNESS GROTE:

17 A I didn't know we were supposed to check on  
18 Mr. Stewart.

19 Q I'm sorry, that's right. We confirmed Mr. Stewart  
20 was in Pascogolo. That's Mr. Frankum. That's right.

21 BY WITNESS GROTE:

22 A That's right.

23 BY WITNESS BROOM:

24 A I can tell you this. We have a computer that is  
25 supposed (indicating) supposed to include all employment -- all

1 employees on our payroll; and per that computer, Mr. Frankum  
2 is not employed by Brown & Root at this time.

3 Before making that categorical statement, I was  
4 attempting to verify with your reference to Thompson, Texas,  
5 to see if we had any small jobs located there. Unfortunately,  
6 it's after closing time, and I'm not sure the extent to which  
7 we will have success in doing that.

8 Secondly, we were trying to contact Mr. Frankum  
9 directly and simply ask him where he's working now and we've  
10 called numbers and we have not been able to reach anyone.

11 Our employment records at the company show that  
12 Mr. Frankum was terminated --

13 BY WITNESS GROTE:

14 A April 30th.

15 BY WITNESS BROOM:

16 A -- April 30th.

17 If there is any further information that you could  
18 give us that would focus in on how we can find out, I will be  
19 happy to explore that.

20 Q Fine.

21 JUDGE BECHHOEFER: To clarify the record, did you  
22 say that you had confirmed that the individuals, I guess Mr.  
23 Stewart, was an employee still?

24 WITNESS GROTE: No, I did not confirm, and it's my  
25 information that he -- upon his termination from the South

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 Texas Project — was hired at one of our projects in  
 2 Mississippi. I believe this is a refinery project we have at  
 3 Pascogolo. Apparently that was Mr. Sinkin's information also.  
 4 I really don't think he asked for any more information.

5 MR. SINKIN: That is correct. Our information was  
 6 Pascogolo, Mississippi.

7 Was that project known as the Chevron Project?

8 BY WITNESS GROTE:

9 A Yes. The Chevron Project.

10 JUDGE BECHHOEFER: I just wanted to clarify the  
 11 record in this case because you may know it and Mr. Grote may  
 12 know it, but unless you say something, we can't put it on the  
 13 record.

14 MR. SINKIN: Right.

15 WITNESS BROOM: And I believe, Judge Bechhoefer,  
 16 we stated it. If we did not state it, it should be in the  
 17 record that on his termination we had indicated that he was  
 18 subject to rehire.

19 JUDGE BECHHOEFER: I believe you did say that.

20 WITNESS BROOM: Okay. Fine.

21 MR. SINKIN: That concludes my cross-examination,  
 22 Mr. Chairman.

23 JUDGE BECHHOEFER: At this point, Mr. Jordan, are  
 24 you going to have any, because we thought we would probably  
 25 quite before the Staff starts.

1 MR. JORDAN: Well, I have no cross-examination on  
2 81-11.

3 JUDGE BECHHOEFER: Yes, that's the question I have.

4 MR. JORDAN: But --

5 JUDGE BECHHOEFER: You do have on other matters?

6 MR. JORDAN: Well, I have the adverse direct matter,  
7 yes.

8 JUDGE BECHHOEFER: Right.

9 MR. REIS: The Staff has a few questions on 81-11,  
10 and looking at the time, we certainly could get it in before  
11 7:00.

12 JUDGE BECHHOEFER: Would it be revealing anything  
13 to ask you to tell us how long the adverse might take? You  
14 can tell us off the record, if you want.

15 MR. JORDAN: Oh, I don't care.

16 MR. SINKIN: Three days.

17 MR. JORDAN: Not three days, which was whispered  
18 in my ear --

19 (Laughter.)

20 MR. JORDAN: -- an hour or hour and an half, maybe.  
21 If the Staff thinks it can --

22 JUDGE BECHHOEFER: I guess we can --

23 MR. JORDAN: -- wrap it up on 81-11 --

24 JUDGE BECHHOEFER: -- violate our order of  
25 procedure an allow the Staff to ask questions on 81-11 at this  
point.



