

ORIGINAL

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of:

CONSUMERS POWER COMPANY

(Midland Plant, Units 1 & 2)

Docket No. 50-329 OM

50-330 OM

50-329 OL

50-330 OL

Location: Midland, Michigan

Pages: 18235 - 18504

Date: Tuesday, June 28, 1983

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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 4 In the matter of: :  
 :  
 5 CONSUMERS POWER COMPANY : Docket Nos.  
 : 50-329 OM and OL  
 6 (Midland Plant, Units 1 & 2) : 50-330 OM and OL  
 :  
 7 ----- X

Conference Room A  
Quality Inn  
1815 South Saginaw Road  
Midland, Michigan 48640

Tuesday, June 28, 1983

Hearing in the above-entitled proceeding  
convened at 9:00 a.m., pursuant to notice.

BEFORE:

CHARLES BECHHOEFER, ESQ.,  
Chairman, Atomic Safety & Licensing Board.

DR. FREDERICK P. COWAN, Member,  
Atomic Safety & Licensing Board.

DR. JERRY HARBOUR, Member,  
Atomic Safety & Licensing Board.

APPEARANCES:

On behalf of the Applicant:

JAMES BRUNNER, ESQ.  
Consumers Power Company  
Midland, Michigan

-and-



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MICHAEL MILLER, ESQ.  
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On behalf of the NRC Staff:

WILLIAM PATON, ESQ.  
MICHAEL WILCOVE, ESQ.  
Office of the Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

On behalf of Intervenor Barbara Stamiris:

LYNNE BERNABEI, ESQ.  
Government Accountability Project of  
the Institute for Policy Studies  
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Washington, D.C. 20009

On behalf of Intervenor Mary Sinclair:

MARY SINCLAIR  
5711 Summerset Street  
Midland, Michigan 48640

C O N T E N T S

<u>Witnesses:</u>	<u>Dir.</u>	<u>V.Dire</u>	<u>Cross</u>	<u>Red.</u>	<u>Rec.</u>	<u>Board</u>
Roy Wells )						
James Cook )			18243			
John Rutgers )						

E X H I B I T S

	<u>For Ident.:</u>	<u>Rec'd:</u>	<u>W'drawn:</u>
Stamiris Exhibit No. 98 Bechtel document dated January 12, 1983	18306		18455
Stamiris Exhibit No. 99 Note to Miller from Lee	18323	18457	
Stamiris Exhibit No. 100 Memorandum	18356		
Stamiris Exhibit No. 101 TERA report	18359	18461	
Stamiris Exhibit No. 102 Audit report	18402	18461	
Stamiris Exhibit No. 97		18452	
Sinclair Exhibit #5	18488		

P R O C E E D I N G S

1  
2 JUDGE BECHHOEFER: Good morning, ladies and  
3 gentlemen.

4 Are there any preliminary matters this morning?

5 MS. BERNABEI: I have two preliminary matters.

6 One, I wanted to register my distress at not yet  
7 receiving a copy of the inspection report. I have received  
8 one from the NRC Staff, but the report that was supposedly  
9 sent to me in the mail has not yet arrived. And I would like  
10 some -- I would like to request that the NRC Staff investi-  
11 gate why the problem occurred. I might mention this is the  
12 second time we've had a problem getting documents, the first  
13 time being that there was a representation made to us that  
14 there were no inspector evaluation reports, and it turned  
15 out to be flatly wrong as brought out in the testimony of  
16 the NRC inspectors and were subsequently provided by Mr.  
17 Wilcove.

18 I was distressed at that time and mentioned my  
19 distress to Mr. Wilcove, who promptly supplied the inspector  
20 evaluation reports.

21 In this case, as the Board obviously knows, having  
22 received both copies of the report, the specific pages which  
23 were omitted were the specific pages the Board had requested.  
24 That is, the chronology or summary of the persons interviewed  
25 and the procedure according to which the investigation was

1 completed. That was removed from the copy that was sent to  
2 me.

3 Now I checked yesterday and I had not yet received a  
4 copy that was supposedly sent to me subsequently, and I  
5 find that rather strange, considering I'm in Washington and  
6 all other parties including the parties here in Michigan  
7 appear to have received the inspection report. And I just  
8 wanted to have some investigation -- some inquiry made as to  
9 why I did not receive the reprot.

10 JUDGE BECHHOEFER: Well, you certainly were the  
11 addressee.

12 MS. BERNABEI: I understand.

13 JUDGE BECHHOEFER: I assume there was no intent  
14 by Staff counsel, but maybe you have some comments. Maybe  
15 it's the NRC's mail room which doesn't always get things  
16 straight.

17 MR. PATON: Mr. Chairman, I would like to assure  
18 the Board that there's no current conspiracy to try to pre-  
19 vent Ms. Bernabei from obtaining this information. As she  
20 indicated herself, we in fact handed her a copy yesterday.  
21 But we will conduct an investigation to determine why she  
22 did not receive the mail that was addressed to her. It may  
23 be our mailroom; it may be GAP's mailroom. But there is  
24 no conspiracy in the NRC to prevent her from getting her  
25 mail.

1 MS. BERNABEI: I didn't suggest there was a con-  
2 spiracy. I suggested that there was a problem that seems  
3 to be continuing, and I would just like some inquiry made  
4 so that doesn't happen again.

5 JUDGE BECHHOEFER: I would like the record to  
6 show, however, that occasionally when letters have been  
7 addressed to me, the first I see of it is in the Licensing  
8 Board's reading file, where copies also go. So I assume  
9 there's no intent involved.

10 Anything further?

11 MS. BERNABEI: Yes. There is another matter.  
12 Yesterday during my cross-examination primarily of Mr.  
13 Rutgers and Mr. Wells, Mr. Miller interrupted frequently to  
14 ask that the question be read back. I consider that an  
15 inappropriate procedure, and if the witnesses understand the  
16 question, they are certainly able to answer it, and that  
17 they should either -- if they do not understand it, say they  
18 do not understand the question. If they need more time to  
19 think about an answer, either pause before answering the  
20 question or request time in which to think about an answer.  
21 But I think it's inappropriate for Mr. Miller to interject  
22 himself constantly, apparently in order to give the witnesses  
23 more time to consider their answers, or apparently in order  
24 to disrupt my cross-examination. And I would request that  
25 that not be done. And that if Mr. Miller persists in doing

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1 that, the Board direct him not to do that. I would not  
2 bring this up before the Board unless it had become a matter  
3 that I think disturbs the record and certainly disturbs an  
4 expeditious proceeding.

5 MR. MILLER: Excuse me, I believe that counsel  
6 once again is demonstrating her ignorance of the proper  
7 procedures at a contested hearing. I think I have an obli-  
8 gation to my clients to understand what question is being  
9 asked so that I can determine whether or not to make an  
10 objection before the witness answers. And if I can't under-  
11 stand the question, it seems to me I'm perfectly within  
12 my rights to ask that the question be reread.

13 If the question were framed with some greater  
14 degree of precision, I wouldn't have to do that. I am not  
15 disrupting your cross-examination, actually. I want to  
16 have this examination proceed expeditiously so that these  
17 witnesses may be excused and go back to other tasks. But  
18 I think the observation is both wrong and I know that because  
19 I know why I asked the questions be reread and is one that  
20 really should not be entertained by the Licensing Board.

21 MR. PATON: Mr. Chairman, I would just like to  
22 state briefly that I think this Board has -- it's a common  
23 courtesy that attorneys from time to time ask that a question  
24 be reread. Perhaps their attention was diverted or they  
25 didn't hear the question. And I think that's a common



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courtesy that the Board has afforded all parties and I don't see any reason to discontinue it.

MS. BERNABEI: I would not disagree with Mr. Paton. I think as a courtesy matter, that's fine. I think yesterday proceeded beyond the courtesy point and that's why I specifically made my request. As I noted, I do not as a rule bring these matters up before the Board unless I believe it's proceeded to the point it's necessary to do so.

1 (Board conferring.)

2 JUDGE BECHHOEFER: I guess all we'll is note that  
3 you have made a complaint. I would like to make sure that  
4 the witnesses, every time they answer, make sure you do know  
5 what the question is that you're answering. One or two  
6 questions, it didn't sound like exactly the answer was  
7 responsive to the question, or maybe we misunderstood the  
8 question occasionally, but it is important that you understand  
9 whatever the question may be so that -- is there anything  
10 further before we resume?

11 Okay, Ms. Bernabei, keep going.

12 Whereupon,

13 ROY WELLS

14 JAMES COOK

15 JOHN RUTGERS

16 resumed the stand, and having been previously duly sworn,  
17 were examined and testified further as follows:

18 CROSS EXAMINATION (Continued.)

19 BY MS. BERNABEI:

20 Q Mr. Wells, I'm going to continue with your testimony  
21 and again, I'll be primarily directing my questions to you.  
22 So I'd like you to answer of your own knowledge and if another  
23 panel member wishes to supplement, to do so after Mr. Wells  
24 has completed his answer.

25 Mr. Wells, would you agree that there have been

1 ongoing problems with the training of QC inspectors since  
2 the recertification effort began?

3 A (Witness Wells) We've had some problems, yes.

4 Q And one of the problems was, was it not, that the  
5 training was being rushed in order to have inspectors available  
6 to perform inspections when needed? I'm talking as specifically  
7 about a finding, in NRC Inspection Report 83-03.

8 A I remember the comment in the Inspection Report.  
9 I don't know that I -- I think we discussed, yesterday. I  
10 don't really categorize it as rushing, but I do categorize  
11 it as a problem, that we had to slow it down. The process  
12 was a little faster than we could accomodate.

13 Q And that's the period during which a recertifica-  
14 tion of balance of plant inspectors was suspended?

15 A I'm sorry, I don't understand that question.

16 Q Subsequent to this finding, the recertification  
17 for balance of plant inspectors was suspended for a period  
18 of time.

19 A No. I believe it was prior to the finding or  
20 prior to the statement. I'm not even sure it was the finding,  
21 but prior to the statement and the Inspection Report, and prior  
22 to the comment given to us specifically by the NRC, we slowed  
23 down the training.

24 Q I believe you testified to this yesterday, but that  
25 is contrary to the NRC's interpretation of events. Do you

1 know that?

2 A I'm not sure what they said. That's as I understand  
3 the issue to be. You're talking about remember the finding,  
4 okay?

5 Q Let me back up a minute, then. The suspension was  
6 subsequent to the NRC communicating to you a concern about  
7 speeding up of the training?

8 A No, there were discussions with the NRC Staff  
9 on site that indicated some concerns for the training progress.  
10 I don't recall the term of "speeding up" or "rushing" being  
11 used. I mentioned yesterday, there were concerns as to  
12 whether questions were being properly answered prior to the  
13 exam. That concern was raised before we slowed down the  
14 process.

15 Q In fact, that is the concern that's noted in  
16 Inspection Report 83-03.

17 A Okay. If it is, I don't know that. I'm not sure  
18 what's in there.

19 Q Okay, fine.

20 JUDGE BECHHOEFER: You can show him the report, if  
21 you want.

22 MS. BERNABEI: I think it's pretty clear, for the  
23 record.

24 WITNESS WELLS: It wasn't clear to me, but I'd be  
25 glad to look at it.

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1 BY MS. BERNABEI:

2 Q At a meeting, February 24th, 1983 meeting, the  
3 NRC expressed some concern to you, did it not -- and by you  
4 I mean Consumers -- about the frequent schedule changes for  
5 the performance demonstrations?

6 A (Witness Wells) Prior to which meeting? I'm sorry.

7 Q At the February 24th, 1983 meeting.

8 A I'm not sure it was at that meeting, but that  
9 concern was expressed. It could well have been about that  
10 point in time.

11 Q And the NRC concern was, was it not, that inspectors  
12 were being pulled out of training in order to conduct inspections

13 A No, I'm not sure that was the concern expressed.  
14 It was basically that the schedule was changing.

15 Q Let me ask you this. Didn't Mr. Ewart, or some  
16 other Consumers Power Company representative, state in fact the  
17 reason for the frequent schedule changes, or the main reason  
18 for the frequent schedule changes, was that the QC inspectors  
19 were pulled out to do inspections?

20 A I'm not aware of that statement.

21 (Pause.)

22 Q Mr. Wells, I'm going to show you what's marked  
23 as Stamiris Exhibit 82, which has been identified for us as  
24 an oral communications record, written by Mr. Ewart, of the  
25 February 24th, 1983 meeting.

1 (Witness reading document.)

2 MR. MILLER: Just so the record is clear, Mr.  
3 Wells is not shown as participating in that meeting.

4 WITNESS WELLS: That's true, I didn't participate,  
5 nor am I shown as receiving a copy. But I think I can clarify  
6 your misunderstanding.

7 BY MS. BERNABEI:

8 Q If I could ask my question, I'd ask you to review  
9 that document.

10 Let me ask you, does your familiar --

11 JUDGE BECHHOEFER: Let me interrupt a minute, our  
12 copy here does show Mr. Wells as on the distribution list.

13 WITNESS WELLS: Oh, you're correct. I was looking  
14 only at the front sheet. That's correct.

15 BY MS. BERNABEI:

16 Q You are familiar with that document, Mr. Wells,  
17 are you not?

18 A (Witness Wells) Well, I read it just now.

19 Q And you're familiar, generally, with that meeting,  
20 are you not?

21 A Yes, that the meeting took place.

22 Q Have you had a chance to review that?

23 A Well, I read the first, do you want me to read the  
24 whole thing?

25 Q Yes, I'd like you to read at least the first page.



1 (Witness reading document.)

2 Q Now, Mr. Ewart, in his oral communication, states  
3 that he believes a major cause of the schedule changes was short  
4 lead time to coordinate performance demonstration with  
5 construction activities, correct?

6 A That's correct.

7 Q Now, there is also a statement in here that the  
8 test schedules do not mesh because of changes in the construc-  
9 tion schedule. Is that correct? Is that what was stated?

10 A That's what's stated, yes.

11 Q And your assumption is that that is, in fact, what  
12 was said at the meeting?

13 A That apparently was said at the meeting.

14 Q Now, I believe this indicates, does it not, that  
15 at times the performance demonstration schedule was changed  
16 because of changes in the construction schedule?

17 A It indicated -- that's correct, because in order  
18 to have a performance demonstration a construction activity  
19 had to be taking place.

20 Q There has been testimony, by an NRC witness, that  
21 a major reason for the changes in the performance demonstration  
22 schedule was that inspectors, or trainees, were pulled out  
23 of the training to conduct inspections of construction. Is  
24 that your understanding?

25 A Would you ask that again, please?

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1 Q Yes. There has been testimony in this proceeding,  
2 by an NRC inspector, that a major reason for changes in the  
3 performance demonstration schedule is that inspectors were  
4 pulled out of training in order to conduct inspections of  
5 construction. Is that your understanding?

6 MR. MILLER: Is that your understanding of the  
7 testimony, or is that his understanding of the event?

8 BY MS. BERNABEI:

9 Q Is that your understanding of what happened?

10 A (Witness Wells) I'm sure that was one factor, but  
11 not a major factor. There were a number of factors that caused  
12 the schedule to have to be changed.

13 Q Now Mr. Burgess is the inspector, for the NRC,  
14 chiefly responsible for monitoring the performance demonstration.  
15 Is that correct?

16 A He's the primary inspector, yes. He monitored that.

17 Q And when Mr. Burgess -- Mr. Burgess is informed  
18 of all changes in the performance demonstrations and training  
19 activities, is that correct?

20 A Yes.

21 Q And he's also informed, is he not, of the reason  
22 for any such changes?

23 A I think we try to keep him informed. I'm not sure  
24 there's a requirement, nor do we inform him of the reason for  
25 every change.

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1 Q Isn't he informed in writing of the changes?

2 A That's the intent, yes. Sometimes, if it's last  
3 minute, it would be by phone call and he understands that.

4 Q Now, are you familiar at all with either the written  
5 or oral communications made to Mr. Burgess about the reasons  
6 for changes in performance demonstration schedule?

7 A Which oral communication, now?

8 Q I believe your testimony was that usually he's  
9 notified in writing of any changes. Sometimes he's notified  
10 by telephone call and I'm asking you are you familiar with the  
11 documents or the oral communications?

12 A No, I don't track the documents. They are generated  
13 through the training department. The communications are made  
14 through the training department to Mr. Burgess.

15 Q But a review of those documents would indicate the  
16 reason for any major schedule changes, would they not?

17 A I'm not sure they would. I think it's primarily  
18 a notification of the schedule itself.

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1 Q Have you ever reviewed any of those records prior  
2 to your testimony here today?

3 A No, I don't believe -- no, I have not.

4 Q Now, your position at this time is that it is  
5 acceptable for Bechtel QC inspectors to report to Bechtel  
6 QC supervisors, is that correct?

7 A Yes, that's correct.

8 Q And the NRC does not agree with your position,  
9 is that correct?

10 A There are certain individuals who have said they  
11 do not agree with that, yes.

12 Q Well, in fact the Midland team does not agree  
13 with that position, isn't that correct?

14 A I'm not sure whether I've seen a team position  
15 stated.

16 Q But at least the inspectors you have spoken to  
17 believe that Bechtel QC inspectors should not report to  
18 Bechtel QC supervisors, isn't that correct?

19 A I'm not sure that every inspector I've talked  
20 with has voiced that concern. But the issue is clear some  
21 inspectors can have that feeling.

22 Q In fact, Mr. Shafer very definitely had that  
23 opinion, did he not?

24 A He did.

25 Q And he had conversations with you about it?

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1 A Yes.

2 Q And in the Fall of 1982, and I presume up to the  
3 present time, you have not changed your position?

4 A That's correct.

5 Q Now, I understand that your major reason for  
6 maintaining the line of supervision from Bechtel QC inspectors  
7 to Bechtel QC supervisors is you believe you could not get  
8 qualified people to replace the current Bechtel QC supervisors?

9 A No, I don't believe I have ever said that.

10 Q Okay. What is your reason for maintaining this  
11 position despite NRC opposition?

12 MR. MILLER: I believe this question was asked  
13 and answered yesterday by Mr. Wells.

14 MS. BERNABEI: I don't think so.

15 (Board conferring.)

16 JUDGE BECHHOEFER: I guess this was asked yester-  
17 day, so we will sustain the objection.

18 BY MS. BERNABEI:

19 Q The original schedule for completion of recerti-  
20 fication of all QC inspectors was April of this year, is  
21 that correct?

22 A (Witness Wells) That was the schedule set last  
23 Fall, yes.

24 Q Now, Consumers has not met that schedule, is that  
25 fair to say? That is, that all QC inspectors are not

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recertified at this point?

2 A Really the schedule became moot.

3 Q No, my question was, all QC inspectors are not  
4 recertified to this date?

5 A That's true. But the schedule lost its meaning.

6 Q Is there any date set at the current time by which  
7 all QC inspectors will be recertified to the new PQCIs?

8 A No date's set, they simply can't do an inspection  
9 until they are recertified.

10 Q So there's no current date by which they will be  
11 recertified?

12 A That's correct.

13 Q Would you agree that recognition of a problem  
14 with the qualifications and training of QC inspectors was  
15 recognized as early as May of 1981?

16 A No, I have no familiarity with that point in time  
17 nor that concern.

18 Q And that's because that was prior to your assuming  
19 your current position?

20 A Yes.

21 Q Does any other member of the panel have an opinion  
22 as to whether or not the problem with qualifications and  
23 training of QC inspectors goes back at least as far as May  
24 of 1981?

25 Mr. Rutgers?



1           A       (Witness Rutgers) Yes, it does. That was the  
2 origin of requests for overinspection of cables and pipe  
3 supports by NRC.

4           Q       Thank you.

5                   Mr. Wells, the quality verification program which  
6 you mentioned in your testimony has to do with the verifi-  
7 cation of the as-built condition of the plant, is that  
8 correct?

9           A       (Witness Wells) I think, precisely stated, the  
10 quality verification plan will verify the quality of hard-  
11 ware installed and inspected prior to December 2nd.

12          Q       Or it might verify that, in fact, it's not quality  
13 construction, that's a possibility also?

14          A       It would identify whatever is there.

15          Q       Exactly. Now, before this program, a documenta-  
16 tion review is proposed for inaccessible items, is that  
17 correct?

18          A       That's part of the process, yes.

19          Q       Now, do you know at this time, and I'll ask any  
20 member of the panel, what portion of the plant that the  
21 systems, components and structures are accessible and what  
22 portion at this time are inaccessible?

23          A       I cannot give you a percentage.

24          A       (Witness Cook) Nor can I.

25          Q       Do you have any estimate at all?

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1           A       (Witness Wells) No, I don't. We really have not  
2 established what that percentage is yet.

3           Q       So it's fair to say that at this point you don't  
4 know which or what percentage of structures and systems will  
5 be physically inspected and what proportion will simply re-  
6 ceive a paperwork review?

7           A       We don't have an identification yet of which  
8 completed inspections will be inaccessible for reinspection;  
9 however, the inaccessible ones will get more than a paperwork  
10 review.

11          Q       That's primarily what the CCP provides for at  
12 this point, is it not?

13          A       No, that's not correct at all.

14          Q       Other than a paperwork review, what does it pro-  
15 vide?

16          A       What it provides for is, as one point of input,  
17 a documentation review to make sure the past documentation  
18 is correct and accurate. It provides for a review of any  
19 prior inspections or activities that might have been held.

20          Q       Then it's primarily an audit?

21          A       It would be looking at other -- sometimes when  
22 problems have come up that we have closed at, as a matter of  
23 fact, NRC has participated in that closure. Those could  
24 be either by document review or reinspection. It will also --  
25 we will also look at what overinspections have been conducted

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1 and recorded by QA and then, if we can develop a proper  
2 basis for justifying that inaccessible attribute can be  
3 defined as being established on a quality basis, we have  
4 committed to do a limited number of NDE techniques or de-  
5 structive examinations if necessary. So, it's a very com-  
6 prehensive approach as to how we're handling that inaccessible  
7 question. And that's all spelled out in the QVP.