1 MR. REIS: As long as it is being asked, I think  
2 it would be ....

3 RE-CROSS-EXAMINATION

4 BY MR. REIS:

5 Q Mr. Grote, did you ask or did you say you reviewed  
6 the polygraph examination made. Was the negative of the  
7 question also asked of Mr. Hawkins, whether he had not placed  
8 the documents in the suitcase, and did they determine whether  
9 it was a deceptive answer in answer to that question?

10 BY WITNESS GROTE:

11 A Mr. Reis, I did not review the results of the  
12 polygraph examination. We received a verbal report from the  
13 -- and the name of the outfit is in here, I've forgotten the  
14 name --

15 BY WITNESS BROOM:

16 A The firm that we used is Morris Covin & Associates.

17 BY WITNESS GROTE:

18 A Okay. And that report was received by Glen  
19 Magnuson and I don't know the exact nature of the questions and  
20 answers that were given in the polygraph information but we're  
21 getting that information, I believe.

22 ---  
23  
24  
25

9-1  
ed  
1 Q So you don't know whether he was nervous on  
2 the whole subject or just nervous on an answer -- on a  
3 question as to whether he put the documents in the case?

4 BY WITNESS GROTE:

5 A That's right. I believe the question was  
6 only whether he knew how the documents got put in the  
7 case.

8 Q Did you ask him who took the documents out  
9 of the file cabinet at the termination shack?

10 BY WITNESS GROTE:

11 A No, I don't believe so.

12 Q You didn't ask him that?

13 BY WITNESS GROTE:

14 A I'm sorry. You mean when I was talking to  
15 him?

16 Q Well, let's first -- Was that asked during  
17 the polygraph examination?

18 BY WITNESS GROTE:

19 A I don't believe it was asked during the polygraph  
20 examination, no.

21 Q Did you ask him that question?

22 BY WITNESS GROTE:

23 A I don't recall asking him that specific question.  
24 I asked him -- I questioned him extensively on the subject  
25 of his knowledge of how the documents got put in the

9-2  
1 suitcase, and I don't recall specifically asking him did  
2 he take the documents out of the file, but he told me,  
3 in summary, that he had no knowledge of how the documents  
4 got put in the suitcase, that he had no particular knowledge  
5 about any of the papers that were in the suitcase.

6 BY WITNESS BROOM:

7 A Mr. Reis, I asked him in the time that I interviewed  
8 him several questions along that line, and in summary,  
9 his answers to me were that he didn't know anything about  
10 those documents, any significance of them, didn't remember  
11 handling them or collecting them or placing them in --  
12 knew nothing about them.

13 Q Do you know whether Ms. -- Was Ms. Koenig  
14 asked whether she saw him take the documents out of the  
15 file?

16 BY WITNESS GROTE:

17 A Yes, we asked her that, and she -- She was  
18 100 percent supportive of the information that Jack Hawkins  
19 gave us to the extent she could be knowledgeable about  
20 it.

21 Q Now on page 6 --

22 BY WITNESS GROTE:

23 A Of my memo?

24 Q One second. On page 4 of your memo at the  
25 top, we talked about the words -- or Mr. Sinkin talked

9-3

1 with you about the words "who he felt must have put the  
2 documents in the case."

3 BY WITNESS BROOM:

4 A I'm sorry, did you say page 6?

5 Q Page 4. At first I said page 6 and then I  
6 corrected myself.

7 Now, on page 3, you say, "Hawkins, Stewart  
8 and Kay all said none of the documents were there."

9 Did you explore with Mr. Hawkins how he knew  
10 the documents -- somebody must have put the documents  
11 in the file if they weren't there?

12 BY WITNESS GROTE:

13 A In the suitcase, you mean?

14 Q That's right.

15 BY WITNESS GROTE:

16 A On April the 9th, which was prior to my investigation,  
17 he was called to the office of James Kay and Spec Stewart.

18 When he walked into the office, he didn't  
19 know what to expect. He didn't know why he was being  
20 called in there.

21 He walked in and blam, there's all these people  
22 standing there, two of whom he recognized to be NRC people,  
23 or he said he assumed they were because they were wearing  
24 suits and had on an orange hat, which is a visitor's hat.

25 (Laughter.)



9-4  
1           And Dick Herr said -- he points to the three  
2 suitcases and said, "Do you know how these suitcases got  
3 in this office?"

4           And he said, "Yes, sir.

5           He said, "How did they get in here?"

6           He said, "Well, I put them in here," and he  
7 has one of the suitcases open and -- I'm not sure. I  
8 believe -- I asked Dick a lot about this.

9           I believe he said, Dick said he reached in  
10 the suitcase and grabbed the 95 sheets of paper and said,  
11 "Do you know how these 95 sheets of paper got in that  
12 suitcase?"

13           At this point Jack Hawkins claims to me that  
14 he's thinking, well, here's the suitcases that he put  
15 in here, and who else could have put them in there besides  
16 maybe I did it or maybe Cindy Koenig did it; but he said  
17 he felt like, you know, the things that went through his  
18 mind was, well, I don't remember doing it. Cindy must  
19 have done it.

20           So he said, "Yeah."

21           And Dick Herr herds him right out of the room  
22 and takes him over to another office where it's just Dick  
23 and Jack Hawkins and maybe Gagliardo, this other NRC man,  
24 and they start questioning and try to develop an agreeable  
25 wording to a statement they can get Jack Hawkins to sign.

1                   That's kind of -- It was a very hurried  
2 affair, according to Hawkins, and I believe that information  
3 was supported by Dick Herr, that they did it rather quickly.

4           Q        Were Mr. Hawkins, Mr. Stewart and Mr. Kay  
5 asked during the polygraph examination whether on their  
6 original opening of the cases they saw any of those papers  
7 there?

8 BY WITNESS GROTE:

9           A        Mr. Kay didn't take a polygraph examination.  
10 He refused.

11           I know -- I believe that Spec Stewart was  
12 asked that question.

13           I don't believe Jack Hawkins was asked that  
14 particular question.

15           Q        Did you receive a written report from the  
16 polygraph company?

17 BY WITNESS GROTE:

18           A        No, we didn't.

19           Q        Did the polygraph company report to you Stewart's  
20 answer to the question of whether --

21 BY WITNESS GROTE:

22           A        They reported it to be truthful.

23           Q        I see. These reports --

24 BY WITNESS GROTE:

25           A        I'm talking about his statement that upon

9-6  
1 the arrival of the three suitcases, or approximately  
2 contemporaneous with their arrival, that he opened up  
3 all three of them and they were empty.

4 Q Okay. Did he give any untrue statements during  
5 his polygraph examination?

6 BY WITNESS GROTE:

7 A No.

8 Regarding the written polygraph examinations,  
9 maybe it's appropriate for me to explain to you the nature  
10 of this investigation.

11 After I heard in the exit interview what the  
12 facts of the situation were, and I think I can say I don't  
13 have any particular disagreement with the facts as reported  
14 in the 81-11 NRC Report, and after I heard what Dick Herr's  
15 conclusions were, I was most concerned.

16 I wanted to find out for myself what was going  
17 on; but I also want to say that I didn't attempt to conduct  
18 an air-tight criminal investigation.

19 It was my objective to gather information  
20 in connection with this matter, to make a decision as  
21 to what to do.

22 As a manager at Brown & Root, I have to make  
23 decisions all the time, and unfortunately, I frequently  
24 have to make decisions in the absence of all the information;  
25 and this was an attempt to gather information for myself,

9-7  
1 rather than an attempt to develop some sort of rigorous  
2 paper trail that I could present before a court or something  
3 like that.

4 Q Now, the documents in the suitcase that you  
5 reviewed later, the 95 documents, they included assignment  
6 sheets?

7 BY WITNESS GROTE:

8 A I think so. I'm not sure what assignment  
9 sheets are.

10 That was a quote that I got from, I believe  
11 it was Freda Cortez. I'll have to refresh my memory and  
12 think --

13 Q And they contained inspection records on the  
14 tools?

15 BY WITNESS GROTE:

16 A They included recalibration records on the  
17 tools.

18 Q And signout sheets?

19 BY WITNESS GROTE:

20 A Uh-huh. Yes, sir.

21 Q And recall notices?

22 BY WITNESS GROTE:

23 A And recall notices?

24 Q And deficiency reports on the tools?

25 //



9-8

1 BY WITNESS GROTE:

2 A I don't recall any deficiency reports, but  
3 it's possible that there were some in there.

4 Are you quoting from my memo?

5 Q NO.

6 BY WITNESS GROTE:

7 A Okay.

8 Q Now, when Mr. Hawkins went to the termination  
9 shack after he found out the NRC was coming, he reviewed  
10 his records, did he not, at the termination shack?