8 Q It is true that 100 percent of inaccessible items,  
9 structures, components or systems will not receive nonde-  
10 tructive examination or testing?

11 A That's correct.

12 Q Do you have any idea at the present time what  
13 percentage will receive that kind of testing?

14 A No, it would depend on the whole sequence of  
15 events, as I just tried to describe them.

16 Q What percentage of inaccessible systems, components  
17 or structures will receive other than a documentation review?

18 A Again, it will depend on whether we can establish  
19 a record based on documentation checks and the other means  
20 I have just laid out as to whether we will do NDE or destruc-  
21 tive examinations. Also, I should point out that there's  
22 one more feature we shall probably be looking at in that  
23 review. In some cases, an attribute is basically inaccessible  
24 like rebar. However, because of some changes going on at  
25 the plant, there are rebars exposed in certain areas. We

1 will use that as an example to go out and verify our con-  
2 dition.

3 So, even though a lot of attributes will be in-  
4 accessible, there will be representative samples of many  
5 of those we'll be able to review.

6 Q Is it fair to say that the documentation review  
7 for the inaccessible items is the major and primary review  
8 that will be conducted?

9 MR. MILLER: I am going to object. The witness  
10 has now answered twice as to what place the documentation  
11 will have in the entire process. Counsel keeps going back  
12 over the same ground.

13 MS. BERNABEI: It's pretty clear that the NRC  
14 testimony is to the contrary and I would like to establish  
15 Mr. Wells' understanding of the program.

16 MR. MILLER: Mr. Wells testified to that. I don't  
17 believe it does contradict the NRC, but if it does, it does.

18 MS. BERNABEI: Mr. --

19 JUDGE BECHHOEFER: Well, if you could ask him if --  
20 the last question you asked, you have asked within the last  
21 five minutes. So we'll sustain that one. Whether you want  
22 to go on to compare that to Mr. Gardner or not --

23 BY MS. BERNABEI:

24 Q There have been problems in documentation at Mid-  
25 land in the past, is that not true?

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1           A       (Witness Wells) I would imagine there have been  
2 some problems, yes.

3           Q       There have been problems in terms of traceability  
4 of materials and the documentation about that?

5           A       I don't recall a specific, but I'm sure that on  
6 one case or another there may have been a nonconformance  
7 identified in that area.

8           Q       Wasn't there, in fact, a finding in that area in  
9 the diesel generator inspection building?

10          A       Specifically what?

11          Q       On improper documentation, traceability of materials.

12          A       I guess I want to read the specific finding before  
13 I said yes or no to that.

14          Q       There have been problems in the documentation area  
15 in terms of the HVAC welders, is that correct?

16          A       I'm sorry, say again, please?

17          Q       The HVAC welders?

18          A       Yes, the problem?

19          Q       The problem in documentation having to do with  
20 the HVAC welder qualification and certification?

21          A       I don't recall that one.

22          Q       Mr. Cook, do you have something to add?

23          A       (Witness Cook) I was going to mention, I think,  
24 the November generator building inspection had to do with  
25 markings of carbon steel in the laydown area, which was the  
material traceability question.

End

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1 Q Are you familiar, Mr. Wells, with the November 30th  
2 1982 lay-off of about 150 Zack workers, is that correct?

3 A (Witness Wells) Yes.

4 Q And that was because of an audit which would reveal  
5 that Photon Testing was not implementing the testing program.  
6 Is that substantially correct?

7 A Yes.

8 Q And then connected that QA failure of Photon for --  
9 MR. MILLER: I'm going to object to the characteri-  
10 zation of a QA failure at Photon. There's testimony from  
11 these witnesses directly to the contrary. There's no foundation  
12 for that characterization of events in this record.

13 MS. BERNABEI: I think that's wrong. Either Mr.  
14 Rutgers or Mr. Wells yesterday specifically testified they  
15 did show a failure in the QA program. That was very specifically  
16 their testimony. We can ask them again, but I can certainly  
17 find it in the transcript.

18 BY MS. BERNABEI:

19 Q Mr. Wells, was there a QA failure in either the  
20 Zack or the Photon Testing QA program?

21 A (Witness Wells) The failure was with Photon not  
22 fully implementing the program.

23 Q And did that include a documentation problem in  
24 the sense the documentation was not in order for that program?

25 A I'm not aware if that was a specific concern or not.



1           A       (Witness Cook) May I add to the answer? Perhaps  
2 to help understanding in this line of questioning, the audit  
3 findings against Photon put into question their certification  
4 of the welding procedures that Zack was using. That was, in  
5 fact, what caused the lay-off of the Zack welders. In having  
6 to recertify the welding procedures, there could be no welding  
7 done. Therefore, the welders were laid-off.

8           Q       And that included in part a problem with documenta-  
9 tion, documentation for the procedures or the training?

10          A       The training -- certification of the Zack welders  
11 to the previous procedures was totally in order. However,  
12 since the procedures themselves had a question to them, the  
13 recertification had to be done. But the documentation that  
14 was in place for the prior certifications, as far as I can  
15 remember, was perfectly satisfactory.

16          Q       There was a problem, was there not Mr. Wells, with  
17 the IPINs? That, the manner in which IPINs were used to  
18 record deficiencies?

19          A       Yes.

20          Q       And there was a similar problem, found by the NRC,  
21 with respect to the use of deficiency reports?

22          A       Yes, a deficiency report was merely the forerunner  
23 of the IPIN.

24          Q       And similarly, there was concern, and the NRC  
25 expressed a problem, with the Attachment 10 forms? Is that

1 correct?

2 A NRC expressed a concern, yes.

3 Q Now all three of those are documentation systems  
4 to record deficiencies, is that correct?

5 A In that sense, yes.

6 Q Therefore, it's fair to say that the there were  
7 documentation problems in all those areas with use of those  
8 three systems?

9 MR. MILLER: May I have the -- the question is  
10 vague and I object to it. "In all those areas" is totally  
11 undefined.

12 BY MS. BERNABEI:

13 Q Mr. Wells, if you didn't understand the question,  
14 the three systems being the IPIN system, the deficiency report  
15 system, the Attachment 10 reporting system, were there not  
16 documentation problems in the quality assurance program  
17 encountered because of the improper use of those three systems?

18 A (Witness Wells) I think that's a mischaracterization  
19 to say it was a documentation problem. It was the manner in  
20 which the forms were used. It was a concern but the use was  
21 well documented.

22 Q But it is true that reviewing the documentation  
23 from the reporting systems would not necessarily tell you  
24 all the deficiencies in the plant.

25 A Well, that's very general. He would not attempt

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1 to be able to find all the deficiencies in the plant by  
2 reviewing those systems. That's not --

3 Q I'll rephrase the question. Specifically with  
4 regard to the IPINs and the deficiency reports, a review  
5 of those reports, would not inform you of all deficiencies  
6 those reporting systems were supposed to determine?

7 A Yes, to the extent that everything that was recorded  
8 on those systems, on the forms, was documented and it would  
9 tell you all the problems identified and recorded on those  
10 forms, if that's what you're asking.

11 Q No, the question I was asking you is a review of  
12 those forms, okay, the Inspection Reports with IPINs and  
13 deficiencies reports, taking those two reporting systems  
14 a review of the documentation from those two systems would not  
15 aid you, or would not give you a comprehensive view of all  
16 the deficiencies those systems were supposed to report?

17 A Is that your question?

18 Q That's my question.

19 A I think it would. By looking at the Inspection  
20 Report and associated documentation it should identify the  
21 problems associated with those systems.

22 Q Is it not true, in the diesel generator building,  
23 the main finding for the NRC, in fact the finding for which  
24 Consumers was fined \$60,000, was the IPIN system and the use  
25 of IPINs linked to the failure identified in many deficiencies?

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1 A No, I don't think that's exactly the statement. It  
2 raised a concern as to whether it may have caused that to happen.

3 Q Would you agree that there was that possibility  
4 prior to discontinuance of use of IPINs?

5 A Yes.

6 Q And therefore a review of the documentation worked  
7 up a new possibility that all deficiencies were not recorded?

8 A It leaves open that possibility. We have committed  
9 to re-inspect all of those -- all of those inspection records  
10 that had IPINs associated with them.

11 Q Will Consumers -- let me ask you another question.  
12 Is some of the IPINs were operated to non-conformance reports,  
13 is that correct?

14 A Yes.

15 Q Now those which were upgraded to non-conformance  
16 reports, would those be inspected 100 percent?

17 A You don't inspect an IPIN. If you're asking the  
18 commitment on 100 percent, yes, we will re-inspect inspection  
19 records that had an IPIN associated with it, regardless of  
20 how the IPIN was closed.

21 Q So regardless of whether it was closed as an NCR  
22 or an IR it will be inspected 100 percent?

23 A Yes, the Inspection Report will be, that's right.

24 Q Regardless of whether or not it was upgraded to an  
25 NCR?

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1           A       That's right.

2                   JUDGE BECHHOEFER:  Would such an inspection be able  
3 to determine whether all areas, which were supposed to have  
4 been inspected, were actually inspected in terms of using your  
5 return option?  Would you be able to tell whether all the areas  
6 were inspected or not?

7                   MR. WELLS:  I'm not sure.  What we will do is a  
8 complete reinspection.  We will verify that everything that  
9 was identified on the IPIN has been taken care of.  We'll make  
10 that specific closure.  But the question will remain, if we  
11 find a problem in the reinspection, is that because of the  
12 IPIN.  I don't know that we'll ever be able to make that  
13 total connection.

14                   BY MS. BERNABEI:

15                  Q       In your testimony, you state that you directed the  
16 discontinuance of the use of IPINs on January 25th, 1983.  Is  
17 that correct?

18                  A       (Witness Wells)  Yes.

19                  Q       Okay, and I believe either your testimony or prior  
20 testimony was that, in part, that was in response to the NRC  
21 concern expressed at the enforcement conference meeting on  
22 January 18th, 1983?

23                  A       In part, yes.

24                  Q       And at that meeting, the NRC expressed to you  
25 concern.  Was there very serious concern about IPINs and their

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1 findings.

2 A Yes.

3 Q Now, I believe you testified that you were familiar  
4 with Mr. Shafer's criticism of you that you or Consumers did  
5 not continue the use of IPINs at an earlier time? Are you  
6 familiar with that criticism?

7 A In a general sense, not specifically.

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1 Q I'm afraid I'm not quite sure whether or not we  
2 went over this testimony yesterday. Do you remember that?

3 MR. WILCOVE: I think we did.

4 MS. BERNABEI: I think we did, also.

5 BY MS. BERNABEI:

6 Q And I think you reviewed Mr. Shafer's testimony in  
7 which he said he considered that indicated a poor management  
8 attitude, or poor management judgment, in that it took you  
9 until January 25th to respond to their IPIN concerns?

10 A (Witness Wells) If we reviewed it I must have  
11 remembered it then.

12 Q Isn't it true that from the period in which you  
13 were informed of the NRC concern, in November of 1982, until  
14 January 25th 1983 Mr. Selby -- and perhaps you, Mr. Cook,  
15 joined in the investigation of the use of similar reporting  
16 systems at other sites?

17 A I don't think Mr. Selby or Mr. Cook -- I don't  
18 think Mr. Selby, for sure, was doing an investigation of the  
19 use of other sites. I'm not sure about Mr. Cook.

20 A (Witness Cook) None of us were involved in the IPIN  
21 issue until January, I think it was, 16th or whatever date  
22 that meeting took place on because nobody recognized the  
23 question of missed inspections with regard to IPINs until it  
24 was brought to our attention at that enforcement meeting.  
25 There had been an ongoing discussion of IPINs in documenting

1 all observed non-conformances. But the question of the  
2 seriousness of the IPIN finding became identified to the  
3 company on January 16th or 18th, at the enforcement meeting.  
4 As a result of that particular recognition, and reporting to  
5 us, then we started to do total investigation of the IPIN  
6 question. And as part of that we chartered a -- I'm trying to  
7 remember -- well, there was a specific request made to check  
8 other Bechtel job sites for similar type practices as the  
9 IPIN system which was in response, I believe, to a question  
10 from the NRC that occurred in that time frame. That is the  
11 chronology of the events you are starting to question.

12 Q So, in fact, it was after the January 18th meeting  
13 that this inquiry or investigation began?

14 A Yes, there was a detailed investigation of the use  
15 of IPINs on the Midland site, which Mr. Wells supervised.

16 The other question, about the practices at other  
17 job sites, was done parallel to that through the Bechtel QA  
18 Manager.

19 Q Now, Mr. Cook, are you familiar with the results  
20 of that inquiry?

21 A Which inquiry?

22 Q The inquiry into the use of similar systems at  
23 other Bechtel sites?

24 A Yes.

25 Q Now, in fact, Consumers found that similar systems

1 were used at six other sites. Is that correct?

2 A No, I believe six or seven other sites were surveyed  
3 and I think the similar systems were used at three of those  
4 sites.

5 Q You found also that at those other sites there were  
6 trending problems associated with the use of similar systems.  
7 Is that correct?

8 A No, I don't believe that's part of the discussion,  
9 trending systems?

10 Q Yes, there were trending problems associated with  
11 the use of all of these systems, at all the sites that used  
12 them.

13 A I'm sorry. I'm not sure what that would mean.

14 Q One of the criticisms of the use of the IPIN system  
15 at Midland was that it distorted the trending to some degree.  
16 Is that not correct?

17 A That if it was not recording all observed non-  
18 conformances it could be doing that. The IPINs themselves  
19 were trended.

20 Q I understand that. But it could disturb the process  
21 if all deficiencies were not recorded?

22 A That was their feeling.

23 Q In fact, that problem was found at other sites  
24 where specific systems were used, specifically the three that  
25 you mentioned.

1           A       I really don't believe I have a full understanding  
2 of what the trending programs were on those other sites.

3           Q       Now, after reporting or after determining that a  
4 similar system is used at at least three other Bechtel sites,  
5 did you communicate this information to the NRC?

6           A       Yes.

7           Q       And what was the purpose in communicating this  
8 information to the NRC?

9           A       To respond to their question.

10          Q       And what question was that?

11                 MR. MILLER: My objection is that Mr. Cook answered  
12 that very question about six minutes ago, in the initial  
13 stages of this examination.

14                 MS. BERNABEI: I didn't understand that he  
15 specified a particular question. I think he said that he  
16 initiated, or Consumers initiated an investigation into the  
17 use of similar systems at other Bechtel sites in response  
18 to a request from the NRC. I'm asking what the specific  
19 request was.

20                 WITNESS COOK: Were there similar systems used  
21 at other Bechtel sites?

22                 JUDGE BECHHOEFER: Bechtel sites only?

23                 WITNESS COOK: Yes.

24                 (Pause.)

25                 BY MS. BERNABEI:

1 Q What effect, if any, did your investigation, your  
2 inquiry, into the use of similar systems at other sites have  
3 to do with the imposition of a penalty?

4 MR. MILLER: I'm going to object to the form of  
5 the question and also the irrelevance of this entire line of  
6 examination. First of all, if we're talking about a civil  
7 penalty imposed by the NRC, I don't know how this panel of  
8 witnesses could answer that question. They obviously lack  
9 the knowledge to determine what goes into a specific application  
10 of the enforcement criteria in imposing civil penalties.

11 Secondly, I have not objected up till now, with  
12 the expectation that somehow this would be tied into something  
13 meaningful with respect to the Midland plant. But it seems  
14 to me that further examination, with respect to practices  
15 at other Bechtel sites, is totally irrelevant to any issue  
16 before the Board.

17 MS. BERNABEI: The basic question I have is why  
18 Consumers chose to do this investigation and what was the  
19 purpose vis-a-vis the NRC? If it was, in some sense, to  
20 mitigate the penalty, I think that's instructive of a certain  
21 management attitude.

22 MR. MILLER: I think that Counsel's rather lame  
23 explanation shows that she really doesn't know what relation-  
24 ship this line of inquiry has to any issue before the Board  
25 because it is clear, from the testimony already on the record,

1 that there was inquiry made by the NRC and the company responded  
2 to it and there is nothing more or less sinister than that in  
3 the whole issue.

4 In terms of what she hoped to establish by the line  
5 of inquiry, that's already on the record.

6 MS. BERNABEI: Let me state, very clearly, first  
7 of all, there has been the NRC inspection staff -- specifically  
8 Mr. Shafer, has said he was disappointed in the management  
9 attitude of Consumers Power in that it took them until January  
10 25th to respond. With that testimony from this panel, Mr.  
11 Wells and Mr. Cook did in fact they did not understand the  
12 seriousness of the NRC concern until the January 18th enforce-  
13 ment conference. Subsequent to that, there was an investigation  
14 into the use of IPINs at other sites. What I'm trying to  
15 establish is to whether or not this is another defensive  
16 attitude on the part of Consumers Power to defend their  
17 past actions and I think I'm entitled to inquiries to the  
18 reason for the investigation, how it was communicated to the  
19 NRC, and what was the purpose of communicating this information  
20 to the NRC. Especially since it took them over two months to  
21 respond to what was a very serious NRC concern. That's the  
22 purpose.

23 MR. MILLER: The characterization of it being a very  
24 serious NRC concern is yours -- it's Counsel's rather. And  
25 the question of what the NRC had in mind is a question that



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1 was appropriately addressed to the NRC panel when they were  
2 here. To my knowledge, the subject was never discussed with  
3 the NRC panel when they were with us.

4 Mr. Cook, I think, has almost exhausted his  
5 recollection with respect to the circumstances under which the  
6 request was made and certain cases in which he responded to it.  
7 That ought to be the end of the inquiry.

8 MS. BERNABEI: That's very possibly true but let  
9 me make one note. The reason I did not require the NRC  
10 witnesses is because the team specifically had no other  
11 information, other than what they did testify to. When Mr.  
12 Keppler was here, we did not have Mr. Davis' telephone log,  
13 which did not indicate the communications between Consumers  
14 and the NRC and this investigation into other Bechtel sites.  
15 Mr. Keppler was gone by the time our discovery was finished  
16 and I tried with Mr. Shafer, to the extent of his knowledge  
17 about the investigation, to ask similar questions.

18 I think I'm entitled to ask it of this panel, very  
19 precisely, the questions I asked. If Mr. Cook's recollection  
20 and knowledge about it is exhausted, that's fine, but I think  
21 I'm entitled to inquire into this area.

22 (Board conferring.)

23 JUDGE BECHHOEFER: We're not really sure what  
24 additional information you want. But I think the subject is  
25 okay, but Mr. Cook has already stated why they responded --

1 why they did the inquiry at the other sites and that, I think,  
2 is on the record. What further do you want?

3 MS. BERNABEI: Perhaps I could ask one more question.

4 BY MS. BERNABEI:

5 Q Do you think this reflects an argumentative attitude  
6 on the part of Consumers Power -- the fact that you conducted  
7 an investigation to determine similar problems with similar  
8 systems used at other Bechtel sites?

9 A (Witness Cook) No, I don't and let me tell you why  
10 if I could, please.

11 The characterization that we did not respond to the  
12 IPIN issue over a period of several months was just grossly  
13 misrepresenting what actually happened. The identification of  
14 the IPIN question as being something that was of serious  
15 concern to the NRC happened the day before we came to the  
16 enforcement conference. The IPIN issue was brought out of the  
17 inspection findings based on the review of the inspection  
18 findings by the I&E senior management that came to the  
19 enforcement conference. It was not identified to us until  
20 January 16th or 18th as an item of special concern.

21 Mr. Wells has testified, I think very clearly,  
22 about how he and his staff were working with what we understood  
23 the finding to be prior to that time. And after the finding  
24 was made to us there was going to be a special item of  
25 non-compliance in the Inspection Report we redoubled our

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1 efforts and went back to find out everything we could find  
2 out about the IPIN issue and the NRC Regional Inspection Staff  
3 did not have that issue identified to us at all as a serious  
4 finding --one in which a civil penalty would be recommended --  
5 until January 16th.

6 They, in fact, apologized to us as having it raised  
7 as a special concern at that time with us not having any  
8 prior knowledge of the concern.

9 Q Therefore, you disagree with any characterization  
10 by Mr. Shafer that your response was untimely?

11 A Mr. Shafer has his opinion. I'm just telling you  
12 the sequence of events in which we worked on this particular  
13 issue.

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1 Q Mr. Cook, I am going to show you what has been  
2 marked Stamiris Exhibit 66. Again, that is Mr. Peck's notes  
3 from the meeting, the exit meeting with the NRC exit meeting  
4 on November 23, 1982.

5 I ask you to review the first half of the first page  
6 of that exhibit.

7 A (Witness Cook) Would you like to identify to me  
8 the specific things you would like me to look at?

9 Q If you would review the top part of that, that is the  
10 first half of the page.

11 A (Witness Cook) Yes.

12 Q Now, it is stated there, is it not, "IPIN concern -  
13 big issue," Is that stated?

14 A (Witness Cook) Yes, it is written.

15 Q Okay, and that was in fact stated at the meeting,  
16 is that correct?

17 A (Witness Cook) That IPINs had been discussed with  
18 us and that we were going to continue to discuss with them as  
19 we had been doing previously.

20 Q No. That there was an IPIN concern and that it was a  
21 big issue. Was that discussed in that meeting?

22 A (Witness Cook) The term "big issue" to my  
23 recollection was no bigger than any issue discussed at that  
24 meeting.

25 Q Okay, so therefore, in those respects, Mr. Peck's

1 meeting notes are inaccurate; is that correct?

2 MR. MILLER: I am going to object. It is a mis-  
3 characterization of the document and what Mr. Cook just  
4 testified to.

5 BY MS. BERNABEI:

6 Q Well, Mr. Cook, don't these meeting notes say that,  
7 "IPIN concern - big issue?"

8 A (Witness Cook) That is what it said. I am giving  
9 you my recollection of the meeting.

10 WITNESS WELLS: May I add something?

11 MS. BERNABEI: Let me ask this of Mr. Cook now.

12 BY MS. BERNABEI:

13 Q Is it fair to say that you do not remember the IPIN  
14 concern being characterized as a "big issue" at that meeting?