11 BY WITNESS GROTE:

12 A I'm not sure what Mr. Hawkins did. He was  
13 kind of vague on that point.

14 On the one hand, he said that -- he told me  
15 that he didn't do anything to prepare for the NRC investigation;  
16 but he did acknowledge going down and talking to Freda Cortez  
17 about, you know, what he should be concerned about.

18 His explanation for that was he wanted to  
19 find out what kinds of things might be asked or what problems  
20 there might be, but that he didn't do anything in preparation  
21 for the NRC coming.

22 Q And if I recall your testimony, and tell me  
23 if I'm wrong.

24 BY WITNESS GROTE:

25 A Okay.

9-9

1 Q He also went to the termination shack and  
2 looked at the records with Ms. Koenig, or he had Ms. Koenig  
3 do something with the records in the termination shack  
4 together?

5 BY WITNESS GROTE:

6 A No. He -- I'm trying to remember.

7 I'm inclined to remember that what he said  
8 was that he did tell the NRC that he and Cindy Koenig  
9 had done something along the lines of going through the  
10 records and whatnot, but that it was his later recollection  
11 that that was in connection with developing the new filing  
12 system, but it was not in connection with the upcoming  
13 NRC investigation.

14 It's possible he may have told me also  
15 that they would go through some things.

16 You know, to be honest with you, it seems  
17 likely to me that any normal human being that knows the  
18 NRC is coming on the job site is going to go down and  
19 look to see what his problems are.

20 That seems logical to me, and I believe that  
21 Jack Hawkins probably did do something to see what his  
22 problems were.

23 Q Okay. Were those the only records -- Were  
24 those -- Only tools that were down at the calibration  
25 lab those that these records refer to, or were there other

9-10

1 records as well in the termination shack that were down  
2 at the calibration lab?

3 BY WITNESS GROTE:

4 A I'm not sure. I don't -- I know that the  
5 calibration lab sends out recall notices, so I assume  
6 they have to have some kind of reminder system of when  
7 the recalls are required.

8 BY WITNESS BROOM:

9 A I'm not sure that I understood the question,  
10 Mr. Reis, but I believe at the time there were more than  
11 just these four instruments in the calibration shack that  
12 were, let me say, under the jurisdiction of the termination  
13 shack.

14 Q That was my question.

15 BY WITNESS BROOM:

16 A Is that your question?

17 I believe there were more pieces than just  
18 these four; am I not right, Steve?

19 BY WITNESS GROTE:

20 A I didn't understand that at all from the question,  
21 but yes, there was many more items.

22 Q Did you attempt to verify with Ms. Koenig  
23 when she had last worked in the termination shack?

24 BY WITNESS GROTE:

25 A I believe that I did, but I don't recall what

9-11 1 that date was exactly, because I discussed --

2 Q And you don't know whether she was in the  
3 termination shack immediately before the NRC inspection?

4 BY WITNESS GROTE:

5 A She -- Do I know that she was working in  
6 the -- She was working at the termination shack during  
7 that timeframe in October.

8 She was there during the time that Freda Cortez  
9 had been transferred to the Pipe Department, which I believe  
10 was in the timeframe like early October of '80 through  
11 February of '81, some timeframe like that.

12

13

14

15

16

17

18

19

20

21

22

23

24

25



0-1 1 Q Now, was Ms. Koenig also confused, as well  
ed 2 as Mr. Hawkins, in your interviews with her?

3 BY WITNESS GROTE:

4 A I'm not sure I meant to imply that Mr. Hawkins  
5 was confused.

6 He was nervous. He was easily led.

7 Q Well, was Ms. Koenig nervous and easily led?

8 BY WITNESS GROTE:

9 A Ms. Koenig -- I believe is the way you pronounce  
10 her name -- was a little bit nervous when she first came  
11 to talk to us, but not real nervous.

12 Q And Ms. Koenig told you that during the last  
13 week of August Mr. Hawkins asked for assistance in straightening  
14 up the termination shack because the NRC was coming to  
15 conduct an audit?

16 BY WITNESS GROTE:

17 A No, it would be in October.

18 Q The last week of October.

19 BY WITNESS GROTE:

20 A Cindy Koenig told us that she knew the NRC  
21 was coming on the job site, and that she had been going  
22 through the files in connection with this refiling system  
23 I just mentioned, and that she had told the NRC that --  
24 and that she had done nothing in the way of cleaning up  
25 the files or changing anything or making any preparations

0-2  
1 For the NRC coming to the job site that would have --  
2 could be construed as fixing it up or doctoring it up.

3 She told me that she was aware in her interview  
4 with Dick Herr the day before -- or the week before --  
5 that he was leading her to this conclusion, and she said  
6 she felt like he had gotten that conclusion from what  
7 she said; but that she didn't do that.

8 Is that unclear enough?

9 Dick Herr told me on Friday, the 10th of April,  
10 that Cindy Koenig told him that she had been doing something  
11 to the files, and I don't recall his exact words, and  
12 he said it was strange to him that she didn't think there  
13 was anything wrong with what she had done, as if he thought  
14 there was something wrong with what she had done.

15 And I got the impression from him that she  
16 had admitted doctoring the files, and so in my interview  
17 with her, it became clear to me that she was not saying  
18 that to me at least, and so I came right out and asked  
19 her.

20 I said, "Well, you know, I got the impression  
21 from talking to Dick Herr that you had done something  
22 to doctor the files up."

23 And she said, "I know that's what he was getting  
24 at and that's what he was trying to get me to say, but  
25 I didn't say it and I did not doctor up the files."

0-3 1 Q So at the time when she went through the files  
2 and worked on the files, when she knew the NRC was coming,  
3 she did not become aware of any instance wherein the files  
4 were incomplete?

5 BY WITNESS GROTE:

6 A That's right. That's what she told us.

7 Q Was she asked that on the lie detector test?

8 BY WITNESS GROTE:

9 A No. She was asked on the lie detector test  
10 whether she had any knowledge of how the documents had  
11 gotten in the suitcases -- or the suitcase.

12 Q Was she asked whether she knew how the suitcases  
13 got out of the termination shack to the office where they  
14 were found?

15 BY WITNESS GROTE:

16 A That was not in dispute when I talked to her.

17 Q What were the instructions to the polygraph  
18 company from Brown & Root in conducting this examination?

19 BY WITNESS GROTE:

20 A I'm sorry, I didn't hear what you said.

21 Q What were the instructions from Brown & Root  
22 to the polygraph company conducting their examination?

23 BY WITNESS GROTE:

24 A We wanted to find out whether any of the people that  
25 were being examined had any knowledge whatsoever of the

0-4 1 documents and how they got into the suitcase; and so the  
2 polygraph examiner went through a period of preliminary  
3 questions to -- I understand it's routine procedure, where  
4 they test people's reactions to different questions, and  
5 then they ask that question.

6 They ask it several different ways, but it  
7 was focusing on that particular question, as to --

8 Q Can I call the last group of questions you  
9 talked about as the crucial questions? Can we agree to  
10 call them the crucial questions?

11 BY WITNESS GROTE:

12 A Okay.

13 Q Were those crucial questions given by Brown  
14 & Root to the polygraph operator, or did they frame their  
15 own questions?

16 BY WITNESS GROTE:

17 A I'm hesitating because I'm trying to recall.

18 We discussed with the polygraph company the  
19 individuals that were going to come in, and gave the polygraph  
20 operator background into the particulars of the individuals  
21 coming in, with a view to assisting the operator in framing  
22 questions that would be appropriate to the person involved.

23 In some cases I'm aware that there were some  
24 followup questions that were asked that focused on the  
25 same question.