15 A (Witness Cook) That's right.

16 Q And therefore to that degree your recollection of  
17 that meeting differs from Mr. Peck's meeting notes.

18 A (Witness Cook) Yes.

19 WITNESS WELLS: May I supplement that?

20 JUDGE BECHHOEFER: Mr. Wells, why don't you?

21 WITNESS WELLS: I only want to point out that when  
22 we are talking about the IPINs, there were two issues associated  
23 with the IPINs. One concern raised was whether -- we talked  
24 about it earlier -- whether because of the so-called return  
25 option all items were being identified for trending. That was  
a concern that was discussed during this period of time.

1           That is why in early November we stopped that  
2 process. The issue of whether the return option had clouded  
3 the ultimate and final inspection was simply not raised by  
4 the NRC until January, at which time we reacted to that additional  
5 concern.

6           But as I mentioned yesterday, the sequence of events  
7 on the IPIN was, we talked with the NRC early in October at  
8 the site level and felt we had an understanding of how the  
9 process worked. The concern about the return option was raised.  
10 We terminated that. We terminated the use of IPINs in the  
11 soils area before the soils rework started, and as soon as  
12 we found that the additional concern of the NRC was a clouding  
13 of the final inspection record, we terminated the use altogether.

14           So, the characterization that we did nothing over a two-  
15 month period is erroneous.

16           BY MS. BERNABEI:

17           Q     And therefore, if Mr. Schaefer testified to that,  
18 that would be incorrect.

19           A     (Witness Wells) In my judgment, I think we did take  
20 timely action.

21           Q     I had one question which goes back to the Photon  
22 testing problems that were discussed yesterday.

23           I believe either Mr. Wells or Mr. Cook testified that  
24 in fact he believed MPQAD took timely action in response to  
25 the problem encountered in the welder qualification area with



1 Photon testing.

2 A (Witness Wells) Yes.

3 Q Now, the problem that led to the lay-off of the 150  
4 workers at the end of November of 1982 was discovered during  
5 the audit; is that correct?

6 A (Witness Wells) Yes.

7 Q When was that audit conducted?

8 A (Witness Wells) Two weeks before the November  
9 lay-off, as I recall.

10 Q Would you be surprised to find the audit in fact  
11 occurred in September of 1982, two months prior to the lay-off?

12 A (Witness Wells) No.

13 Q If it were true that the audit did occur, would that  
14 not lead you to believe that the action taken by MPQAD was not  
15 as timely as you described yesterday?

16 A (Witness Wells) No.

17 Q Do you believe it is acceptable for a two-month  
18 gap between audit findings which demonstrate a problem and the  
19 action taken at the end of November?

20 MR. MILLER: I am going to object. First of all we  
21 had a question that asked about the audit, and now we are  
22 talking about audit findings which are very different things.

23 Obviously, counsel has a document which probably  
24 states the facts as they were recorded temporarily. Rather  
25 than play games with Mr. Wells, why not show him the document?

1 MS. BERNABEI: Well, I am actually asking him a  
2 hypothetical question. I am not playing games. I am asking him,  
3 if in fact the audit findings which have led to the lay-off  
4 were made in September of 1982, and whether a two-month time  
5 period prior to responsive action is too long. That is the  
6 question.

7 WITNESS WELLS: And my answer is, no. It depends  
8 on the circumstances. The evaluation had to be made of the  
9 findings. I think the audit took place in September. I am  
10 not sure when the actual report was issued.

11 I recall that because of the complexity of the issues  
12 on activity dates, FSAR requirements, et cetera, that it took  
13 quite a bit of pretty hard research to determine if in fact  
14 there were bona fide concerns that had to be corrected. It  
15 took some time to make that judgment.

16 As soon as the judgment was made, action was taken.

17 BY MS. BERNABEI:

18 Q During that two-month period of time between the  
19 audit in September 1982 and the lay-off of workers, November 30,  
20 1982, HVAC work was continued; is that correct?

21 A (Witness Wells) I think it was.

22 Q (Witness Cook) Yes, it was.

23 Q And in fact the problem was significant enough when  
24 the workers were laid off in November of 1982 that work has  
25 not resumed to this day.

1           A     (Witness Wells) The problems with the procedures  
2 were significant enough we stopped the work. It has taken  
3 since that time until now to get the procedures rewritten and  
4 the requalifications performed.

5           Q     Do you have any concerns about the work that was  
6 conducted from the time the audit was conducted in September  
7 and the time the workers were laid off in November?

8           A     (Witness Wells) We will have to justify that all  
9 the work done under those procedures was satisfactory. The  
10 incremental portion was not that significant of a concern  
11 because the issues were not that clear as to whether the concern  
12 warranted a stopping the activity and rewriting the procedures.

13                     It would have been equally of a concern to me if we  
14 had laid off workers and stopped a process which in fact was  
15 perfectly acceptable.

16           Q     How are you going to verify the quality of the work  
17 done?

18           A     (Witness Wells) By requalifying, on a test basis,  
19 by requalifying the specific procedures that were used at that  
20 time.

21           Q     My question was, how are you going to verify the  
22 quality of the work conducted by the welders that were  
23 unqualified?

24                     MR. MILLER: He answered the question.

25                     WITNESS WELLS: That is exactly the question, and

1 that is my answer.

2 BY MS. BERNABEI:

3 Q It is fair to say that the HVAC work is not concluded  
4 within CCP; is that correct?

5 A (Witness Wells) That's correct.

6 Q So there will not be either a physical re-inspection  
7 proposed or the documentation is being proposed in the CCP.

8 A (It is not part of the quality verification program.

9 A (Witness Cook) I might augment Mr. Wells' answer  
10 by saying that the inspections that have been done over the  
11 past several years are considerable, extensive, and are well  
12 documented.

13 MS. BERNABEI: I do not have copies of Mr. Cook's  
14 cross-examination.

15 JUDGE BECHHOEFER: Why don't we take our morning  
16 break and then we can continue after 15 minutes?

17 (Whereupon, at 10:10 a.m. a 15-minute recess was  
18 taken.)

19 JUDGE BECHHOEFER: Ms. Bernabei?

20 BY MS. BERNABEI:

21 Q Mr. Cook, I am going to primarily be directing my  
22 questions to you. Again, this is on your testimony. I would  
23 appreciate if you would answer my questions to the fullest  
24 extent of your knowledge.

25 If other panel members wish to supplement, that is

1 particularly appropriate after Mr. Cook answers.

2 I am going to ask you some questions, Mr. Cook, on  
3 the construction completion program. Specifically, you state  
4 on page 3 of your testimony that the construction completion  
5 program was undertaken in part because of an increasing level  
6 of emphasis and expectation regarding QA on the part of the  
7 NRC in the 18 months prior to the initiation of the program. Is  
8 that correct?

9 A (Witness Cook) Yes.

10 Q Now, isn't it true that the reason for initiation of  
11 CPP was rather the event that took place at the Midland site  
12 than the events that transpired throughout the industry?

13 A (Witness Cook) I think it was both. I think the  
14 NRC -- well, through the Chairman has set policy and his  
15 regional people are trying to carry it out.

16 Q So you say both in response to the conditions  
17 throughout the industry and in response to events at the  
18 Midland site?

19 A (Witness Cook) Yes.

20 Q Now, you mentioned a speech made by Chairman  
21 Palladino in November 1981 in San Francisco. Do you believe  
22 that this plan is also in response to that speech?

23 A (Witness Cook) Inasfar as it represents the  
24 Commission's and the Chairman's concern over construction  
25 quality assurance, yes, I do.

1 Q Now, I believe there has been testimony to a  
2 considerable degree that Midland has been identified by the  
3 NRC staff to the Commission as one of the five plants with  
4 serious and continuing quality assurance problems.

5 A (Witness Cook) To my understanding, serious; I am  
6 not sure about the characterization of continuing.

7 Q But it is one of the five plants pinpointed by the  
8 staff with those problems.

9 A (Witness Cook) Yes.

10 Q Now, what in your mind are the increasing expectations  
11 of the NRC over the last 18 months? I suppose I refer to the  
12 18 months prior to January 10, 1983.

13 A (Witness Cook) I believe generally the question of  
14 rigorous implementation, rigorous discipline, rigorous  
15 attention to detail would be my characterization of the  
16 way I believe it has manifested itself.

17 Q Are there any regulations of the NRC, new regulations,  
18 that embody these increased expectations?

19 A (Witness Cook) Not to my knowledge.

20 Q Is there a policy statement of the NRC that  
21 embodies these new expectations?

22 A (Witness Cook) Well, I believe there are numerous  
23 discussions and public statements by the Commission. The  
24 Palladino speech in '81 being, in my belief, the first one,  
25 that have put this general emphasis in place.



1 Q I am asking you specifically about policy statements  
2 of the NRC. Do you know of any policy statements?

3 MR. MILLER: I think there ought to be some definition  
4 as to what counsel means by policy statement.

5 JUDGE BECHHOEFER: Yes using that as a work of art  
6 that the Commission issues what they call "policy statements."

7 MS. BERNABEI: Yes, that is exactly how I am using  
8 it.

9 BY MS. BERNABEI:

10 Q Are you familiar with any policy statements of the  
11 Commission which embody these increased expectations?

12 A (Witness Cook) I am not sure that I have any  
13 specific knowledge of them, although I wouldn't be surprised  
14 if there were some.

15 Q Is there anything other than the speech of Mr.  
16 Palladino which embodies in your mind these increased  
17 expectations of the NRC?

18 A (Witness Cook) Oh, yes. Industry in general came  
19 together as a result --

20 Q No.

21 A (Witness Cook) Let me finish, please.

22 Q Mr. Cook, what I am asking you about -- just so you  
23 understand my question -- specifically NRC documents or NRC  
24 policy statements, or NRC regulations.

25 A (Witness Cook) Do you count Commission meetings and

1 discussions at Commission meetings as part of this purview?

2 Q Yes.

3 A (Witness Correct) That is what my answer was going to  
4 address.

5 Industry, as a result of the kind of message that  
6 they had received from Chairman Palladino gathered together  
7 and brought an industry response to his speech to the  
8 Commission in February of 1982.

9 I think Mr. Lee of Duke Power led the industry  
10 delegation. During that meeting with the Commissioners,  
11 industry identified certain initiatives that they were prepared  
12 to take in response to the Commission's new emphasis and  
13 concern over construction quality assurance

14 That particular meeting and the discussion with  
15 the Commissioners led to a program carried out under the aegis  
16 of the Institute for Nuclear Power Operations -- INPO --  
17 which generated the construction program evaluation that has  
18 been carried out under INPO and is still on-going.

19 Industry reported back to the Commission this year,  
20 on I believe it was March 11, at a Commission meeting which  
21 I participated in as one of the industry representatives.  
22 Again, the discussion was, what had industry accomplished over  
23 the past year in response to the commitments that they made in  
24 February of '82, and what are they doing in terms of an on-going  
25 program to bring to the Commission better assurance that the

1 construction quality assurance is going forward in a manner  
2 that the Commission feels is satisfactory.

3 So, there have ben at least two -- and I am sure  
4 other -- Commission meetings where this general subject of  
5 quality assurance in the construction field has been directly  
6 discussed.

7 Q Have there been any documents you know of, documents  
8 of the sort I suggested, policy directives, regulations?

9 A (Witness Cook) Again, I would have to research  
10 that because I believe there would probably Commission internal  
11 documents as a result of Mr. Dircks' testimony in the fall of  
12 '81 and certain other things that have happened at the  
13 Commission level that would get the same kind of direction down  
14 to the staff.

15 But I do not personally have them in my possession.

16 Q I am asking you about documents with which you are  
17 familiar from the NRC to the public or to the utilities,  
18 the nuclear industry. Are you familiar with any documents of  
19 this kind?

20 A (Witness Cook) Other than the transcripts of  
21 Commission meetings and public statements and speeches, and  
22 so forth, I am not personally familiar with them. I am not  
23 sure whether they exist or not.

24 Q Okay. On page 4 of your testimony you identify a  
25 number of specific events during 1982 which influenced

1 Consumers Power's decision, in your words, to initiate the  
2 CCP. Now, within that list, was any factor or factors more  
3 important than the others?

4 A (Witness Cook) I would have some difficulty in ranking  
5 them. I think they all had a major influence on the decision  
6 that we ultimately reached.

7 If I had to make a generalized statement as to which  
8 ones I thought were probably the most important, I would say  
9 the staff's call for improved implementation of the company's  
10 program and right behind that would be our own analysis of  
11 the job progress and our views of the causes for the job  
12 not getting where it was supposed to be going.

13 Q And you are talking about the INPO evaluation?

14 A (Witness Cook) No. I was talking mainly about  
15 Items 3 and 4 on that list.

16 Q Items 3 and 4. Now, the fourth item is, is it not,  
17 the company experience with system turn-overs being delayed?

18 A (Witness Cook) Yes.

19 Q And that is what you are talking about with your  
20 assessment of the importance, that there was a back-up with  
21 inspections and system turn-overs.

22 A (Witness Cook) There was a backup with system  
23 turn-overs.

24 Q As you know, one of the staff's calls for improved  
25 implementation of the company's QA program came at the

1 November 23, 1982 exit meeting with Consumers; is that true?

2 A (Witness Cook) Yes, but that was not the first time.

3 Q No, I understand that. There was much testimony  
4 on that. But there was a call at that meeting for improved  
5 implementation.

6 A (Witness Wood) I believe that is a proper  
7 characterization.

8 Q And the staff in that meeting, Mr. Warnick specifi-  
9 cally, asked Consumers to come back with a program for a  
10 forward look and a backward look; is that not correct?

11 A (Witness Cook) I don't remember those particular  
12 phrases being used, although in the documents you showed me,  
13 from Mr. Peck's notes I see it listed there.

14 But clearly, Mr. Warnick wanted to know what our  
15 response was going to be.

16 Q And the response he was requesting was addressing  
17 both what Consumers would do to control the work going  
18 forward -- that is the forward look; and how Consumers would  
19 verify the work that had gone on -- the backward look.

20 Is that substantially what was expressed at that  
21 meeting by the NRC?

22 A (Witness Cook) As I just testified, I don't  
23 believe I recollect having things laid out with those  
24 particular phrases. However, clearly it didn't have to be.

25 Q What I am asking you is, in substance even if not



1 in those particular words, is that not what Mr. Warnick  
2 expressed at that meeting?

3 A (Witness Cook) Well, one could answer "yes" to  
4 that. But I think all of us had been looking at the question  
5 from where we were at that point in time, either in early '82  
6 or late '82, to the end of the job and the total tasks that  
7 that would entail.

8 Clearly, those points would be included in any general  
9 plan to do that.

10 Q Okay, but isn't it true that at that meeting Mr.  
11 Warnick said that Consumers should address the problem in  
12 two areas, that is a forward look and a backward look?

13 MR. MILLER: That question has been answered.

14 MS. BERANBEI: Not in these words but in substance.

15 MR. MILLER: It has been asked and answered.

16 MS. BERNABEI: Well, I don't think I asked that.

17 Regardless of whether it has been considered or expressed at  
18 other times, was it expressed by Mr. Warnick at that meeting?

19 WITNESS COOK: I don't remember it being specifically  
20 expressed by Mr. Warnick at that meeting. However, that is  
21 not to say that it wasn't on his mind, it wasn't on my mind  
22 or the other members' of the project team.

23 BY MS. BERNABEI:

24 Q Now, you had a chance to review the Peck meeting notes  
25 from that meeting; is that correct?



1 A (Witness Cook) Yes.

2 Q And that is Stamiris Exhibit 66, for the record.  
3 Did reading these notes refresh your recollection  
4 as to whether or not Mr. Warnick expressed --

5 A (Witness Cook) No. I just answered the question  
6 that it did not.

7 Q Well, you were at that meeting, were you not, Mr.  
8 Wells?

9 A (Witness Wells) Probably. I was at a number of those  
10 meetings.

11 Q You are listed as an attendee at that meeting. Now,  
12 do you remember whether or not Mr. Warnick said at that meeting  
13 he wanted Consumers Power to address the NRC concerns in two  
14 areas, forward looking and backward looking?

15 A (Witness Wells) I do not remember those specific  
16 words.

17 Q Have you had a chance to review the Peck meeting  
18 notes?

19 A (Witness Wells) No.

20 Q I want you to take a few minutes to review specifically  
21 the top of page 2.

22 Does that refresh your recollection, Mr. Wells, as  
23 to whether or not Mr. Warnick asked Consumers Power to address  
24 the problems with a forward look and a backward look?

25 A (Witness Wells) No, it doesn't refresh my memory.

1 Q Does either one of you have any reason to believe  
2 that Mr. Peck's notes are inaccurate?

3 MR. MILLER: Excuse me. The document is already  
4 in evidence. These witnesses have now testified from their  
5 recollection.

6 I do not know why counsel is arguing with them over  
7 their interpretation of Mr. Peck's notes.

8 MS. BERNABEI: I am not arguing with them. They have  
9 not given an interpretation of the notes. I specifically  
10 asked them if they had any reason to believe that these notes  
11 are inaccurate.

12 WITNESS COOK: No more or less accurate than our  
13 own recollections.

14 MS. BERNABEI: Well, I don't believe you have a  
15 recollection of the particular fact.

16 MR. MILLER: Right. That is exactly my point. Ms.  
17 Bernabei is just arguing with them and trying to get them to  
18 adopt the interpretation or the words that are shown in Mr.  
19 Peck's notes.

20 MS. BERNABEI: No.

21 MR. MILLER: They have already said that they don't  
22 have a recollection of that taking place.

23 MS. BERNABEI: No, I am asking a more specific  
24 question. Do they have any reason to believe that these  
25 are inaccurate?

1 MR. MILLER: Whether they believe the notes are  
2 inaccurate or not is totally irrelevant. The notes are  
3 in evidence and Mr. Peck is going to be on the witness stand  
4 as a Consumers Power Company witness.

5 Ms. Beranbei can examine him about the accuracy of  
6 his note taking.

7 MS. BERNABEI: Well, there is a usual procedure, I  
8 assume, where by in the exit meeting one or more persons were  
9 assigned to take notes at the meeting. Let me phrase that in  
10 a question at this point.

11 BY MS. BERNABEI:

12 Q Was Mr. Peck assigned by Consumers to take and  
13 type up notes of that meeting, Mr. Cook?

14 A (Witness Cook) I can't remember a specific assignment  
15 for that meeting. However, he had been given the assignment  
16 to work directly with the NRC inspectors during their October-  
17 November diesel generator building inspection, and to maintain  
18 a list of all of the inspection findings so we could be pro-  
19 viding the NRC staff with information on their concerns.

20 Q So, it would be in the usual course of his duties to  
21 write up meeting notes from that meeting. Mr. Wells?

22 A (Witness Wells) He did.

23 Q No, in the usual course of his duties, as I understand  
24 the answer to my last question.

25 A (Witness Cook) He was asked in terms of those

1 particular inspections to be the liaison with the staff, and  
2 providing the staff information.

3 I don't believe he had a specific requirement for  
4 him to take meeting notes.

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1 Q On page five of your testimony, Mr. Cook, you  
2 state, do you not, on December 2, 1982, we, I assume meaning  
3 Consumers, initiated a CCP by halting the safety-related  
4 work at the prime contract, is that correct?

5 A Yes.

6 Q Now, isn't it true that at the November 23rd, 1982  
7 meeting, the NRC Staff suggested to Consumers that they  
8 stop safety-related work?

9 A No, they said that certain members of the Midland  
10 team held a position that could well be their position  
11 as a result of that inspection.

12 Q Well, do you remember anyone saying in substance  
13 or effect that the NRC wants Consumers to recognize the  
14 problem, take the action and take the credit?

15 A I don't believe I remember that either specifi-  
16 cally being stated or being basically implied. We were  
17 invited to respond to the findings as we understood them  
18 and to tell the NRC what our plan was to deal with the  
19 implications of their findings.

20 Q Mr. Wells, do you remember the NRC inspectors at  
21 the meeting saying, in substance or effect, that they wanted  
22 Consumers to recognize the problem, and take the action to  
23 shut down and take the credit for the shutdown?

24 A (Witness Wells) No, my recollection is they wanted  
25 us to recognize the severity of the concern and be responsive.

rg2

1 Q You do not remember anyone saying the words I just  
2 said in substance or in effect?

3 A Not in those words, no.

4 Q Both of you reviewed Mr. Peck's meeting at the  
5 site, correct?

6 A (Witness Cook) I've reviewed the parts of it you  
7 asked me to review.

8 Q Have you reviewed the part specifically from which  
9 I am quoting?

10 A No.

11 Q Let me ask you to read near the middle of page  
12 one and ask you if that refreshes either your recollection,  
13 Mr. Cook, or recollection, Mr. Wells, as to what was said  
14 at that meeting.

15 A (Witnesses Wells and Cook reading document.)

16 Q Does that refresh your recollection, Mr. Cook,  
17 as to whether or not that statement was made by the NRC  
18 at that meeting?

19 A (Witness Cook) I don't believe the statement was  
20 as you characterized it. It says they wanted to have our  
21 response and they wanted us to take the action, not them.

22 Q Okay, and was that statement made at that meeting?  
23 Mr. Wells, does this refresh your recollection?

24 A (Witness Wells) No, I think I've answered that  
25 they did expect us to be responsive and to recognize their



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1 concern and that's as I remember it.

2 A (Witness Cook) I think I'm specifically quoted  
3 at the end of those notes as having said the company very  
4 definitely wanted to propose its own response to the find-  
5 ings and would very much like to be given the chance to do  
6 that.

7 Q And that response included shutting down safety-  
8 related construction, correct?

9 A That was the response we came up with, yes.

10 Q In fact, that was the response discussed by the  
11 NRC at that meeting, was it not?

12 A No, it was not.

13 Q Preceding the statement you just read, there is  
14 a statement made that it was hard for the NRC to include  
15 going to the Commissioners, is that correct?

16 A Yes, that statement was made.

17 Q And that's talking about getting an order from  
18 the Commission to stop safety-related construction, is that  
19 correct?

20 A If that became the NRC's position, I believe Mr.  
21 Warnick also stated during that meeting they did not have  
22 a firm decision but they had members of their inspection team  
23 that had concerns and would probably take that position, but  
24 it was not a position that had been reviewed with the  
25 Region III management, nor had it gone anywhere further than

rg4

1 just the Midland team.

2 Q But it's fair to say when the statement was made  
3 when they wanted Consumers to recognize and take action, they  
4 meant action including stopping the safety-related work on  
5 site?

6 A Possibly, although they would have listened to  
7 any particular plan that we came up with whether or not it  
8 initiated or required a major stoppage of the work. If they  
9 felt that the plan suggested by the company met their con-  
10 cerns, I believe they would have accepted it.

11 Q But it was discussed at the November 23rd, 1982  
12 meeting?

13 MR. MILLER: What is the antecedent for it?

14 BY MS. BERNABEI:

15 Q The NRC recommended or discussed with you the  
16 option of shutting down all safety-related work at the site?

17 A (Witness Cook) That that was a possible option.

18 Q And, in fact, it was an option which they recom-  
19 mended, is that correct?

20 MR. MILLER: I am going to object. That question  
21 has been asked and answered at least twice.

22 JUDGE BECHHOEFER: He has answered that.

23 BY MS. BERNABEI:

24 Q It's fair to say that your statement in your  
25 testimony that we initiated the CCP on December 2, 1982 by

rg5

1 halting safety-related work at Bechtel -- that, in fact, that  
2 initiation was done after discussions with the NRC about  
3 shutting down safety-related construction?

4 A (Witness Cook) Yes.

5 Q I believe you state in your testimony that Con-  
6 sumers, prior to the January 10th, 1983, letter was consi-  
7 dering the use of teams to assess the status of the plant?

8 A That's correct.

9 Q Now, when was the first time that Consumers con-  
10 sidered using teams or the team concept?

11 A May I caucus with my colleague, Mr. Rutgers, to  
12 see if we can identify the date?

13 (Panel conferring.)

14 A (Witness Cook) To the best of our joint recollec-  
15 tion, we first started discussing the possibility of organi-  
16 zing the construction forces into teams for system completion  
17 in the plant construction process somewhere in the late  
18 September time frame.

19 Q Is it fair to say the team concept is derived from  
20 the teams instituted at the WPPPS-2 plant?

21 A That was the working model that we started from,  
22 yes.

23 Q Did you at any time prior to the end of November,  
24 1982 visit the WPPPS plant to see how the teams were working  
25 at that plant?

rg6

1           A       We were somewhat busy at that point in time. I  
2 think if we had not been having extensive interaction with  
3 the NRC Staff as a result of their inspections, we probably  
4 would have gotten to the WPPPS site earlier.

5           Q       But it's fair to say you didn't get there until  
6 sometime after the end of November, 1982?

7           A       That's correct. We did have people who had been  
8 working on that job site come to us.

9           Q       When was the final decision made to adopt the  
10 team concept?

11          A       Please define final for me.

12          Q       Yes, when did you determine that the team concept  
13 as encompassed in the January 10, 1983 letter would be  
14 adopted as a model of standards assessment?

15          A       I believe we made that decision on adopting the  
16 team concept as a result of a report that we got Mr. Scott  
17 at Bechtel, who had been a participant in the WPPPS Unit 2  
18 work. His particular report -- I think Mr. Rutgers would  
19 have to see if he could help me find the date of that --  
20 not before December 2nd.

21          Q       Before December 2nd?

22          A       Yes.

23          Q       It is fair to say a decision was made at that  
24 time to adopt the teams to conduct the status assessment?

25          A       I am not sure that status assessment was

rg7

1 completely clear in our mind, but in terms of organizing  
2 the work, to complete the systems via teams, that concept  
3 was I think the decision that was made.

4 Q How about using teams to determine the status of  
5 the plant?

6 A I believe that -- before I ask you, let me take  
7 a moment to caucus with John and see if his recollection is  
8 better than mine.

9 (Panel conferring.)

10 A (Witness Cook) What I was not sure of was whether  
11 or not the particular first report that we got on recommend-  
12 ing the team concept specifically identified status assess-  
13 ment. I believe after my conversation with Mr. Rutgers  
14 that it probably did, or if it wasn't specifically addressed,  
15 it was at least implied.

16 Q When was the management decision to adopt the  
17 team concept for status assessment made?

18 A The form of the overall concept that was pre-  
19 sented to the NRC on December 2nd, was basically concluded  
20 sometime in the Thanksgiving weekend time frame.

21 Q So the management decision was made in that  
22 timeframe. It was under consideration at the prior time,  
23 but the management decision was made around Thanksgiving,  
24 1982?

25 A That's probably a good characterization.

rg8

1 Q And, of course, that is after the November 23rd,  
2 1982 exit meeting with the NRC, is that correct?

3 A Yes.

4 Q On page five of your testimony, you state that  
5 the major concepts for the construction completion program  
6 were set out in your January 20, 1983 letter?

7 A Tenth.

8 Q Now, isn't it true that the CCP as set out in  
9 that letter was a consolidation of prior proposals Consumers  
10 made in their September 17th and October 4th letters?

11 A Some were, yes. Not all.

12 Q And it was also consolidation of certain Staff  
13 recommendations, NRC Staff recommendations made concerning  
14 third party reviews?

15 A It incorporated our third party review program.

16 Q In fact, it was a third party review program  
17 that was recommended in large part by the NRC Staff?

18 A I'm not sure how I would -- let me ask you to --  
19 to define what it means by recommended by the NRC Staff?

20 Q There has been testimony from Mr. Keppler  
21 specifically that he mandated a certain get-well program,  
22 which included a third party review in the August - September,  
23 1982 time period. What I'm asking you is the third party  
24 reviews that are contained and described in your January 10th  
25 submittal, were those third party reviews recommended by the



rg9

1 NRC Staff, including possibly Mr. Keppler?

2 A Well, let me, if I could just briefly go back over  
3 the chronology of the third party review question. I believe  
4 it was obvious to all of us who were in the nuclear business  
5 that third party reviews have become a way of doing business  
6 in the current environment. That was obvious to the company  
7 some time before Mr. Keppler met with us in the August and  
8 September time frame.

9 Therefore, I think was a clear expectation to be  
10 asked by the NRC to make a specific proposal to have third  
11 party reviews and we had done, you know, some thinking about  
12 it. I believe the specific suggestion to have a third party  
13 overview of construction activities, soils specifically,  
14 originated from Mr. Keppler and I believe that the proposals  
15 that the company provided to the NRC, you know, in that time  
16 frame, and then subsequently documented basically were the  
17 fruits of our own thinking on the general subject of third  
18 party reviews.

19 Q Now, the independent design review was a response  
20 to a request from the NRC for a design review, is that not  
21 correct?

22 A Yes. As I just mentioned, Mr. Denton had been  
23 discussing this particular concept with every licensee coming  
24 through the operating license stage.

25 Q Wasn't there a particular concern in the Midland

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rg10

1 case because the ACRS had requested a design review of the  
2 Midland plant?

3 MR. WILCOVE: Concern by whom?

4 MS. BERNABEI: By the NRC Staff.

5 WITNESS COOK: I don't believe so. I think the  
6 topic of third party review of the job was discussed to some  
7 small degree at the ACRS subcommittee meeting in May of  
8 1982 and then there was a follow-up question in the Fall  
9 committee meeting later that year, and as a result of that  
10 discussion the project staff from NRR did ask us to then  
11 specifically come forward with the independent design veri-  
12 fication program.

13 BY MS. BERNABEI:

14 Q And it was in response to that that you ultimately  
15 proposed what came to be, is that correct?

End 16 A Yes.

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1 Q Now Phase 1 -- and correct me if I am incorrect --  
2 is essentially to do two things, to do a construction and  
3 status assessment, and to verify the quality of the completed  
4 work. Is that correct?

5 A Yes.

6 Q And the teams, essentially, will conduct the first  
7 part -- that is, the construction and inspection status  
8 assessment?

9 A Yes.

10 A (Witness Wells) Might I clarify?

11 Q Certainly.

12 A Mr. Cook is right that this would be under the  
13 general direction of the teams. However, it's the reinspec-  
14 tion -- the inspection status would be done by the quality  
15 control personnel.

16 Q On the team?

17 A No, they'll be done by the quality control personnel  
18 reporting within the quality control organization. The team  
19 member on the team will simple coordinate and request those  
20 inspections.

21 Q Now either Mr. Wells or Mr. Cook can answer this.  
22 There was NRC concern originally about the QC member of the  
23 team. That there was not adequate independence of the QC  
24 person on the team.

25 A (Witness Cook) They wanted further understanding to

1 convince themselves that there was proper independence.

2 Q And that is, in fact, what led Consumers to the  
3 definition of the QC personnel's role as a coordinating role?

4 A No, I don't believe the role ever changed. We  
5 wanted to make sure the NRC understood how we conceived it  
6 and what the reporting relationships were so they would not  
7 have to concern.

8 Q At the September 1982 meeting the NRC expressed  
9 very strong concern that the QC member on the team be  
10 independent. Is that not correct?

11 A They asked us to be sure that he was.

12 Q And that led to a further definition of the role  
13 of the person on the QC team, "further" meaning chronologically  
14 later?

15 A Yes.

16 Q Now was there ever a concern -- perhaps Mr. Rutgers  
17 can answer this -- on the part of Bechtel Engineering that  
18 the field engineering person on the team be independent?

19 A (Witness Rutgers) No.

20 Q Are you familiar with, Mr. Rutgers, a markup of  
21 the CCP made by Bechtel Engineering?

22 A You would have to show it to me.

23 Q You're fairly familiar, are you not though, about  
24 the development of the CCP from the period, at least from  
25 November 1982 through the present time?

1 A Yes.

2 Q And Bechtel did have an input into that development  
3 of the program?

4 A Yes.

5 MR. WILCOVE: Ms. Bernabei, before you begin  
6 cross examination, could I have a copy of this document?  
7 Thank you.

8 JUDGE BECHHOEFER: This is a document that's already  
9 been introduced?

10 MS. BERNABEI: No, but it is one that, in questioning  
11 the team about the CCP, we did copy at least for the parties.  
12 Would this be 98?

13 (The document referred to was  
14 marked as Stamiris Exhibit  
15 No. 98 for identification.)

16 BY MS. BERNABEI:

17 Q Mr. Rutgers, I'm going to ask you to review what  
18 appears to be a Bechtel document dated January 12, 1983, and  
19 specifically ask you to review the third page of the document.

20 (Witness Rutgers reading document.)

21 JUDGE BECHHOEFER: If you have a copy that we could  
22 see.

23 JUDGE HARBOUR: Because we don't have 97 or 98.

24 MS. BERNABEI: 97 was the ACRS letter.

25 JUDGE HARBOUR: I know it was, but we don't have a

1 copy.

2 MS. BERNABEI: Okay, we'll get a copy.

3 JUDGE HARBOUR: Are you going to move that they  
4 be admitted or not?

5 MS. BERNABEI: Yes, but I assume that all parties  
6 already have copies.

7 MR. WILCOVE: Mr. Chairman, the problem is we didn't  
8 know until just a moment or two ago that this was going to  
9 be used. The proper procedure should be, if it's going to  
10 be produced as an exhibit, that the parties be given copies.

11 MS. BERNABEI: We're not sure it's going to be  
12 introduced as an exhibit. It's been marked. If Mr. Wilcove  
13 wishes, we can delay cross examination on this point until  
14 he has time to review the document. That is the procedure that  
15 I've been familiar with. We're using the document to refresh  
16 the recollection of the witness.

17 MR. PATON: If she's going to use it to refresh  
18 recollection, that's fine, but I would like to note for the  
19 record we have a continuing, continuing problem of sitting  
20 here talking about exhibits that the Board isn't provided  
21 copies, the parties are not provided copies. I've inserted  
22 three times the effort in this case, to keep the exhibits,  
23 that is normally required because they just aren't available.

24 MS. BERNABEI: This has been provided to the parties  
25 in response to the examination of the team on the CCP. Mr.



1 Paton has a copy and Mr. Miller has a copy and I would also  
2 note that we do not have neutral resources to make copies of  
3 very lengthy documents. Unless we determine they will be  
4 useful in the examination, the usual procedure is that they  
5 be marked and the parties be given an opportunity to review  
6 them, and that I did afford to Mr. Wilcove and Mr. Miller.

7 MR. PATON: I think we should be given copies when  
8 a document is proposed to be used as an exhibit. The normal,  
9 time-honored method is that the party offering it provides  
10 it to the other parties. This has been violated over and over.  
11 It's interfering with this proceeding. I spend an awful lot  
12 of time just keeping track of these things. I don't know  
13 what the Board is doing because I know they are not provided  
14 to you when they're being discussed.

15 MS. BERNABEI: Mr. Paton, if you check your files,  
16 you will find that --

17 MR. PATON: I'm not going to go back and make a  
18 document search every time a document is offered for evidence.  
19 The proper procedure, to make this hearing run along smoothly  
20 and the appropriate way to do it, is to provide copies when  
21 they're offered. We're out one from yesterday which you have  
22 to go to the trouble to get back to Mrs. Stamiris and tell her  
23 you need an exhibit. It's very distracting.

24 MS. BERNABEI: Let me just note for the record, we  
25 do not have the financial resources to copy NRC documents such

1 as the one yesterday, which we distributed to all the parties.  
2 It's the November 19, 1982 letter to the ACRS.

3 MR. PATON: I am not going to go back to Washington  
4 and look for November 1982 letter because the Intervenors want  
5 to offer it in evidence. If they don't have the financial  
6 resources to offer it, then don't offer it.

7 MS. BERNABEI: There's been made no offer of this  
8 exhibit, I would note for the record.

9 MR. MILLER: If I might just be heard. If we could  
10 just even 24 hours advance notification, we can attempt to  
11 find the documents. What I object to is examination, even  
12 in terms of refreshment recollection, when the witness has a  
13 copy and I don't so that I'm unable to follow along with the  
14 questions and must rely on the examiner's characterization  
15 of the document without an opportunity to check it myself and  
16 make an objection if I think it appropriate. I agree with Mr.  
17 Paton.

18 MS. BERNABEI: I would note for the record, we are  
19 never provided documents of either the Staff's or the  
20 Applicant's cross examination prior to the time of cross  
21 examination. We have been the only party that has attempted  
22 to provide copies prior to the cross examination. In no  
23 instance has the Applicant provided copies of the document  
24 prior to the examination.

25 MR. MILLER: Counsel has a very selective memory,

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1 but --

2 MR. PATON: Not only are we not given the documents  
3 prior to the cross examination, we're not even given them  
4 during the cross examination.

5 MS. BERNABEI: May I proceed?

6 MR. PATON: No, Mr. Chairman, I really think --  
7 I would agree with Mr. Miller's statement that if we're given  
8 some kind of 24 hour notice, we would look at the documents  
9 that we have with us and try to cooperate with the Intervenors.  
10 But to just say that it's back there somewhere in Washington,  
11 is just really interfering with these proceedings and I wish  
12 the Board would direct Intervenors to try to improve their  
13 performance in that regard.

14 MS. BERNABEI: If we are required to provide these  
15 documents prior to our cross examination, the Applicants and  
16 Staff should be under the same burden. I have requested,  
17 specifically the first week of these hearings, that I be  
18 provided with all documents of the Applicants that Mr. Miller  
19 was going to use in cross examination and he specifically  
20 chose not to provide me with those documents, even though I  
21 did provide him with these documents here prior to my cross  
22 examination on the CCP. If I am put under some such stricture,  
23 I assume all parties should be, to provide all copies of the  
24 documents they wish to use.

25 MR. PATON: I don't think Applicant mentioned that

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1 and we certainly didn't mention it. All we're asking is when  
2 she gets ready to offer a document and interrogate the witnesses  
3 that we be provided a document. It's absolutely normal, usual,  
4 time-honored procedure and it's interfering with this proceeding  
5 to not follow that course. It's been going on for weeks.

6 (Board conferring.)  
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1           A       Mr. Chairman, could I --

2                    JUDGE BECHHOEFER: The Board believes that one  
3 copy should be provided to the Applicant and the Staff and  
4 the Board and I'm just saying one to the Board during cross-  
5 examination, otherwise it's going to be impossible to --  
6 perhaps the Intervenors could share their copy, but I don't  
7 know how many you have. That would be about two or three  
8 or four perhaps.

9                    MS. BERNABEI: These particular documents both  
10 were previously copied to the Applicant and the Staff. We  
11 have two copies. We have two copies. We can certainly pro-  
12 vide one to the Board. All these documents I'm about to  
13 question were provided at a prior hearing.

14                   MR. MILLER: I'm not disputing the fact that  
15 somewhere we have copies of them.

16                   MS. BERNABEI: They were all given to you, Mr.  
17 Miller. They were copied during the lunch hour and given  
18 in a package to the NRC and to the Applicant.

19                   JUDGE BECHHOEFER: At the time questioning is  
20 being carried out, the various parties should make sure that  
21 the other parties who need it, at least, or are interested  
22 in it, have copies to follow by.

23                   MR. WILCOVE: Mr. Chairman, if I could just respond  
24 to that? At one of the other sessions, I don't remember  
25 whether it was the last one or the one before that, Ms.

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1 Bernabei indicated that she might be using certain documents  
2 in cross-examining the Midland section. Copies were then  
3 located, but now, you know, two weeks maybe even over a month  
4 later. For us to guess that she would be using them now is  
5 just not fair to the Applicant and the Staff. There's no  
6 reason why we would have them sitting here in front of us  
7 now just because she indicated before that she might use  
8 them to examine the Midland team.

9 JUDGE BECHHOEFER: What I would say is that you  
10 should either tell the parties enough beforehand so they  
11 can get the documents or else have at least one copy for each  
12 party that needs to follow along.

13 MS. BERNABEI: Okay, we can do that.

14 JUDGE BECHHOEFER: Either way. We're not going  
15 to tell you which way, but they won't be able to follow  
16 the questioning unless they have copies. We won't either,  
17 actually.

18 MS. BERNABEI: I understand that. I will follow  
19 that procedure.

20 JUDGE BECHHOEFER: In fact, we would expect all  
21 parties to do the same.

22 MR. PATON: We will certainly cooperate, but if  
23 we don't have the document, we are going to object. We will  
24 try to cooperate with Intervenors, but just telling us what  
25 document is going to be used, we may or may not have it.



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1 But we will follow that procedure, but --

2 JUDGE BECHHOEFER: I do think that each party  
3 should have a copy available during cross-examination,  
4 or each party who feels they need a copy of the document, and  
5 the Board, one for the Board.

6 MR. PATON: Could I inquire? The last document  
7 was given to the Board, has that been marked as an exhibit,  
8 or is that just --

9 JUDGE BECHHOEFER: There was a request that it  
10 be marked.

11 MS. BERNABEI: It's Exhibit 98.

12 MR. PATON: Thank you.

13 JUDGE BECHHOEFER: This one itself doesn't have a  
14 number on it.

15 MS. BERNABEI: I think Mr. Rutgers' copy does, at  
16 the bottom right-hand corner. I requested that it be marked.

17 MR. PATON: We still don't have a copy of the  
18 document.

19 MS. BERNABEI: Mr. Rutgers, if can borrow your  
20 copy for a second, would you like to take a few minutes  
21 to review it?

22 JUDGE BECHHOEFER: Can you show them what areas  
23 you are going to ask questions about?

24 MS. BERNABEI: It's at the bottom of page three.

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BY MS. BERNABEI:

Q Exhibit 98, which you just reviewed, does that not indicate that Bechtel engineering had some concern with the team concept as it was originally proposed?

MR. MILLER: Well, I'm going to object unless there's some foundation laid with Mr. Rutgers, that he can identify the documents and some of the handwriting. I think counsel is referring to some handwritten notes. There's no indication, at least that I'm aware in a quick look, as to who wrote those.

MS. BERNABEI: To refresh the witness's recollection, he does not have to be previously familiar with the document. I'm not moving to admit the exhibit at this time.

MR. WILCOVE: Mr. Chairman, when she asked --

BY BERNABEI:

Q Does it refresh your recollection, Mr. Rutgers, as to whether or not Bechtel engineering could take to the team concept?

A (Witness Rutgers) Is there an objection pending?

MR. MILLER: No.

A (Witness Rutgers) Bechtel design engineering did critique the write up on the CCP at my request.

BY MS. BERNABEI:

Q And one of their criticisms of the team concept in early and late December of 1982 or early January of 1983

1 was, was it not, that engineering did not participate  
2 directly in the team because it would be a violation of the  
3 QA requirements?

4 A (Witness Rutgers) I think that's a mischaracteri-  
5 zation of the trust of the general note, which you pointed  
6 out on page three. As I recall, your earlier question was  
7 was there a concern with field engineering? My response was  
8 no, in clarification it's because we were talking about  
9 design engineering, which is a different organization. The  
10 general concern stated was that if design engineering par-  
11 ticipated directly in teams performing inspection of the  
12 work, that perhaps the decisions of nonconformances would  
13 be made without proper process of documentation and dis-  
14 position. I assured the writer of that comment that that  
15 was not the intent of the team concept and the design  
16 engineering was not to be a direct participant in the in-  
17 spection phase of the job.

18 Q And that would be the quality verification pro-  
19 gram?

20 A Yes.

21 Q But --

22 A (Witness Wells) Could I comment, please?

23 I think the record is not clear on that point.

24 Q I'll allow you to expand on that. I'd just to  
25 finish with Mr. Rutgers. However, engineers will participate

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rg6 1 with the teams during the status assessment?