0-5

1 For example, Ernest Wyatt was asked if he  
2 knew who might have put the documents in the suitcases,  
3 since --

4 Q What's your source of knowledge that there  
5 was a followup question to Mr. Wyatt?

6 BY WITNESS GROTE:

7 A It was reported to us by the polygraph operator.

8 Q Did they talk to you?

9 BY WITNESS GROTE:

10 A No. They talked to Glen Magnuson.

11 Q And Mr. Magnuson then talked to you?

12 BY WITNESS GROTE:

13 A Yes, uh-huh.

14 Q And nothing was in writing?

15 BY WITNESS GROTE:

16 A And nothing has been submitted to us in writing,  
17 right.

18 Q Did you ask the polygraph company to write  
19 out the questions that they were to ask and submit them  
20 to you?

21 BY WITNESS GROTE:

22 A No.

23 Q Did you ask for them afterwards?

24 BY WITNESS GROTE:

25 A No.

0-6 1 MR. REIS: Your Honor, that's all I have on  
2 Applicant's Exhibit 32(a).

3 Of course, I will have other recross, but  
4 I thought we could finish up this portion.

5 JUDGE BECHHOEFER: Fine.

6 (Bench conference.)

7 JUDGE BECHHOEFER: We will adjourn for the  
8 day and be back at 9:00.

9 MR. SINKIN: Mr. Chairman, before we adjourn,  
10 I would like to make a motion that I'd like you to think  
11 about overnight.

12 We would move to strike from evidence the  
13 Brown & Root investigative report and the testimony given  
14 on that report for the reasons that Mr. Grote is clearly  
15 not qualified as an investigator, but Mr. Magnuson was  
16 not provided for questioning, when he was with one witness  
17 for an hour, wrote the first draft of the report, took  
18 the only notes we know to be taken, received the polygraph  
19 results, dealt with the polygraph company; and third,  
20 the general caliber of the investigation and the remarks  
21 of Mr. Grote indicate that the real purpose of the investigation  
22 were internal purposes of the company, not as a full investigation  
23 of these events.

24 For all of those reasons, we feel that this  
25 evidence should not be in the record, and we move to strike

0-7 1 it.

2 MR. REIS: Do you wish to hear from other  
3 parties?

4 JUDGE BECHHOEFER: Yes. Let's hear responses  
5 tomorrow.

6 MR. REIS: Okay.  
7 I could respond now.

8 (Bench conference.)

9 JUDGE BECHHOEFER: We will wait for the responses  
10 until tomorrow morning.

11 WITNESS BROOM: Mr. Chairman, are we adjourned  
12 now?

13 JUDGE BECHHOEFER: Yes, we are adjourned until --

14 MR. AXELRAD: I have just one other question.

15 JUDGE BECHHOEFER: Well, we are almost adjourned;  
16 not quite.

17 MR. AXELRAD: Does this mean that Mr. Sinkin  
18 has withdrawn his discovery requests?

19 MR. SINKIN: Well, since there's been no ruling  
20 on the motion, the discovery requests have to remain pending.

21 (Bench conference.)

22 MR. AXELRAD: Mr. Chairman, I think we would  
23 much prefer to answer the motion right now and get a ruling  
24 from the Board, if the Board wouldn't mind taking an additional  
25 few minutes. I don't think it will take that long to

0-8

1 respond.

2 JUDGE BECHHOEFER: Okay.

3 MR. REIS: I imagine the Applicants, since  
4 it is their exhibit, ought to respond first.

5 JUDGE BECHHOEFER: Yes.

6 MR. AXELRAD: Wait a second. If we only get  
7 one crack at anything, I think we should go last.

8 MR. REIS: Okay, I'll go.

9 I frankly -- The Staff's opinion is that  
10 the document is not entitled to much weight for many reasons,  
11 which we will detail in the findings, mostly that there  
12 was no notes made, even from the polygraph company, that  
13 there was no report in writing.

14 We don't know -- it's just too tenuous.

15 However, we feel that it should not be stricken,  
16 that it was made in the course of their looking into this  
17 matter, and that it should accompany the record for what  
18 it's worth.