2 A Design engineering, not as a direct participant.

3 Q They will participate in the teams, will they  
4 not, that do the status assessment?

5 A There is an engineer assigned to make sure that  
6 the latest designs are being used for the status assessment.

7 Q But they will not participate in the inspection  
8 part of the status assessment?

9 A That's correct. And that's what I characterized  
10 as the verification that's being done by QC.

11 A (Witness Wells) That's the point I wanted clear  
12 on the record. The quality verification plan that counsel  
13 referred to is not being conducted by the team at all.  
14 Reinspections will be conducted by the team. I just wanted  
15 to make sure that was clear.

16 Q Was the CCP proposal clarified so that it is  
17 clear that engineering does not participate in the inspection  
18 process, Mr. Rutgers?

19 A (Witness Rutgers) I believe it's clear by the  
20 implementing procedures that they do not participate as an  
21 inspector.

22 Q And therefore you saw no need to modify or clarify  
23 the proposal as written at this time?

24 MR. MILLER: At this time?

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BY MS. BERNABEI:

Q Late December, early January?

A (Witness Rutgers) Ms. Bernabei, I've had the advantage of taking time here while there was a lot of discussion going on between counsel, to flip through the markup, and I think it's clear from the later pages that clarification was made. I'd be happy to point it out to you.

Q Was the clarification made specifically as to the concern by engineering?

A Yes. I believe it's reflected in that draft.

Q And therefore the concern raised by engineering was dealt with by clarification?

A Yes.

JUDGE BECHHOEFER: Could you identify where that was by any chance?

WITNESS RUTGERS: My recollection is it might be on page 11, but if Ms. Bernabei could show it to be again I could make a specific comment.

MS. BERNABEI: Certainly.

WITNESS RUTGERS: It is page 11. It's a continuation of responsibilities and reporting direction for the proposed organization chart, which was a team organization chart at the top of page 11. We call it the responsibility of the system team project engineer as being responsible for assuring that all project technically acceptable generated

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1 design is available on schedule and adheres to project  
2 requirements. Furthermore, we say monitors the status,  
3 expedites the engineering approval for the teams assigned  
4 ssystems, and is responsible for obtaining project approval  
5 and total incorporation of all project changes. That was  
6 satisfactory clarification to the engineer who was conducting  
7 the master mark-up at that time, Mr. Curtis.

8 BY MS. BERNABEI:

9 Q For the record, who is Don Miller?

10 A (Witness Cook) Don Miller is Consumers Power  
11 site manager.

12 Q What role, if any, does he have in the development  
13 of the CCP?

14 A He has a major role in the development.

15 Q What is that?

16 A Mr. Miller, along with myself, Mr. Wells, and  
17 Mr. Rutgers, runs the senior review group that has been  
18 working and developing the concept and then implementing  
19 the concept into detailed procedures for the past six  
20 months. He also, in his position as the Consumers Power  
21 ranking manager at the Midland site, has been given the  
22 added assignment of just being the overall coordinator of  
23 all the work that goes on as far as getting the CCP imple-  
24 mented.

25 Q Now, the particular site organization under his



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1 control, would that have a role in implementation of the  
2 CCP?

3 A Yes, it will.

4 Q And what role is that?

5 A Mr. Miller's direct responsibility includes  
6 managing a construction group which interfaces with the  
7 Bechtel construction forces and has the test organization  
8 under his direct line responsibilities and his test engineers  
9 will be the people who carry out the plan equipment checkout  
10 and pre-op testing. Representatives from both of those  
11 organizations will be participants in the CCP activities,  
12 specifically interfacing as, I believe, full time members  
13 of the teams.

14 Q Was a concern expressed at any time in late 1982  
15 or 1983 that his line organization could not handle the  
16 responsibilities with the current personnel?

17 A Which responsibilities?

18 Q The responsibilities these organizations will  
19 have if the CCP gets approved.

20 A No, I don't believe so.

21 Q Was there any concern expressed that perhaps he  
22 did not have sufficient personnel in his organization to  
23 implement the duties his organization would have under the  
24 CCP?

25 A I'm not sure I completely understand your question.

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1 Are you talking about carrying out a test program in a  
2 construction overview of the Bechtel construction forces?

3 Q I'm talking about both responsibilities which you  
4 just described.

5 A I think I described more than two. Could you  
6 give me your understanding of what responsibilities we're  
7 talking about?

8 Q Yes. You described two responsibilities, I think  
9 you said by, you said Mr. Miller's organization but perhaps  
10 you could state for the record what those responsibilities  
11 are?

12 A Mr. Miller's line organization for Consumers  
13 Power includes a testing group and a construction group.  
14 Representatives from both of those organizations participate  
15 in the completion teams.

16 Q Yes. And that would have to do with both phase  
17 one and phase two, is that correct?

18 A Yes.

19 Q I'm asking you, was there ever concern expressed  
20 that the personnel he currently has in his line organization  
21 would not be able to handle the responsibilities assigned  
22 to them under the CCP?

23 A When you say expressed, expressed by whom?

24 Q By managerial level people at Consumers Power.

25 A I have asked all of the personnel at the site and

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1 in fact, the entire project, to make sure they review their  
2 organizations based on all their responsibilities and take  
3 whatever steps they feel necessary to augment their organi-  
4 zations. If they felt there was a need, Mr. Miller has that  
5 instruction from me and, as far as I know, he has taken  
6 whatever steps he felt was appropriate to be able to carry  
7 out his responsibilities.

8 Q Was it ever expressed to Mr. Miller by any other  
9 managerial level person in Consumers Power that his line  
10 organization could not handle the responsibilities it would  
11 have under the CCP?

12 A I'm not sure, unless you're talking about my  
13 own direct interface with Mr. Miller. If there's some other  
14 information you have that you'd like to examine me on, please  
15 show it to me and I will comment on it.

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1 BY MS. BERNABEI:

2 Q Mr. Cook, I am going to ask you to review  
3 the first page of what has been marked Stamiris Exhibit 99.

4 (The document referred to  
5 was marked Stamiris  
6 Exhibit No. 99 for  
7 identification.

8 (Witness Cook reading document)

9 WITNESS COOK: Yes.

10 BY MS. BERNABEI:

11 Q Now that appears to be a note written to Mr.  
12 Don Miller; is that correct?

13 A (Witness Cook) Yes.

14 Q Do you know who wrote that note?

15 A Yes, I do.

16 Q And who is that?

17 A The gentleman's name is Bob Lee. He is a  
18 consultant for Management Analysis Company, and he has been  
19 working as a staff person first for myself, and as the CCP  
20 has gone forward, as been assigned directly to the field  
21 as a staff person for Don to help with the coordination of  
22 the CCP.

23 Q Now that note to Mr. Miller from Mr. Lee indicates,  
24 does it not, he feels there may not be sufficient personnel  
25 in Mr. Miller's current organization to handle CCP

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1 responsibilities?

2 A I think we are talking about two different subjects.  
3 This note, which I was familiar with, has to do with the  
4 coordination role that I asked Don to undertake, and he did,  
5 and Mr. Lee had some suggestions about how to carry out that  
6 responsibility, and Mr. Miller and Mr. Lee reviewed the  
7 comments and put in place a small staff of people to carry  
8 out the coordination of the CCP as it was evolving over the  
9 past few months. That organization is in place, and this  
10 memorandum has been responded to.

11 Q To your knowledge, has there been any hiring of  
12 additional personnel to handle that role?

13 A I'm not sure exactly where all the people came  
14 from that were utilized in response to that. There may or  
15 may not have been. I'm not sure where they came from. They  
16 may have come from other parts of our organization, but in  
17 fact they were made available to Mr. Miller and he has  
18 utilized them.

19 Q Who would have information as to whether Mr. Miller  
20 hired other personnel to fulfill these responsibilities?

21 A I think the simplest thing for us to do would be  
22 simply to check on that at the next break.

23 Q It is fair to say there is some concern on Mr.  
24 Lee's part as expressed in Exhibit 99 that Mr. Miller at  
25 that time might not have sufficient personnel to carry out

1 this coordination role?

2 A That it had only recently been defined and it was  
3 evolving, yes.

4 MR. MILLER: Would it be helpful to get the  
5 approximate date when the memorandum was?

6 WITNESS COOK: The memoranum, as I recollect,  
7 although it's not dated, is some time in the time frame of  
8 late February, early March.

9 BY MS. BERNABEI:

10 Q This year?

11 A (Witness Cook) Yes.

12 JUDGE BECHHOEFER: Does the fact that the second  
13 document in the pile has a March 15th date on it -- March  
14 15th, '83 date, help to place the time of the other note?  
15 Or were these jut put together after the fact?

16 WITNESS COOK: I did not review the second  
17 memorandum.

18 MS. BERNABEI: As we received the documents,  
19 these were stapled together. That is a memorandum dated  
20 March 16th.

21 WITNESS COOK: It is a copy of a project letter  
22 which by its subject has no tie to the handwritten memoranda.

23 BY MS. BERNABEI:

24 Q So the memorar s not go with that?

25 A (Witness Coo s right. Why it was stapled, I



1 can't tell you.

2 MR. MILLER: I don't think that anybody should  
3 take responsibility or blame for how documents have been  
4 attached or detached as they have been copied many times  
5 by many different people.

6 MS. BERNABEI: I will concur in that.

7 BY MS. BERNABEI:

8 Q Now who is Mr. DeWitt, Mr. Cook?

9 A (Witness Cook) Which Mr. DeWitt?

10 Q I believe it is M. DeWitt.

11 A M. DeWitt, I believe, would be Mark DeWitt.

12 Q And what position does he hold in Consumers at that  
13 time?

14 A One, he is a Consumers employee, and I believe  
15 his current position is as supervisor of the Soils Quality  
16 Control Group.

17 A (Witness Wells) He is section head now for the  
18 QC Soils.

19 Q Let me ask another question. Since he is in the  
20 soils area, I perhaps had a misunderstanding. Let me move on.

21 WITNESS COOK: Could we go off the record for a  
22 moment?

23 JUDGE BECHHOEFER: Yes.

24 (Discussion off the record.)

25 (Recess.)

1 JUDGE BECHHOEFER: Were we in the middle of a  
2 question?

3 Ms. Bernabei, are you ready?

4 BY MS. BERNABEI:

5 Q Prior to the June 10th letter, you wrote a June  
6 3rd, 1983 letter, did you not, Mr. Cook?

7 A (Witness Cook) Yes.

8 Q You have to wait until I finish my question.

9 And the June 10th letter changed in a few  
10 respects, is that correct, from the June 3rd letter?

11 A Are you through?

12 Q Mr. Cook, I think you knew that I was through  
13 with the question.

14 Is the June 10th letter any different than the  
15 June 3rd letter?

16 A Yes.

17 Q Were there concerns raised by the NRC about the  
18 adequacy of the June 3rd, 1983 response proposal?

19 A They reviewed the response, gave us some comments,  
20 and we revised the June 3rd letter.

21 Q There was a concern raised on the June 3rd, 1983  
22 letter about the fact that it contained no NRC hold points;  
23 is that correct?

24 A The cover letter made a general statement to the  
25 effect that the NRC would be notified at the completion of

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1 every major management review item and were free to put in  
2 what reviews they saw fit.

3 They asked us to simply translate that into the  
4 formal program document hold points. My --

5 Q The June 3rd --

6 MR. MILLER: Excuse me. You cut off Mr. Cook before  
7 he was finished.

8 MS. BERNABEI: I'm sorry.

9 WITNESS COOK: My final comment was going to be  
10 the effect was the same, the documentation was different.

11 BY MS. BERNABEI:

12 Q Is it fair to say the NRC did not believe the June  
13 3rd, 1983 letter contained hold points? That was a specific  
14 criticism made by them?

15 A I guess you'd have to ask the NRC that. I believe  
16 that the effect was the same.

17 Q Did the NRC express a concern to you that hold  
18 points, NRC hold points, were not included in the June 3rd  
19 proposal?

20 A They expressed a comment to me that they wanted  
21 the hold points in the document, not in the cover letter.

22 Q Was the concern also expressed to you that they  
23 wanted a construction oversight hold point, and not merely  
24 a management review hold point?

25 A Could you define construction oversight hold point?

1 Q The NRC, prior to the release of work, would have  
2 an opportunity to do a physical reinspection of the plant.

3 MR. MILLER: I am going to object. I don't know  
4 that there is any foundation for an NRC inspection.

5 MS. BERNABEI: I'm talking about a hold point.

6 BY MS. BERNABEI:

7 Q Has the NRC ever expressed the fact to you that it  
8 does not wish the hold points to be merely management reviews?

9 A (Witness Cook) I'm sorry, I am confused on the  
10 essence of your question because we're -- each point that  
11 is identified as hold points are at the conclusion of the  
12 management review.

13 Q Has the NRC ever expressed a concern to you that  
14 hold points be not a review of documentation, but a physical  
15 inspection of the plant?

16 A By the NRC?

17 Q By the NRC.

18 A Not to my knowledge.

19 Q They have never expressed that concern to you?

20 A No.

21 Q In fact, the hold points that are contained in the  
22 June 10th, 1983 letter are reviews of your management  
23 review?

24 A I believe it can be whatever the NRC wants it to  
25 be. They are going to come in and convince themselves that

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1 we have met all our commitments on the CCP and that we are  
2 ready to go forward to the next step. How they choose to  
3 carry that out I believe is wholly at their discretion.

4 Q So they could include the physical reinspection?

5 A I guess it possibly could.

6 Q Now there was also a criticism by the NRC of the  
7 June 3rd proposal and that it did not provide for 100 percent  
8 reinspection of all accessible systems and components; is  
9 that correct?

10 A No, I don't believe so.

11 Q Well, in fact, the proposal did not provide for  
12 100 percent reinspection of all accessible systems, structures  
13 and components?

14 A The June 3rd letter, I believe it did.

15 Q And the June 10th letter, as well, I suppose?

16 A Yes.

17 Q Was the NRC concern expressed to you about the  
18 June 3rd, 1983 proposal, that it did not -- that it was too  
19 vague to ensure that nonconforming conditions were not  
20 covered up prior to rework?

21 A No, I don't believe so.

22 Q That concern was never expressed to you?

23 A No.

24 Q Is it fair to say that you established hold points  
25 expressly in your June 10th, 1983 letter because of the NRC

1 concern?

2 MR. MILLER: I'm going to object. I think that  
3 was asked and answered. Mr. Cook has told the circumstances  
4 under which the specific hold points were incorporated into  
5 the program as opposed to the correspondence, at least twice  
6 now.

7 MS. BERNABEI: I don't think he has stated in  
8 yes or no form whether or not -- I think -- that hold  
9 points would be included in the CCP as a result of the  
10 NRC criticism. I don't believe he answered that question.

11 MR. WILCOVE: There is a difference between  
12 criticism and concern. I think they are either one or the  
13 other.

14 MS. BERNABEI: I will stick with the word criticism.

15 MR. MILLER: I think it's cutting things very  
16 fine to get a difference between criticism and concern. Mr.  
17 Cook, I think, has given the substance of what he understood  
18 the NRC's concern, criticism, or whatever, to be, and how  
19 he responded to it.

20 MS. BERNABEI: I don't believe he's responded in  
21 terms of yes or no, was the change made in the June 10, 1983  
22 letter in response to the NRC concern or criticism.

23 JUDGE BECHHOEFER: Are you saying solely in  
24 response?

25 MS. BERNABEI: Primarily in response.



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WITNESS COOK: I believe the --

MR. MILLER: There is an objection pending.

JUDGE HARBOUR: What change?

MS. BERNABEI: The change to expressly provide  
for NRC hold points.

JUDGE HARBOUR: I thought he just stated it was  
in both the June 3rd and June 10th letters.

MS. BERNABEI: No, that's not what he stated.

(Board conferring.)

end 3-D

1 JUDGE BECHHOEFER: We're not sure whether it's  
2 precisely answered or not. I think he can answer.

3 WITNESS COOK: I think the answer is clearly  
4 stated in the cover letter of the June 10th letter, that the  
5 changes made were made as a result of NRC comments received  
6 after receiving the June 3rd letter.

7 BY MS. BERNABEL:

8 Q Is it fair to say there are not established third  
9 party hold points in the June 10th 1983 letter, that is,  
10 hold points where the third reviewer, whether it be Stone  
11 & Webster or some other party?

12 A (Witness Cook) No, that's not correct.

13 Q Where there are none specifically established, is  
14 that fair to say?

15 A Yes, there are some specifically established.

16 Q Could you point out where, in the June 10th letter,  
17 those are established?

18 A Yes, I believe in the charter of the third party  
19 overview, Section 7 I believe.

20 Q And what are the points?

21 A That they would review our conduct of the management  
22 reviews under the Phase 1 management reviews and the initial  
23 Phase 2 management review and that we would not go forward  
24 until we had received their concurrence that they thought we  
25 were ready to go and that we had responded to any open items

1 that their review identified.

2 MR. MILLER: For the record, Mr. Cook's memory is  
3 remarkable because that's found in page 32, Consumers Power  
4 Exhibit 48, I believe.

5 BY MS. BERNABEI:

6 Q Now it states, does it not, that the CCP includes  
7 provisions for management review at key points in the process?  
8 Is that correct?

9 A (Witness Cook) Yes.

10 Q In Consumers Power's management, is that correct?

11 A That is the entire Midland Project management  
12 review.

13 Q That is Consumers Power?

14 A And Bechtel.

15 Q So Consumers and Bechtel's. It goes on to say that  
16 the third party will have responsibility for audits of these  
17 management teams. Is that correct?

18 A Yes.

19 Q Now, it also says that the CCP implementation will  
20 not proceed beyond these points until the third party  
21 overviewer has documented their satisfaction with our readiness  
22 to proceed, Consumers' readiness to proceed. Those are the  
23 hold points to which you're referring, correct?

24 A Yes.

25 Q Now what points are the key points in the process?

1           A       The management reviews for the Phase 1 activities.  
2 All of them, and the initial management review at the end  
3 Phase 1 activities, to review the process by which we will  
4 carry out the Phase 2 activities. And also the review of the  
5 initial results from the Phase 1 activities.

6           Q       Now, will a third party hold point be instituted  
7 after the Phase 1 activities for every particular system or  
8 component?

9           A       Not necessarily, no.

10          Q       How will you determine where those hold points  
11 are placed?

12          A       I'm not sure we have completed that definition yet.

13          Q       So the hold points are not defined in terms of  
14 where they will be placed?

15          A       Additional hold points have not yet been defined.  
16 The initial ones I just described to you have been defined.

17          Q       And those are placed where?

18          A       At the end of the management reviews.

19          Q       There's management review at the end of Phase 1  
20 of each system or subsystem, correct?

21          A       There is a management release required at the end  
22 of each Phase 1 activity.

23          Q       Is there a management review conducted?

24          A       There is a larger management review, in terms of  
25 the processes that have to be put in place for the Phase 2

1 activities and evaluation of the initial Phase 1 results.

2 Q So there could be several systems which are released  
3 under Phase 1 and management review will be conducted after the  
4 review of the subsystems?

5 A I don't believe I understand your question.

6 Q Why don't we stick with one system?

7 A All right.

8 Q The way it would work is there would be a Phase  
9 1 status assessment and quality verification. Is that correct?

10 A Yes.

11 Q At that point, management will release the work for  
12 future construction. Is that correct?

13 A You're talking about the first system?

14 Q For the first system we're talking about.

15 A For the first one or any one downstream.

16 Q Any particular one?

17 MR. MILLER: There's obviously a difference so  
18 let's take one or the other and have him describe the process.

19 BY MS. BERNABEI:

20 Q Any particular one?

21 A (Witness Cook) Let me try to make the distinction.  
22 At the initiation of the first new work, going into Phase  
23 2, there will be a major management review to make sure that  
24 the process and procedures for Phase 2 have been done to our  
25 satisfaction and also that we evaluate all the results that

1 we've gotten to that point in time, for Phase 1. That is the  
2 major hold point that has a full management review such as  
3 we have been conducting in the Phase 1 management review blocks.

4 After we have initiated the first Phase 2 work,  
5 subsequent releases of Phase 2 work would be done with the  
6 smaller management, our review to be supervised by the site  
7 management, Mr. Miller and Mr. Herzer from Bechtel.

8 Q To be sure I understand you, the full management  
9 review that you understand would be conducted after the Phase  
10 1 activities for the very first system?

11 A Or whatever piece of work it is we're going to try  
12 to release first.

13 Q Systems or subsystems?

14 A Yes, hanger or whatever.

15 Q Now after that first release, after Phase 1,  
16 subsequent releases of Phase 1 will not engender such a full  
17 management review?

18 A That is correct.

19 Q My question to you is after the first system or  
20 subsystem is released and we've reached another subsystem,  
21 will there be a Stone & Webster hold point prior to release  
22 of these two activities?

23 A There may or may not be. I don't think it's been  
24 decided yet.

25 Q So at least, as to the second system, it is



1 undecided whether or not there will be a Stone & Webster -- a  
2 third party hold point?

3 A My guess would be on the second system, for instance,  
4 there probably will still be.

5 Q Who will determine whether or not there is a hold  
6 point on the second system, or the third system, or the  
7 fourth system?

8 A I believe we will take some recognition of the  
9 feelings of the NRC, Midland team, in structuring some additional  
10 hold points by the third party overview group.

11 Q But Consumers Power and Bechtel would have the final  
12 authority to determine whether or not a hold point is put  
13 prior to release of work on the second, third, fourth, and  
14 down the line, system?

15 A No. I believe the procedure will be we will make  
16 some recommendations to the NRC regional people about what  
17 level of additional hold points might be put into the third  
18 party scope, and they will concur with that or not concur  
19 with that as they see fit.

20 Q Is it fair to say, under the June 10th, 1983 letter,  
21 that the NRC has final authority to determine what third party  
22 hold points would be established in release of Phase 2 work?

23 A They certainly have the ability to influence our  
24 proposal.

25 Q Do they have final authority to determine where

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1 those hold points will be?

2 A I believe they have final authority on almost  
3 everything we do on the job.

4 Q It's fair to say Consumers Power will make the  
5 initial decision, is that correct?

6 A Initial recommendation, yes.

7 Q And as you see it, NRC will reserve authority,  
8 through a new process of the CCP, to determine ultimately where  
9 the hold points are placed, third party hold points?

10 MR. MILLER: I'm going to object. Mr. Cook has  
11 gone to some lengths to describe what he knows the process  
12 to be in response to questions. Now we're going back over  
13 the same ground except as characterized by Counsel in her  
14 question, in a way that is not supported by Mr. Cook's prior  
15 testimony.

16 BY MS. BERNABEI:

17 Q Is that a misunderstanding in your testimony? That  
18 is what I misunderstood you to say, that the NRC would reserve  
19 the authority, along the way, to determine where the third  
20 party hold points would be placed?

21 MR. MILLER: There's still an objection because  
22 Mr. Cook has just testified how the process of making a  
23 recommendation to the NRC team, with respect to the additional  
24 hold points, would take place. There will be consultation  
25 with them and to talk about reserving final authority, final

1 decision, to the NRC is just inconsistent with what Mr. Cook  
2 has already said, or it's duplicative of what he's already  
3 said.

4 JUDGE BECHHOEFER: I understand the witness's answer  
5 to, perhaps, have alluded to final authority as not discussed  
6 and I'm not sure that legally what the witness recently said  
7 was technically accurate, insofar as the CCP is concerned.

8 MS. BERNABEI: I'm unclear, too.

9 JUDGE BECHHOEFER: I'm just not sure about that,  
10 so I think the witness could perhaps expand. I'm sure that  
11 legally, apart from any agreed plan like the CCP, I'm not sure  
12 legally NRC does have the right to approve work or hold  
13 points or anything else, other than in the soils area.

14 MS. BERNABEI: I'm not asking a legal opinion, but  
15 his technical understanding of the plant. Mr. Cook certainly  
16 is the person most knowledgeable about the plant in this room.

17 MR. MILLER: I don't think it would really serve,  
18 necessarily, any purpose to ask Mr. Cook about the legalities  
19 of the situation. Although, undoubtedly, he may have an  
20 opinion on it. There has been reference to a confirmatory  
21 action letter with respect to the CCP, so that the legal  
22 requirements are going to be observed somehow before the  
23 process is underway.

24 MS. BERNABEI: Again, my question is not directed  
25 to the legality, but to the nuts and bolts of the work in CCP

1 and how Mr. Cook thinks it's going to work. I am not interested  
2 in the legalities.

3 MR. MILLER: I think that one has been asked and  
4 answered.

5 MS. BERNABEI: I didn't understand the answer.

6 JUDGE BECHHOEFER: If there's some misunderstanding,  
7 I guess maybe you could go over it again.

8 WITNESS COOK: Fine. My understanding is that the  
9 regional inspection force would like us to propose some  
10 additional hold points for the third party overview into the  
11 Phase 2 work. And they will, I'm sure, give us their comments  
12 to whether they think that proposal is adequate and when we  
13 have reached some kind of agreement, I would incorporate that  
14 into the plan.

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1 BY MS. BERNABEI:

2 Q But it's fair to say that the NRC input would be  
3 prior, as you envision, to the approval of the CCP?

4 A (Witness Cook) Not necessarily, because the fact  
5 that we have agreed to propose additional hold points and they  
6 have full ability to come in on it -- I don't believe they're  
7 waiting for anything further from us in terms of their review  
8 of the June 10th letter.

9 Q It's fair to say that the June 10th letter reserves  
10 some discretion to Consumers Power as to where to place the  
11 third party hold points, correct?

12 A The third party additional hold points.

13 Q Beyond the first one?

14 A Beyond the first five or six. All the Phase 1  
15 management reviews were hold points for the third party as  
16 well as for the Phase 2 work.

17 Q When do you propose, to the NRC, additional hold  
18 points for the third party overview, if you do?

19 A I don't have a schedule currently.

20 Q Within the next few weeks?

21 A More than likely. I just don't know.

22 Q Now Consumers Power, or Consumers and Bechtel, will  
23 determine what percentage of the systems or subsystems are  
24 accessible for inspection. Is that correct?

25 A I believe the correct state of the plan determines

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1 that already. I think Mr. Wells, in his QVP, has gone to  
2 some lengths to define that and we will be abiding by that.

3 Q But Consumers Power will make that determination,  
4 is that correct?

5 A Maybe Mr. Wells would like to expand on that.

6 A (Witness Wells) May I? As indicated here, Quality  
7 Verification Plan, the determination as to what is inaccessible  
8 or accessible will be made by the Quality Assurance Department  
9 under my responsibility. We don't intend to determine what  
10 the percent is. That serves no meaningful purpose.

11 Q Have you started the process of determining what  
12 is accessible and inaccessible at the plant?

13 A We have identified, on a generic basis, which  
14 Inspection Reports we believe will fall into the inaccessible  
15 category, but the reinspections have not started yet because  
16 we don't have approval to implement that process.

17 Q I believe you testified earlier you had no idea  
18 of the percentage of accessible versus inaccessible?

19 A No, I don't.

20 Q Do you believe at some point in time, in the  
21 near future, you will have an idea?

22 A No. It serves no meaningful purpose for me to  
23 come up with a percentage. We are committed to reinspect  
24 every closed inspection record and we're handling accessible  
25 and inaccessible in a predetermined manner. The percent is



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1 just of no interest to me, frankly.

2 Q Mr. Cook, on page 14 of your testimony, you state  
3 that you expect the first segment of the management review to  
4 be completed in mid to late April. Are you with me?

5 A (Witness Cook) Yes.

6 Q In fact, was that management review conducted in  
7 late April?

8 A The first one was, yes.

9 Q And that was the management review of Phase 1  
10 activities for a particular system?

11 A No, for the Quality Verification Program.

12 Q For the Quality Verification Program. And what  
13 did that management review determine?

14 A That there were a number of things still to be  
15 done.

16 Q And what were those things?

17 A I cannot recall them. They were documented in our  
18 meeting minutes and have been followed up on since.

19 Q This management review was conducted in April, is  
20 that correct?

21 A The first one was, yes.

22 Q Have there been any subsequent management reviews?

23 A Yes.

24 Q And when were those?

25 A In May and June.

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1 Q Now if you remember, what, in any of those  
2 management reviews, was determined to be needed to be done to  
3 prepare for the CCP?

4 A Generally, we would identify that, based on people's  
5 final reviews, there were still comments to be incorporated and  
6 procedures that had to be officially completed and signed out  
7 and that there were other individual items or thoughts that  
8 were provided to the management team as part of that review  
9 that we agreed should be completed before we felt we were  
10 ready to initiate any of those Phase 1 activities.

11 Q Do you remember, as you sit here today, any  
12 particular concerns or comments that were noted at those  
13 management reviews?

14 A None that I would characterize above the other.  
15 Each review normally concluded with essentially a punch list  
16 of final things that we felt had to be finished before we were  
17 ready to start.

18 Q Do you know any of those things at this time?  
19 Do you remember any of those items on the punch list?

20 A As I mentioned, there were normally some procedures  
21 that had not yet been signed out. In the case of status  
22 assessment, the training would have to be completed before  
23 that could go forward.

24 Q This is the training of the teams you're talking  
25 about?

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1 A Yes.

2 Q And the training of the teams has not been completed,  
3 at this point?

4 A Has not been completed.

5 Q Are there any other items that still need to be done,  
6 prior to initiation of Phase 1 activities?

7 A Again, I would have to refer to the notes of those  
8 meetings.

9 Q You can't remember any others, as you sit here today?

10 A No.

11 Q Mr. Wells, do you participate in these meetings?

12 A (Witness Wells) Yes, I do.

13 Q Can you remember any other items on the punch list?  
14 Mr. Cook mentioned --

15 A I think in general he's covered it. It generally  
16 covers the generic kinds of requirements that we have to meet  
17 before going forward.

18 Q So it's fair to say that in April of this year you,  
19 Consumers Power, would not have been ready to start Phase 1  
20 activities? There were still things that needed to be done?

21 A That's right.

22 Q And it sounds like there are still things that need  
23 to be done in June of this year, today, prior to your readiness  
24 to start Phase 1 activities? Mr. Cook, I'll ask you first.

25 A (Witness Cook) I believe, in terms of the first

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1 two management reviews that we have gotten into which was the  
2 Quality Verification Program and the Hanger Status Assessment  
3 teamwork, I believe our readiness is probably about 100 percent  
4 with the exception of training being completed.

5 Q That is, some training still needs to be done?

6 A Yes, it is ongoing.

7 A (Witness Wells) I might add, if I could, just for  
8 the record that the Quality Verification Program Phase and the  
9 Team Status Phase are two separate parts of -- I shouldn't use  
10 the term "phase" -- the activities are two separate activities  
11 of Phase 1 and there is no team training requirement necessary  
12 as a prerequisite to the Quality Verification Program.

13 Q Is it your feeling it could have gone forward at  
14 a time earlier to the present time?

15 A Slightly, but we were probably finishing up the  
16 last of the commitments we have to make the end of last week  
17 and this week. We could have expedited it but we cannot go  
18 forward until the plan is approved, so we didn't expedite the  
19 process particularly.

20 Q Mr. Cook, you mention on page 16 of your testimony,  
21 that certain activities were exempted from the CCP because they  
22 had demonstrated effectiveness in quality program implementation.  
23 Is that correct?

24 A (Witness Cook) Yes.

25 Q One of the activities you mention is the HVAC

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1 installation by the Zack Company. Is that correct?

2 A Yes.

3 Q Now I believe your testimony was yesterday, no work  
4 has proceeded in the HVAC area for seven months now because  
5 of problems with welder certification and welder procedure  
6 qualification.

7 MR. MILLEK: This is going to be about the fourth  
8 time that Mr. Cook has been asked that precise question and  
9 his answer is the same every time. It burdens the record  
10 unnecessarily.

11 MS. BERNABEI: It's a foundation question about the  
12 basis for the statement in his testimony. It is keyed very  
13 specifically into his testimony.

14 JUDGE BECHHOEFER: As a foundation question, it's  
15 okay.

16 BY MS. BERNABEI:

17 Q No work has proceeded in the HVAC area for seven  
18 months now because of problems with welder qualification and  
19 certification. Is that correct?

20 A (Witness Cook) Yes.

21 Q Do you believe this demonstrates the activities  
22 in the HVAC area have a demonstrated effectiveness in the  
23 quality assurance implementation?

24 A I believe what it demonstrates is that the company's  
25 quality assurance program identified a problem, shut the work

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1 down in response to the problem, and have taken all necessary  
2 steps to correct the problem.

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1 Q Photon Laboratories had its own qualifications  
2 program, is that correct?

3 A I believe so.

4 Q And, in fact, the lack of workers was due to a  
5 failure in Photon Laboratories' QA program?

6 MR. MILLER: This is ground that we went over  
7 just this morning. Mr. Cook responded to the questions.  
8 I really object to repeating testimony.

9 MS. BERNABEI: His testimony has to do with  
10 demonstrated effectiveness of quality assurance implementat-  
11 tion in HVAC installation. In fact, there was a quality  
12 assurance total failure in one aspect of that activity. I  
13 think I'm entitled to inquire whether that indicates there  
14 is quality assurance effectiveness in the HVAC area. What  
15 Mr. Cook has testified to is that they found the problem  
16 after it occurred. My question is, doesn't the problem  
17 itself indicate a quality implementation problem in the area?

18 MR. MILLER: That precise question was asked  
19 earlier today of Mr. Cook, and his response was, no. That's  
20 the testimony in the record now.

21 Counsel can argue in her findings that that's  
22 not a proper characterization or there's other evidence to  
23 the contrary, but simply rehashing this in the hope of  
24 getting some sort of inconsistent answer I think is improper.

25 MS. BERNABEI: I don't believe any of that testi-

1 mony in the record, specifically not tied to the fact that  
2 this is an excluded area from the CCP.

3 MR. WILCOVE: Mr. Chairman, I'm going to have  
4 to join in the objection whether it's tied to this piece  
5 of Mr. Cook's testimony or not does not change the fact  
6 that these questions seem to be the same questions that  
7 have been asked a couple of times already. If there's new  
8 information that will be elicited by a different set of  
9 questions, I wouldn't have any objection, but it does seem  
10 now that we are going over the same grounds.

11 MS. BERNABEI: There was testimony yesterday that  
12 the problem with the layoff with the welders in December and  
13 again in April again were a QC failure. And I believe Mr.  
14 Cook's testimony is that's not a QA failure of MPQAD because  
15 they found the problem.

16 My question is, isn't Consumers responsible in  
17 some sense, or doesn't it consider it a problem that one of  
18 its subcontractors, the Zack Company, had a QA failure?

19 MR. MILLER: The testimony was it was a QA im-  
20 plementation failure.

21 MS. BERNABEI: That's exactly what his testimony  
22 has to do with, demonstrated effectiveness of quality pro-  
23 gram implementation. And what we know about Photon Testing  
24 is that there was a breakdown in their quality program  
25 implementation.

Backup 3  
Side 3

1                   My question is whether or not that reflects on  
2 his opinion that there's been quality program implementation  
3 in the HVAC instrumentation, I don't believe he's answered  
4 that particular question.

5                   (Board conferring.)

6                   JUDGE BECHHOEFER: I think we will overrule the  
7 objection, but, Mr. Cook, perhaps you could focus in part  
8 on whether these words, demonstrated effectiveness, refer  
9 to a subcontractor program or whether they refer to a Con-  
10 sumers' program. I'm a little confused from prior answers  
11 or perhaps from questions such as being referred to.

12                   WITNESS COOK: I think the reference was that the  
13 HVAC installation work that has gone on under the direction  
14 with the quality program, under the direction and management of  
15 Cosumers Power Company since 1981, has been recognized as  
16 being generally effective. It covers all the work on the  
17 site, and the fact that an audit finding on an off-site  
18 small subcontractor caused their work to be shut down does  
19 not, in my view, indicate a failure of the quality program  
20 or any indication that the work that the QA/QC program has  
21 been in charge of has not been effective.

22                   The fact that it's taken us a long time to re-  
23 store that work because of the welder certification issue  
24 back to its operational status is regrettable, but I don't  
25 believe it impugns the effectiveness of the QA implementation

1 for the HVAC work.

2 JUDGE BECHHOEFER: In addition, your words,  
3 demonstrated effectiveness, I take it, are not intended to  
4 say -- necessarily say, at least that Photon's QA program  
5 had demonstrated effectiveness. It refers to Consumers.

6 WITNESS COOK: No, what I can't say is there  
7 won't be findings somewhere in any of these programs at any  
8 particular time, because the ongoing investigations and over-  
9 view by the quality program will probably turn up findings  
10 against B & W, construction against Zack elsewhere; there will  
11 be findings, but I don't believe the fact that we had a finding  
12 in a small offsite subco tractor contradicts the statement here  
13 that the HVAC work has been going on with a considerable degree  
14 of success in the last few years.

15 (Board conferring.)

16 BY MS. BERNABEL:

17 Q Mr. Cook, you're familiar with the TERA independent  
18 design, are you not?

19 A Yes.

20 Q And that is both of the program and the first  
21 report that was issued on May 27th, 1983?

22 A I am not intimately familiar with the first  
23 status report. I am aware of it.

24 Q Is it fair to say that the TERA review is essen-  
25 tially a vertical slice design review and a paperwork review of

1 construction?

2 A No.

3 Q And how is that statement wrong?

4 A It will take more than a paperwork review in the con-  
5 struction process.

6 Q It will be a review of the configuration as well,  
7 but it will not be a 100 percent reinspection of the as-built  
8 condition of the plant?

9 A No.

10 Q Now, in reviewing the the TERA report, this was a  
11 report, first of all, a May 27th report on the auxiliary  
12 feedwater system, is that correct?

13 A Yes.

14 Q Now, this system has been studied at prior times  
15 by Consumers and Bechtel, is that correct?

16 A Could you define "study" for me please?

17 Q Yes. HAd the design of the auxiliary feedwater  
18 system been examined or audited at prior times by Consumers  
19 and Bechtel --

20 MR. MILLER: I'm going to object. It seems to me  
21 that is extremely vague in what the design process is for a  
22 nuclear power plant. Clearly Bechtel and Consumers Power  
23 Company examined the design at some prior time.

24 BY MS. BERNABEI:

25 Q Had, in fact, independent design reviews of the

1 auxiliary feedwater system prior to the TERA review been  
2 made?

3 A Independent?

4 Q Yes, independent, outside the FSAR process?

5 A I'm confused, I'm sorry.

6 Q Okay, are you familiar with any design reviews done  
7 on the auxiliary feedwater system outside of the NRC regula-  
8 tory process?

9 A I'm not sure how to respond to your question. I'm  
10 sure there have project reviews of some kind made. I just  
11 haven't been party to them nor am I aware of what they would  
12 be without going back and reviewin the project records.

13 JUDGE BECHHOEFER: I'm a little confused by your  
14 reference to outside the NRC regulatory process. Certainly  
15 the current TERA review is not outside the regulatory pro-  
16 cess.

17 MS. BERNABEI: No, I mean outside the submissions  
18 of the PSAR and the FSAR which are reviewed by the Staff  
19 outside that process, in addition to and beyond the review  
20 conducted of the PSAR and FSAR.

21 MR. MILLER: Perhaps counsel has something specific  
22 in mind.

23 BY MS. BERNABEI:

24 Q Perhaps I can show you a document you might recog-  
25 nize.



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(Pause.)

Mr. Cook, in a few minutes I'm going to show you what's been marked as Stamiris Exhibit #100.

(The document referred to was marked Stamiris Exhibit #100 for identification.)

BY MS. BERNABEI:

Q Mr. Cook, I'm going to hand you what appears to be a memorandum to Mr. Keeley of Consumers Power from Mr. Schmitz of Bechtel, subject Midland independent design review dated May 28th, 1982. I'd like you to review the memo, specifically item #5 on page four.

A (Witness Cook reading document.)

End 13  
tape  
3-G 14

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1 Q Mr. Rutgers, did you want a chance to review the  
2 document?

3 A (Witness Rutgers) I looked at it while Mr. Cook  
4 was looking at it.

5 Q Mr. Cook, this appears to be, does it not, a  
6 memorandum from Bechtel to Consumers Power about a proposed  
7 independent design review for Midland?

8 A (Witness Cook) Yes.

9 Q Now page four of the memorandum states, does it not,  
10 that the auxiliary feedwater system was considered to be a  
11 well-reviewed system?

12 A That's what it says.

13 Q And that is done in the context that it has been  
14 thoroughly or recently, is that correct?

15 A I assume that's the basis for making the statement.

16 Q Are you familiar with any such reviews of the  
17 auxiliary feedwater system?

18 A In terms of a total design review, I'm not familiar  
19 with them. They may well exist.

20 Q How about partial design?

21 A I'm just not familiar with what the history is  
22 on that particular system.

23 Q But it is fair to say, in this letter to Mr. Keeley,  
24 Mr. Schmitz states that the system has been well-reviewed at  
25 a prior time?

1           A       That was his statement.

2           Q       Are you familiar with any criticism, of the NRC,  
3 of the original Consumers proposal that the feedwater system  
4 be the system to be the basis for the design review. That is  
5 because it had been thoroughly reviewed in the past?

6           A       When you say criticism, could you define "criticism"  
7 for me?

8           Q       Yes, a concern or comment that an additional system  
9 should be chosen?

10          A       There was a licensing review that resulted in a  
11 commitment to install a third pump.

12          Q       Now, my question to you was the original proposal  
13 for an independent design review, was there concern expressed  
14 to you by the NRC that a system, in addition to or other than  
15 the auxiliary feedwater system, should be chosen because the  
16 auxiliary feedwater system had been reviewed at prior times?

17          A       The NRC was commenting to me that they didn't think  
18 the auxiliary feedwater system should be the subject of  
19 independent design review?

20          Q       Yes, so there should be an additional system, in  
21 addition to that.

22          A       They approved the review of that system so I  
23 assume they do not have any concern on its being chosen.  
24 They also suggested that we add additional systems to the  
25 scope of the review, which we did.

1 Q Has there ever been an NRC criticism that additional  
2 systems should be added because of the prior reviews of the  
3 auxiliary feedwater system?

4 A If there is, it's not -- I'm not aware of it.

5 Q Mr. Rutgers, are you familiar with any reviews,  
6 prior to May 1982, of the auxiliary feedwater system?

7 A (Witness Rutgers) No, I'm not.

8 Q But that is what this memo indicates, is it not?

9 A That's what Mr. Schmitz says in his letter.

10 Q Mr. Cook, I'm going to ask you about some findings  
11 in the TERA report, the May 27, 1983 TERA report. Do you have  
12 a copy of the report?

13 A (Witness Cook) No, I don't.

14 MS. BERNABEI: I'm going to mark this as Stamiris  
15 Exhibit 101 for identification purposes.

16 (The document referred to was  
17 marked as Stamiris Exhibit  
18 No. 101 for identification.)

19 JUDGE BECHHOEFER: Is that the report?

20 MS. BERNABEI: Yes, it's the report itself.

21 JUDGE BECHHOEFER: I have a copy with me.

22 BY MS. BERNABEI:

23 Q Mr. Cook, I'm handing you what's marked as  
24 Stamiris Exhibit 101, and that was the first status report of  
25 the TERA Corporation on the independent design review of the

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1 AFW system. Is that correct?

2 A (Witness Cook) Yes, it was.

3 Q Now are you familiar with the findings made by  
4 TERA?

5 A Only generally, not in great detail.

6 Q Do you consider any of the findings, that were made,  
7 significant findings?

8 A Yes, I believe one of them was.

9 Q And which one is that, sir?

10 A I'd have to go back and find the one.

11 Q Just for the record, you're looking in the Current  
12 Confirmed Item Report, Attachment 3?

13 A Yes. Yes, I believe I found the one. I think  
14 C-12 is the one, from our initial review, of these TERA results  
15 that we consider to be significant.

16 Q And that finding was that the AFW system may not  
17 be functional during station black-out conditions?

18 MR. WILCOVE: "Finding" is a term of art in the  
19 TERA lingo. Is Ms. Bernabei using it in that context or is she  
20 using it in the common dictionary sense?