19 MR. AXELRAD: Mr. Chairman, obviously, the  
20 motion should be denied.

21 Dealing with each of the grounds stated by  
22 Mr. Sinkin: The first ground was that Mr. Grote was not  
23 qualified as an investigator.

24 Obviously, the purpose of the investigation,  
25 as stated by Mr. Grote, was not to investigate the matter



20-9 1 as a criminal matter, to establish the information that  
2 would be required for a criminal investigation.

3 Mr. Grote is a responsible officer of Brown  
4 & Root. The fact that the investigation was conducted  
5 by a vice president of the company is an indication of  
6 the seriousness in which this matter was taken by the  
7 company.

8 The fact that they would take the time of  
9 a responsible officer of that type to do an investigation  
10 of the matter, I think, is all the more reason why the  
11 report should be accepted into the record and why the  
12 Board should give it very strong weight.

13 It's a report which was done by Mr. Grote  
14 as a result of a thorough investigation of a couple of  
15 weeks, talking to the basic people involved.

16 The fact that Mr. Magnuson has not appeared  
17 here to testify does not detract from the value that should  
18 be given to the testimony that has been given here by  
19 Mr. Grote.

20 In essence, this report serves as his testimony  
21 with respect to the matters that he found out, through  
22 the work that he did, through discussions that he had  
23 with these people.

24 The report also contains not only the matters  
25 that he found out through his investigation, but also

0-10 1 the actions that the company, that Brown & Root has taken  
2 on the basis of that.

3 The basic questions that we have in this proceeding  
4 is not so much the individual events involved, but really,  
5 what has the company -- what has Brown & Root done and  
6 what has HL&P done.

7 This report details very thoroughly what Brown  
8 & Root has done in this area.

9 The last ground pertaining to the general  
10 caliber of the investigation, and that it was done for  
11 internal purposes and not as a thorough investigation,  
12 as I've pointed out before, is completely irrelevant to  
13 whether or not the report should be accepted.

14 The very purposes of the investigation was  
15 to be used for the internal purposes of the company and  
16 of the Applicants, to determine what action should be  
17 taken by the Applicants as a result of serious allegations  
18 that were made in an I&E Report.

19 The results are clearly matters which are  
20 important to this proceeding which this Board should have  
21 before them.

22 Obviously, any of the statements that were  
23 made by Mr. Sinkin, as Mr. Reis has pointed out, would  
24 at most go towards the weight of the evidence, and not  
25 toward its admissibility; and very clearly, we think

0-11 1 it's not only admissible, but should be given great weight.

2 I might mention just one other thing.

3 To the extent that the implication of Mr. Sinkin's  
4 statement that somehow the facts as stated in the report are not  
5 credible, obviously, the facts stated in the report, in  
6 essence, corroborate the types of facts which are contained  
7 in Report 81-11.

8 There is really no true dispute with respect  
9 to the facts.

10 (Bench conference.)

11 JUDGE BECHHOEFER: The Board will deny that  
12 motion. We will leave it in.

13 We will note that each of the matters mentioned  
14 by Mr. Sinkin will go to the weight, and we also note  
15 that some of the questions may be resolved.

16 There will be further questions based on the  
17 discovery which will be permitted, or which will be undertaken,  
18 I should say.

19 So that to the extent that discovery reveals  
20 further information, it will be -- the witnesses can respond  
21 on questions along that line, all of which, again, will  
22 go to the weight.

23 So we'll deny that motion and now we really  
24 will adjourn for the evening. Be back at 9:00 o'clock.

25 (Whereupon, at 7:06 p.m., the hearing was  
adjourned, to reconvene at 9:00 a.m., Thursday, June 18, 1981.)

This is to certify that the attached proceedings before the  
NUCLEAR REGULATORY COMMISSION  
HOUSTON LIGHTING & POWER COMPANY, ET AL.  
in the matter of:  
South Texas Nuclear Project Units 1 and 2

DATE of proceedings: JUNE 17, 1981

DOCKET Number: 50-498 OL; 50-499 OL

PLACE of proceedings: Houston, Texas

were held as herein appears, and that this is the original  
transcript thereof for the file of the Commission.

Leguilla Barnes  
Official Reporter (Typed)

*Leguilla Barnes*  
Official Reporter (Signature)