21 MS. BERNABEI: I'm referring to it in the technical  
22 sense.

23 WITNESS COOK: It's a confirmed item.

24 BY MS. BERNABEI:

25 Q Now the significance of this confirmed item, and

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1 I'm referring now to the block significance of concern, is  
2 that the AFW system may not be functional during station  
3 black-out conditions. Is that correct?

4 A (Witness Cook) That's correct.

5 Q Did you consider any of the other confirmed items,  
6 in this Attachment 3, to be significant?

7 A Not from our initial cursory review, but I think we  
8 have to reserve judgment on that until we've made sure we have  
9 gone through all of them carefully.

10 Q I'm going to ask you about a few specifically, Mr.  
11 Cook. I'm referring you to -- it doesn't appear to have a  
12 number -- C-005. This is a confirmed item, is it not, that  
13 says that the balance of plant criteria are inconsistent with  
14 regard to AFW system below rate requirements and other system  
15 parameters?

16 A Yes.

17 Q And it states the safety concern is that the  
18 nuclear steam supply system performance requirements for the  
19 system may not be adequately or consistently reflected in the  
20 balance of plant design?

21 A Yes.

22 Q Do you consider that a significant confirmed item?

23 A Not until we have a chance to make sure we understood  
24 what brought the TERA folks to their conclusion and make sure  
25 they have all the applicable information. These findings are



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1 the first time that we find where their thinking has led them  
2 and brings us to a situation where it's incumbent on us now  
3 to research the issue and bring them what information we think  
4 bears towards their initial confirmed item.

5 Q Referring you to C-25, this is a confirmed item,  
6 is it not, that says the feed only generator system may perform  
7 in a detrimental manner under steam generator tube failure  
8 followed by loss of off-site power? That's a confirmed item  
9 essentially.

10 MR. MILLER: That's what the document says.

11 WITNESS COOK: I was trying to find the same words.

12 BY MS. BERNABEI:

13 Q That's under description of concern in the first  
14 sentence.

15 A (Witness Cook) Again, I was trying to find your  
16 words.

17 Q I was reading the first sentence of the description  
18 of concern.

19 A Yes.

20 Q In the safety significance, or the potential safety  
21 significance, is the failure of the operator to take action  
22 quickly could result in a total loss of the auxiliary feedwater  
23 system. Is that correct, the auxiliary feedwater?

24 A That is the concern that's expressed.

25 Q Now have you analyzed this confirmed item at this

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1 time?

2 A No, I haven't. All of these are under current  
3 review now that we've gotten the information.

4 Q I'm referring you to C-32. The confirmed item,  
5 found by TERA, was that hanger H-10, a horizontal snubber, was  
6 field measured by TERA to be about three feet from its designed  
7 location, which exceeds the allowable tolerance of six inches.  
8 That is a confirmed item, is it not?

9 A That was their observation.

10 Q Do you consider that of safety significance?

11 MR. WILCOVE: Mr. Chairman, it seems pretty clear  
12 that the Applicant is in the process of reviewing this document.  
13 Twice he has said, in response to Ms. Bernabei question, that  
14 he doesn't know yet, that they have to do some review and to  
15 go through that document and pick out a number of items and  
16 receive what I'm quite sure is going to be the same response,  
17 which I think is definitely a proper response at this time  
18 since their review is underway -- it just is not going to be  
19 productive.

20 JUDGE BECHHOEFER: Do you have many more of these,  
21 because you're likely to get the same answer for all of them?

22 MS. BERNABEI: It's possible. I have several more  
23 but I'm going to link it in with some further questions. I  
24 have two more that I wanted to ask him about. If that's his  
25 answer, that's fine. I just wanted to establish that he does

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1 not know what the safety significance of these findings are  
2 at the present time.

3 WITNESS COOK: Until they've been thoroughly  
4 reviewed, I don't.

5 BY MS. BERNABEI:

6 Q So that's true for all of them, other than the one  
7 you mentioned that you believe is of safety significance?

8 A (Witness Cook) In scanning notes and making a  
9 specific check on that one, we concluded there was safety  
10 significance and we, in fact, reported it under 50.55(e).

11 JUDGE HARBOUR: That was the horizontal hanger you're  
12 referring to now?

13 WITNESS COOK: No, the question of the battery  
14 power. It was C-12. We clearly felt there was a design  
15 requirement for that equipment to have battery power to it.  
16 And since it wasn't, we felt it was reportable.

17 BY MS. BERNABEI:

18 Q To your knowledge, Mr. Cook, have any of the problems  
19 found by TERA been found either by Consumers or Bechtel at an  
20 earlier time?

21 A (Witness Cook) I don't believe so.

22 Q Mr. Rutgers?

23 A (Witness Rutgers) Not to my knowledge.

24 Q Have any of the similar types of problems been found  
25 at an earlier time, either by Consumers or Bechtel?

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1           A       (Witness Cook) Again, it depends on which, if any,  
2 of these other items become actual findings when they've been  
3 investigated.

4           Q       It's fair to say that --

5           A       (Witness Rutgers) May I add to that? One of the  
6 items you referred to, Mr. Cook, was the confirmed item of the  
7 pipe support might not have been exactly in accordance with the  
8 true drawing. That type of problem has been brought to our  
9 attention.

10          Q       In fact, if the snubber was two and a half feet  
11 out of the allowed tolerance --

12          A       (Witness Rutgers) We cannot say we agree with that  
13 finding. Right now, it's under investigation. We have found  
14 that there were approved design drawings in place for each of  
15 the four hangers cited that perhaps TERA wasn't aware of what  
16 the changed process was at the time. But again, it's not a  
17 completed investigation and I wanted our answer to be complete  
18 here because it's obviously an item that's been brought to our  
19 attention in the past.

20                   end 3h  
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1 Q Mr. Cook, are you familiar with any prior finding  
2 by Bechtel that there were problems with the interface between  
3 Babcock and Wilcox and Bechtel Corporation?

4 A (Witness Cook) Yes.

5 Q And where were those findings contained, if you know?

6 A (Witness Cook) Where were what findings contained?

7 I am not sure what your question is.

8 Q Where was that concern expressed?

9 MR. MILLER: You referring to the lack of interface  
10 between Bechtel and Babcock and Wilcox?

11 MS. BERNABEI: Yes.

12 WITNESS COOK: I would have to research where it  
13 has actually been documented, but I was fully aware of it.

14 BY MS. BERNABEI:

15 Q And that in fact was one of the problems noted in  
16 the TERA Report; is that not correct?

17 A (Witness Cook) As a possible finding, yes.

18 JUDGE BECHHOEFER: Ms. Bernabei, at least before you  
19 get to the next page of your outline, it is a good lunch-  
20 breaking point. I am not sure if you are through here.

21 MS. BERNABEI: I am sure I am almost done with this  
22 area.

23 BY MS. BERNABEI:

24 Q Mr. Cook or Mr. Rutgers, are you familiar with an  
25 independent design review conducted of the two Midland plants

1 by Bechtel on or around July 9, 1982?

2 A (Witness Cook) Yes.

3 Q Now, if you know, was this concern about problems in  
4 the interface between B&W and Bechtel documented in that report?

5 A (Witness Cook) I am not sure about that particular  
6 report, although any review of these kinds of projects is  
7 clearly going to look at the interface between the NSSS  
8 vendor and the architect-engineer.

9 The reference we were making earlier was for a major  
10 project upgrading of the interface criteria between B&W and  
11 Bechtel which occurred what, in late '80 or '81.

12 Q What I am asking you is, in July of 1982 in a  
13 Bechtel independent design review was there a mention made  
14 that there were frequent difficulties with the interface at  
15 that time between Bechtel and B&W?

16 A (Witness Cook) I would have to review the document,  
17 Ms. Bernabei.

18 MS. BERNABEI: I am not going to mark it as an  
19 exhibit, but I believe it will refresh his recollection.

20 Mr. Cook, I am going to show you the Bechtel  
21 corporate independent design review dated July 29, 1982 of the  
22 Midland Plants. Specifically I am going to refer you to the  
23 Section 2 Scope of Review.

24 BY MS. BERNABEI:

25 Q Mr. Cook, I am going to show you what I just described



1 for the record, specifically referring you to the fifth  
2 paragraph under Item 2, Scope of Review.

3 Mr. Cook, this indicates, does it not, that the  
4 Bechtel independent design review dated July 1982 that there  
5 have been continuing, frequent difficulties between the inter-  
6 face between Babcock and Wilcox and Bechtel?

7 A (Witness Cook) No, I don't believe it says that to  
8 me. It says that we want to make sure that what we choose for  
9 our review in this particular program made sure that it had an  
10 interface with the nuclear steam supply vendor in it because that  
11 has always been a place where people have to be careful.

12 Q Well, doesn't it say, "The interface with Babcock  
13 and Wilcox and other project participants carefully reviewed  
14 because of frequent difficulties with the interface."

15 Does that not indicate that there were frequent  
16 difficulties with interfaces between Babcock and Wilcox and  
17 other contractors?

18 A (Witness Cook) I took the statement to be a general  
19 statement of an industry concern of those kinds of interfaces.

20 MR. WILCOVE: Ms. Bernabei asks in response to  
21 documents to show familiarity with it, I don't think it is  
22 proper for her to quiz him on what the document says or what  
23 the document meant.

24 She can lay a foundation and establish from that  
25 Mr. Cook's knowledge of the document, then of course that is  
fine. But otherwise I just do not think it is proper.

1 BY MS. BERNABEI:

2 Q Mr. Cook, you received this document, did you not?  
3 You are on the CC list?

4 A (Witness Cook) Yes.

5 Q So, you have read this document before.

6 A (Witness Cook) Yes.

7 Q You are familiar that this is a Bechtel document  
8 that was routed to you in the usual course of business.

9 A (Witness Cook) Yes.

10 Q And your understanding of the document is that in  
11 fact the statement, "frequent difficulties with the interface  
12 led to an industry-wide problem, not one specific to Midland."

13 MR. MILLER: I am going to object. The witness just  
14 said what his understanding was.

15 BY MS. BERNABEI:

16 Q Is that your understanding?

17 MR. MILLER: Excuse me, testimony has been elicited  
18 from the witness on his precise subject two questions ago.

19 JUDGE BECHHOEFER: He has answered.

20 BY MS. BERNABEI:

21 Q That is your answer, despite the fact that the  
22 statement contained under 2, Scope of Review, which is to define  
23 the scope of review for an independent assessment of the design  
24 of the Midland project.

25 MR. MILLER: I am going to object. That question is

1 argumentative in tone and you can't elicit an answer that is  
2 going to be of any use to the evidentiary record of this  
3 proceeding.

4 MS. BERNABEI: It seems totally proper for me to  
5 ask him about the context in which the statement appeared in  
6 the document, a document with which he is familiar and he had  
7 a chance to review.

8 MR. MILLER: I object. It was a 30-second glance at  
9 one page and he has not had an opportunity to review a document  
10 that probably is 60 pages long.

11 MS. BERNABEI: It is one page, it is --

12 MR. MILLER: Yes, given past practice I think  
13 anybody relying on your characterization of what an entire  
14 document contains is --

15 JUDGE BECHHOEFER: I think we will sustain the  
16 objection because I think he has given his answer on that  
17 already.

18 BY MS. BERNABEI:

19 Q. Let me ask you this, do you know the context in which  
20 the statement appears, are you familiar with the context?

21 MR. MILLER: I object to the word "context."

22 MS. BERNABEI: The page on which it appears, the  
23 heading on the page on which it appears.

24 WITNESS COOK: Yes. It says why are we structuring  
25 the review this way.

1 BY MS. BERNABEI:

2 Q And it is a review for the Midland plant; is that  
3 correct?

4 A (Witness Cook) Yes.

5 Q In that context you believe it refers to interfaces  
6 not at Midland, not specifically at Midland.

7 MR. MILLER: I would object to that one because my  
8 objection was just sustained to that precise question.

9 MS. BERNABEI: It is proper cross-examination to  
10 ask him if he changes his opinion on the basis of further  
11 questions. That is totally proper cross-examination. I  
12 never heard of an objection like that.

13 JUDGE BECHHOEFER: I think the last question he  
14 can answer, that is a little different.

15 WITNESS COOK: What was the last question, please?

16 BY MS. BERNABEI:

17 Q The last question was whether or not, given the  
18 context in which this statement reads, there were frequent  
19 difficulties of interfacing, that is under Item 2, Scope of  
20 Review, that that does not indicate the difficulties have  
21 occurred at Midland specifically.

22 A I took the statement in the context in which it was  
23 written, to say how we should structure an independent design  
24 review for both this plant or almost any plant in the country  
25 that I was going to review because interfaces have been a question

1 that has been difficult in all plants.

2 I described to you that we have had interface  
3 questions on this job, that we have taken action to make  
4 sure that that has been thoroughly reviewed. I would have  
5 expected any review structured to have the interface question  
6 as part of the scope.

7 Q Isn't it true that in the TERA report there were  
8 findings of interface problems between B&W and Bechtel?

9 A (Witness Cook) No, they are not findings yet.  
10 They are confirmed items that we are investigating and trying  
11 to come back to and make sure they understand all the information,  
12 whether or not they are legitimate concerns.

13 Q They are confirmed items in TERA however, are they  
14 not?

15 A (Witness Cook) They are TERA's, identification of  
16 the things that they reviewed that they want to make sure they  
17 get either more information on to solve the concern or else  
18 to say that it will become a finding.

19 MS. BERNABEI: I have no other questions in this area.

20 JUDGE BECHHOEFER: Why don't we break for lunch and  
21 get back at 2 o'clock?

22 JUDGE HARBOUR: One hour.

23 (Whereupon, at 12:57 p.m. a luncheon recess was  
24 taken until 2 o'clock p.m. on the same day.)

25

AFTERNOON SESSION

(2:15 p.m.)

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JUDGE BECHHOEFER: Ms. Bernabei, are you ready to resume?

MS. BERNABEI: Yes, I am ready.

JUDGE BECHHOEFER: All right, go ahead.

MR. MILLER: Before cross-examination resumes, I find that I was supposed to make two announcements this morning and I did not do it. So, I would like to do that right now.

The order of witnesses that the Applicant will present after this panel is excused will be Mr. Wheeler, Mr. Bird, and then Mr. Peck -- assuming that there is still time to do that this week.

I understand that it is agreeable to the other parties and certainly agreeable to us that when we resume on July 25, the staff will present its case with respect to the alleged violation of Board order. Wherever we are in the cross-examination of the individuals that I just named, will be deferred until after that issue is heard.

JUDGE BECHHOEFER: Then it would be your intent to immediately following the staff's testimony to present Mr. --

MR. MILLER: Moody?

JUDGE BECHHOEFER: -- Moody on that issue?

MR. MILLER: Yes, I think so, let's have all the testimony.



1 JUDGE BECHHOEFER: I think it would be desirable  
2 from what I have heard to conclude that issue before we get  
3 on to other issues later in that week.

4 MR. MILLER: The other announcement that I would  
5 like to make is that the Applicant will present Mr. Bowes along  
6 with some other witnesses with respect to the March 10, March 12  
7 conversation.

8 JUDGE BECHHOEFER: I was going to say -- I think the  
9 other Board Members would agree -- that we are pleased that we  
10 did not have to take any formal action. I think that is  
11 desirable.

12 MS. BERNABEI: May I ask that some time prior to  
13 that date we will be informed who the other witnesses will be?

14 MR. MILLER: Oh, sure. Yes.

15 MS. BERNABEI: You cannot identify them now.

16 MR. MILLER: No. I cannot.

17 JUDGE BECHHOEFER: Did you have another announcement?

18 MR. MILLER: No, that's it.

19 JUDGE BECHHOEFER: All right. Are you ready to  
20 proceed?

21 MR. PATON: Mr. Chairman, I have a preliminary  
22 matter.

23 JUDGE BECHHOEFER: All right.

24 MR. PATON: Ms. Bernabei asked us to investigate  
25 why she did not receive the document under cover letter of

1 Wednesday, June 22. We have called her office and the  
2 document was received yesterday.

3 I have no reason to believe that it was not mailed  
4 timely and I simply cannot explain -- if the document was not  
5 in fact received in her office before yesterday, I do not have  
6 any explanation for that. I have no way to know when it  
7 was received.

8 JUDGE BECHHOEFER: We have no doubt that it was at  
9 least sent to the NRC Mail Room on time. That is often a big  
10 detour in the progress of any document. I will not try to  
11 defend it. Normally, they do a decent job. It is often a  
12 very long journey from Bethesda to H Street, if that is the  
13 progress that it takes. Sometimes it does.

14 Whereupon,

15 JAMES COOK

16 JOHN RUTGERS

17 ROY WELLS

18 resumed the witness stand and, having been previously duly  
19 sworn, were further examined and testified further as  
20 follows:

21 CROSS-EXAMINATION (Continued)

22 BY MS. BERNABEI:

23 AMr. Cook, again I am going to be directing my questions  
24 primarily to you this afternoon.

25 The construction verification program or the quality

1 verification program's primary purpose is to determine the  
2 adequacy of the as-built condition of the plant; is that  
3 correct?

4 A (Witness Cook) Yes.

5 Q Now, will you agree with -- I believe it was  
6 Mr. Rutgers' statement -- that the plant is about 80 percent  
7 complete at this time?

8 A (Witness Cook) I believe 83 is the percentage we  
9 have used in our recent statements.

10 Q Is it fair to say that to some degree the quality  
11 of distruction at the Midland plant is indeterminate, that is  
12 dp not now meet the quality concerns?

13 A (Witess Cook) With respect that there is still  
14 equipment and material there that has not yet been inspected,  
15 and with respect to the fact that we have not completed the  
16 quality verification program, yes.

17 Q And it is fair to say that is the reason for the  
18 quality verificatoion plan because the current adequacy of  
19 construction is indeterminate.

20 MR. MILLER: Can I have that question reread?

21 MS. BERNABEI: I will rephrase the question.

22 BY MS. BERNABEI:

23 Q Is that not in fact the purpose for the construction  
24 verification program, the primary reason because the quality of  
25 construction at the plant is indeterminate?

1           A     (Witness Cook) I guess I just wouldn't use the  
2 word "indeterminate," but in need of further assurance. It  
3 is just a choice of words.

4           Q     Now, in part, in large part the construction veri-  
5 fication program was needed because of the past failures in  
6 inspection of construction; is that true?

7           A     (Witness Cook) Again I believe that is more your  
8 characterization than mine.

9           Q     So, you do not agree with that statement that the  
10 need for a construction verification program at this point is  
11 necessary because of past failures in inspection?

12          A     (Witness Cook) That's right.

13          Q     In your mind, why is the quality verification program  
14 necessary at this point?

15          A     (Witness Cook) To remove any question, to remove  
16 the doubt.

17          Q     Now that doubt does exist, does it not, about the  
18 quality of construction to some degree because of past  
19 failures in the inspection construction work?

20          A     (Witness Cook) To some degree, yes.

21          Q     Now, Consumers Power Company will be responsible  
22 for the quality verification program; is that true?

23          A     (Witness Cook) Yes.

24          Q     And in fact the MPQAD Quality Assurance Department,  
25 will do the actual inspection to verify the quality.

1           A       (Witness Cook) That is correct.

2           Q       Now, is it not a fact that one of the reasons the  
3 present quality of construcxtion is indeterminate or somewhat  
4 in doubt is because of past inspection failures. Why do you  
5 believe now that Consumers Power can adequately verify the  
6 construction quality of the plant?

7           A       (Witness Cook) I believe we can remove the doubt  
8 about past work by simply taking, going through systematically  
9 the entire population of closed inspection records with people  
10 that have been retrained and recertified to the highest  
11 degree of training we can apply and to send them out to do that  
12 work and to make sure that we can dot every "i" and cross  
13 every "t" and have a comprehensive look at the entire plant.

14          Q       But isn't it true that you know the quality of the  
15 Midland construction at this point if these inspections have  
16 been conducted properly in the past?

17          A       (Witness Cook) I believe we have a pretty good idea  
18 about what we are going to find. It is a matter of removing  
19 doubt.

20          Q       No. My question to you is, would you not know  
21 the quality of this 80-percent completed plant at the present  
22 time if inspections had been done properly in the past?

23                 MR. MILLER: I believe that there is no foundation  
24 in certainly this witness' testimony about inspections not  
25 being done properly in the plant. Indeed, he denies he would

1 agree there have been failures in the quality inspections in  
2 the past.

3 MS. BERNABEI: I do not believe that is his testimony.  
4 I believe his testimony is that is "a reason" for the quality  
5 verification program. We can go back and have it read back.

6 BY MS. BERNABEI:

7 Q Would you agree that that is one of the reasons for  
8 the quality verification?

9 WITNESS COOK: Is there an objection pending?

10 MR. MILLER: Not to that question. That has been  
11 asked and answered. So, let's go on with it.

12 BY-MS. BERNABEI:

13 Q Would you agree?

14 A (Witness Cook) Yes.

15 Q My question to you is that if those inspections had  
16 been done properly in the past, would it not be true that you  
17 would know the construction quality of the Midland plant today?

18 A (Witness Cook) If there had been no inspection  
19 misses and no concerns raised by various overview parties and  
20 our own organization, yes, there would be no question today.

21 Q Have you considered in any sense that the inspection  
22 misses and problems in inspection in the past were due to  
23 management failures?

24 A (Witness Cook) I think to some degree, yes.

25 Q And what were those management failures?



1           A     (Witness Cook) Well, I think my main concern in  
2 terms of the management was that we did not instill enough rigor  
3 and discipline into the process so that we would absolutely  
4 minimize the number of misses and make sure that people fully  
5 understood all of the requirements that they were carrying  
6 our their inspections to.

7           Q     What is there in the current CCP as proposed that  
8 will ensure that this management failure has been cured?

9                     I am talking about "ensure" that is supposed to  
10 cure the problem. I am defining the word "ensure" to Mr.  
11 Cook.

12                    JUDGE BECHHOEFER: Are you using "reasonable  
13 assurance," or --

14                    MS. BERNABEI: I am talking about a little more than  
15 reasonable assurance.

16                    MR. MILLER: Well, I guess then I don't understand  
17 the question without some further definition of "assurance."  
18 What does "ensured" mean?

19                    MS. BERNABEI: Well, if Mr. Cook understands the  
20 question --

21                    WITNESS COOK: I would like you to please amplify,  
22 if you would, on the question.

23                    BY MS. BERNABEI:

24                    Q     I am talking about what is there in the current  
25 program that can ensure that this management failure which has

1 occurred in the past on inspection failures does not occur  
2 in the current plan.

3 MR. MILLER: Again I object to the use of the word  
4 "ensure." I think that is vague.

5 MS. BERNABEI: Do you understand the question,  
6 Mr. Cook?

7 MR. MILLER: Excuse me, there is an objection pending  
8 which I am entitled to a ruling on before you ask another  
9 question.

10 MS. BERNABEI: I thiknk Mr. Miller is saying that  
11 Mr. Cook does not understand the question, which I do not  
12 think is a proper objection. If Mr. Cook does not understand,  
13 I am sure he can state his problem with the question.

14 JUDGE BECHHOEFER: I think the term "ensure" is  
15 objectionable in the context you are using it. And then I am  
16 not sure what the answer would mean.

17 If you used a term like "reasonable assurance" which  
18 is what the statutory standard is, it could be understood.  
19 But if it means something else --

20 MS. BERNABEI: I will use the term, "provide a  
21 reasonable assurance."

22 BY MS. BERNABEI:

23 Q What is there to provide reasonable assurance that  
24 the management failures that led to the mis-inspections in the  
25 past will not occur in the new program?

1           A     (Witness Cook) I think the systematic approach that  
2 we have taken to retraining and recertifying the inspectors,  
3 to reviewing and updating all of the inspection plans, and the  
4 involvement of the management team that we have on the job now  
5 that will oversee this program gives me the kind of insurance  
6 or assurance that I believe is appropriate for the kind of  
7 question you have asked.

8           Q     I am asking you specifically about management  
9 failures in the past. Now, it seems to me that the three  
10 factors you mentioned, involvement of the management team  
11 may be a relevant question. The other two really have to do  
12 with improving the inspection process.

13          A     (Witness Cook) Well, excuse me, the program that was  
14 put together that has those items as central parts of it  
15 was conceived by the management and is being executed and over-  
16 seen by the management.

17                    So, I believe that those do have a great deal to do  
18 with the management assurances that are being asked for.

19          Q     Well, isn't it true that it was in part conceived  
20 by the NRC and not Consumers Power's Management?

21                   MR. MILLER: What was conceived by the NRC?

22                   MS. BERNABEI: The program and the approaches that  
23 he has just mentioned.

24                   BY MS. BERNABEI:

25          Q     Isn't it true that it was conceived by the NPC in

1 part and not by Consumers Power Company management?

2 A (Witness Cook) No, I don't believe it was conceived  
3 by the NRC. I believe they told us at one point in time last  
4 fall they were not satisfied with the certification process  
5 that was going on in the remedial soils area.

6 But the programs that were conceived and that are  
7 currently being implemented as part of the CCP I believe were  
8 devised and suggested by the project team.

9 Q Now, one of the factors you mentioned was the involve-  
10 ment of the management team. I assume you mean here greater  
11 involvement of the management team in the CCP.

12 A (Witness Cook) Yes.

13 Q Now, are you familiar with the Spessard memo in  
14 which you specifically were criticized for becoming too  
15 involved in the daily operation in areas in the plant?

16 A (Witness Cook) Yes.

17 Q And in fact, the author of the memo suggested that  
18 perhaps you would find your deep involvement in the daily  
19 operation was contributing to confusion at the site. Do you  
20 remember that?

21 A (Witness Cook) Yes.

22 Q And there was a recommendation or consideration of  
23 the option that new management should be installed at Consumers  
24 Power up to the Vice President; isn't that correct?

25 A (Witness Cook) No, I don't believe that was a

1 correct characterization of what was said.

2 Q Well, it said consideration of that option should  
3 be considered; is that not correct?

4 MR. MILLER: Excuse me. We are talkigg about a  
5 document that is in evidence. Rather than guess as to what  
6 it says or accept your characterization, why don't we all get  
7 it out and take a look?

8 MS. BERNABEI: I would like to ask Mr. Cook. Do  
9 you remember whether that recommendation was made?

10 WITNESS COOK: I remember the memo and I don't  
11 believe that recommendation was made.

12 BY MS. BERNABEI:

13 Q Was that recommendation a consideration that the  
14 author suggested should be considered?

15 A (Witness Cook) Well, I don't characterize the  
16 recommendation the same way you do. I believe the recommendation  
17 was that thee should be high management involvement in the  
18 soils area.

19 MR. WILCOVE: The document we are talking about  
20 is Tab A.

21

22

23

24

25

1 (Pause.)

2 BY MS. BERNABEI:

3 Q The recommendation was, was it not, that there be  
4 a separate management group for the soil separated from  
5 the balance of plant activities, is that correct?

6 A (Witness Cook) Yes, and there is.

7 Q Who is the vice-president in charge in soils acti-  
8 vities?

9 A He does not have a vice-president's title but he  
10 has full single point accountability.

11 Q I believe that the proposal was that they have a  
12 separate management group all the way up to a possible new  
13 vice-president level?

14 A Yes, that is what he said.

15 Q And there's no new vice-president for the soils  
16 area, is there?

17 A No.

18 Q Mr. Cook, do you agree with the authors' criticism  
19 of your performance?

20 A No.

21 Q You do not believe that you were excessively in-  
22 volved in the day-to-day operations so as to lead to con-  
23 fusion at the site?

24 A No, I don't believe so.

25 Q And you don't believe, I assume, therefore, that



1 increased management involvement on your part in CCP will  
2 to increase confusion at the site?

3 A No.

4 Q Are you familiar with any of the testimony of the  
5 NRC concerning, Mr. Cook, specifically your management  
6 attitude?

7 A Yes.

8 Q Therefore, I assume you are familiar with the  
9 criticism of Mr. Cook, that as vice-president that you are  
10 responsible in part for getting the plant in such bad shape?

11 A Yes.

12 Q Do you believe the Midland plant is in bad shape?

13 A It's a relative term.

14 Q Well, my question is, do you think it's in bad  
15 shape.

16 A I don't believe I share the view that was expressed  
17 in this proceeding earlier. It's a matter of extent.

18 Q Do you think it's a problem plant, as compared to  
19 other plants in the country? To you think you have an  
20 opinion as to that?

21 MR. MILLER: I'm going to object to that "problem  
22 plant." We've talked about the use of that term by NRC  
23 Staff members and Mr. Cook has responded in full. If there's  
24 a different definition of "problem plant" she ought to say  
25 so. If it is the same as was testified to yesterday, I

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rg3

1 object on the grounds that it's been asked and answered.

2 MS. BERNABEI: I'm afraid I don't understand the  
3 objection. I'm asking him if he thinks it's a problem plant.  
4 He appeared not to be able to reflect on the words "bad  
5 shape" and I'm just asking him if he thinks that the problem  
6 plant --

7 MR. WILCOVE: Mr. Chairman, I think a clarification  
8 of the term "problem plant" would be helpful. There are  
9 many, many types of problems which plants may share or they  
10 may not. I think the question could be more specific.

11 JUDGE BECHHOEFER: I think you'd better clarify in  
12 what way it is a problem.

13 BY MS. BERNABEI:

14 Q In terms of quality assurance performance at Midland,  
15 do you believe that Midland is one of the poorer plants in  
16 the country?

17 A (Witness Cook) I'm not sure I'm qualified to give  
18 you a relative comparison, but we certainly have had our  
19 share of difficulties.

20 Q I believe I asked you this before. You are familiar  
21 with the fact that the Staff considers it one of the five  
22 plants of --

23 MR. MILLER: I object.

24 BY MS. BERNABEI:

25 Q In reviewing the testimony in this proceeding, do

AR5-A  
rg4

1 you know you've been criticized for Consumer Powers' response  
2 to --

3 A Yes.

4 Q Do you believe that criticism is justified?

5 A Yes.

6 Q And do you believe, in fact, that Consumers or  
7 yourself, as management of Consumers, has exhibited an  
8 overly argumentative attitude in response to the the SALP  
9 report?

10 A I believe we were ill-served by the Staff work that  
11 prepared the original response.

12 Q My question to you was a little different. My  
13 question was, do you believe that Consumers Power's response  
14 was overly argumentative?

15 A Only if we had had the same information before we  
16 sent it that we did once we made a more detailed investiga-  
17 tion of some of the information in the report.

18 Q Before you responded, don't you think you should  
19 have done a detailed investigation?

20 A I assure you, I did quite a bit of checking. I was  
21 concerned by the nature of the response I received. I believe  
22 my colleagues would corroborate that we had that response  
23 rewritten at least twice and that we took considerable pains  
24 to make sure we had at least an affirmation of those who  
25 were sponsoring the draft that the information was complete

AR5-A  
rg5

1 and correct. I was concerned enough about the potential  
2 ramifications of that response that I actually called Mr.  
3 Keppler before I sent it in and told him that I was worried  
4 that the response that we were currently drafting might well  
5 be, you know, ill-received by certain of his Staff people,  
6 and wondered whether or not it was worth sending in, and  
7 confided that based on people's conviction who were sponsor-  
8 ing it and the fact that Mr. Keppler asked, or at least we  
9 were made aware of what our concerns were, that I decided  
10 to send it.

11 In hindsight, I wish I had not sent it.

12 Q Do you consider it a management failure that you  
13 did send it? I'm talking about your failure as a manager?

14 A In hindsight, yes.

15 Q Do you consider that there was inaccurate or  
16 overly argumentative information contained in that response?

17 MR. MILLER: That question has been asked and  
18 answered.

19 MS. BERNABEI: I don't believe so.

20 MR. WILCOVE: It was answered as to whether it  
21 was overly argumentative or not. I don't believe it was  
22 answered as to whether it contained inaccurate information.

23 JUDGE BECHHOEFER: I think that's correct.

24 MS. BERNABEI: I don't believe my question was  
25 answered. When asked about overly argumentative, it was

1 answered in a different way, it was not answered yes or no.

2 MR. MILLER: I think the witness gave a very com-  
3 plete description of whether he felt it was overly argument-  
4 ative. He really did respond fully to the question.

5 MS. BERNABEI: Well, there's no yes or no answer  
6 as far as I understand it.

7 JUDGE BECHHOEFER: Well, I think the witness did  
8 explain his answer on that one. I don't think the accuracy  
9 part was in the original question, however.

10 BY MS. BERNABEI:

11 A Could you repeat the question, please?

12 Q Yes, did you believe that your response to the  
13 SALP report contained inaccurate information?

14 A At least it contained information that at least  
15 could not be totally defended without some question when  
16 fully challenged.

17 Q Would you characterize that as inaccurate informa-  
18 tion?

19 A I'm not sure it was ever resolved what the absolute  
20 accuracy was, but it was clear that representations were  
21 made in the preparation of the draft that could not be  
22 substantiated as forcefully when it was challenged.

23 Q And which information are you referring to,  
24 specifically? We've had a great deal of testimony on parti-  
25 cular parts of that response that various NRC inspectors

1 considered inaccurate and argumentative, and I'd like your  
2 assessment today of which parts of that response could be  
3 considered information that was not totally defensible  
4 today?

5 A I would like to ask my colleague, Mr. Wells, to  
6 join me, because based on the concern that was raised about  
7 that report, I asked him at that time in his prior position  
8 to assist me in looking at the entire report and making sure  
9 that we resolved every difference of opinion on that report  
10 with the NRC Staff. So, if he could assist me --

11 Q Certainly. What I would like is if you could  
12 answer the question to your full knowledge first, and then  
13 we'll give Mr. Wells a full chance.

14 Do you remember any specific information you con-  
15 sider not totally defensible at this time?

16 A All there was -- I'm afraid I'm somewhat cloudy on  
17 it without going back and reviewing the original document.

18 Q Would you like a copy of the original response?

19 A I think it would take a lot of time, but --

20 (Pause.)  
21  
22  
23  
24  
25



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1 BY MS. BERNABEI:

2 Q This was the May 17th, 1982 letter, is that correct?

3 A I forget the date.

4 Q Mr. Cook, I'm going to hand to you what's marked  
5 as Stamiris Exhibit 56 and ask you to review that and see if  
6 that refreshes your recollection as to particular information  
7 that you consider not now fully defensible.

8 MR. WILCOVE: What exhibit number is that, I can't  
9 remember?

10 MS. BERNABEI: 56.

11 MR. WILCOVE: Thank you.

12 WITNESS COOK: I believe to give you an effective  
13 answer, I would ask to have a recess and have a caucus with  
14 some people, who are here in this room with me, who worked  
15 on that assignment for me. If you want to pursue the thing  
16 item by item, it's going to take that kind of review.

17 BY MS. BERNABEI:

18 Q Mr. Wells, without caucusing, do you have any items  
19 that you remember in the category that Mr. Cook just described?

20 A (Witness Wells) No. In fact, I just mentioned to  
21 Mr. Cook I did, along with some assistance from other staff  
22 people, I did the detailed review of every response and came  
23 up with new wording. And when I go back to it I can't remember  
24 specific instances. I think the characterization Mr. Cook  
25 gave was adequate in that what we found, in a number of cases,

5b1b2

1 were that conclusions have been too aggressively drawn from  
2 information that people had and some that could not be  
3 substantiated. I'd have to look at that line by line in order  
4 to give you a clear cut answer on that.

5 Q Perhaps at our recess you could review that.

6 A Frankly, speaking for me, my review would take  
7 much more than a recess for me to do it. It's a little bit  
8 of an effort for me to go back and conduct it. I'd have to  
9 do a really complete review.

10 Q Do you think if you reviewed it overnight you  
11 could answer the question?

12 MR. WILCOVE: Mr. Chairman, I don't think it's  
13 necessary to prolong the cross examination for this. I don't  
14 think it's --

15 MS. BERNABEI: It's going to prolong the cross  
16 examination. I'm asking these two witnesses if they could  
17 review the document and any background material to better  
18 answer the question. Perhaps a night is not enough in which  
19 to say they're simply not familiar with the information. I  
20 don't think that's an inappropriate request.

21 MR. MILLER: Excuse me, I believe that it is  
22 totally inappropriate. It seems to me, the witnesses are  
23 here to testify from their present recollection, as refreshed  
24 by documents. What we have, in the case of this document, is  
25 the lack of recollection of some of the very detailed specifics

5b1b3

1 and an assertion by both witnesses that it would take an  
2 extensive research effort to answer the questions that are  
3 being posed. I don't think that is the function of this sort  
4 of hearing, to require that homework be done, if you will, on  
5 specific items. If the witnesses don't know the answers to  
6 questions, that is the answer. That is the answer in the  
7 record and whatever inferences various parties wish to draw  
8 from such an answer will follow.

9 MS. BERNABEI: I would just note that that was not  
10 Mr. Cook's response. Mr. Cook felt that, after caucusing,  
11 he could perhaps give a fuller response.

12 (Board conferring.)

13 JUDGE BECHHOEFER: Without going through in  
14 detail, would it be possible for either of you to point out  
15 an example or two where there might be inaccuracies?

16 WITNESS COOK: That would be possible. My concern  
17 would be that once we point out an example, we'll be questioned  
18 on the example and we'll be right back where we started with  
19 not having enough detailed information to respond to the  
20 questions.

21 MS. BERNABEI: Frankly, I didn't expect the  
22 answer I got. I think some kind of general description of  
23 the areas would be fine.

24 WITNESS COOK: We can certainly try, but it will  
25 take some period to go through the document and make sure we

5b1b4

1 reconstruct some of the events that went on in this time  
2 period.

3 JUDGE BECHHOEFER: I don't think we would really  
4 need all of them. We thought a few examples, of the type that  
5 Ms. Bernabei is trying to drive at, might be sufficient for  
6 the record. We will understand that you're not saying that  
7 that's all, or anything like that.

8 WITNESS COOK: Fine, if you will allow us to take  
9 that opportunity during the next break, we'll be glad to try.

10 MR. WILCOVE: I would just note that the witnesses  
11 have already testified that some aspects of their response in  
12 the SALP report were not supportable and they also admitted  
13 that it was overly argumentative. So any extensive questioning  
14 on this point I just don't think is going to add anything  
15 to the record.

16 JUDGE BECHHOEFER: We weren't anticipating anything  
17 very extensive. We thought a few examples, an example or  
18 two maybe, would be useful.

19 MS. BERNABEI: That's fine with me.

20 WITNESS COOK: May we keep this then, until the  
21 break?

22 MS. BERNABEI: Sure.

23 WITNESS COOK: Thank you.

24 BY MS. BERNABEI:

25 Q Mr. Cook, do you have any idea of the timetable

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1 for approval of the Construction Completion Plan?

2 A (Witness Cook) I have some, but not what I would  
3 consider to be totally accurate. I believe that the review  
4 of the program, as now described in the June 10th letter, has  
5 proceeded past the region. They have completed their review  
6 and they have forwarded the document to Washington. What its  
7 exact review path will be there, within NRR and I&E, I can't  
8 tell you.

9 Q So NRR will have some input into approval of the  
10 CCP?

11 A I would assume so.

12 Q Now are there any other public meetings scheduled,  
13 to your knowledge?

14 A Not to my knowledge.

15 Q Is it fair to say you don't have an end date of  
16 when you expect this CCP to be approved or disapproved?

17 A Well, I believe we would expect it reasonably  
18 shortly based on the amount of repeat its already gone into,  
19 the public meeting that's already been held and the comments  
20 that have already been received from all sides on the program.  
21 And the fact that I believe it would be beneficial to the  
22 project to have that review completed and to have the program  
23 put into effect.

24 Q When you say fairly shortly, you mean a month? Is  
25 that a few weeks?

5b1b6

1           A       A matter of weeks. But again, I do not control  
2 that process nor do I have direct information on it.

3           Q       On page 30 of your testimony, you state that you  
4 believe Consumers gave a comprehensive and candid response to  
5 the NRC's findings in the diesel generator building inspection.  
6 Now, I'm not reading your specific words, but you're overall  
7 sense from your Section 4 of your testimony, on pages 30 and 31.

8           MR. MILLER: Those words were actually used at the  
9 bottom of the page.

10           BY MS. BERNABEI:

11           Q       Is that correct?

12           A       (Witness Cook) Yes.

13           Q       Now you are asking -- you, Consumers -- are asking  
14 for a mitigation of the civil penalty imposed on Consumers Power  
15 by the NRC. Is that correct?

16           A       Yes.

17           Q       What is the basis for asking for mitigation?

18           A       The basis is the NRC's enforcement policy, which  
19 states the basis for that request, and our conclusion that  
20 the actions we've taken with regard to the Construction Comple-  
21 tion Program meet that basis.

22           Q       And what is that basis?

23           MR. MILLER: This was gone into yesterday by  
24 Counsel, and she got the same answers yesterday that she's  
25 getting now from Mr. Cook. This has just prolonged the cross



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1 examination unduly.

2 MS. BERNABEI: I'm asking the specific reason  
3 Consumers Power believes that this penalty should be mitigated  
4 and I believe there was a question about mitigation yesterday  
5 but not specifically on the basis for asking. It is preliminary  
6 to some other questions about the inspection and response  
7 I'm about to get into. It is a preliminary question. I  
8 can't understand why there would be an objection and I would  
9 repeat this is a repetition of Mr. Miller's insistence on  
10 objecting to every single preliminary question asked. It  
11 really, if anything, just provides for a less expeditious,  
12 efficient proceeding.

13 MR. MILLER: I hardly object to every question,  
14 but this one was definitely gone into yesterday. I can't  
15 understand what it would be preliminary to.

16 (Board conferring.)  
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1 JUDGE BECHHOEFER: Could you state in just brief  
2 terms, I happen to have read your response to the notice  
3 of violation, the document that seeks mitigation; and if  
4 you could just briefly summarize the reasons. I'm not sure  
5 you can, but if you think you can.

6 WITNESS COOK: I'm not sure I can either. I just  
7 turned to that particular letter, and there's a one-and-a-  
8 half page statement of why we think the mitigation is jus-  
9 tified. And I would suggest that should be entered into the  
10 record if it's not already. And it is a complete and com-  
11 prehensive response to Ms. Bernabei's question.

12 BY MS. BERNABEI:

13 Q Thank you, Mr. Cook. I'm asking you as a witness  
14 here today. If your counsel wishes to introduce it, that's  
15 fine, but I'm asking you your understanding of why Consumers  
16 Power asked for mitigation. If you'd like to summarize  
17 what's on the document, that's fine.

18 (Board conferring.)

19 MR. MILLER: Judge Bechhoefer, this is truly repeti-  
20 tious. Yesterday Mr. Cook was examined as to why he believed  
21 that the civil penalty should be mitigated and he described  
22 it as some length.

23 MS. BERNABEI: I think the testimony yesterday  
24 he believed that the CCP was an adequate response and perhaps  
25 more than adequate and for that reason, the penalty should

1 be mitigated. That was my understanding.

2 JUDGE BECHHOEFER: I thought he went a little  
3 beyond that and mentioned that fact that Consumers itself  
4 discovered the problem and a few things like that. I don't  
5 recall all the testimony, but --

6 MS. BERNABEI: This is a preliminary question. I am  
7 just trying to get into another line of questioning, so if  
8 Mr. Cook can merely summarize what's on the mitigation re-  
9 quest.

10 WITNESS COOK: Is there an objection pending,  
11 counselor?

12 MR. MILLER: I believe there is.

13 JUDGE BECHHOEFER: Is there anything you want to add  
14 to what you said yesterday. Otherwise, I guess we can refer  
15 back to what you said yesterday.

16 WITNESS COOK: I think any further elaboration  
17 should just be rereading of this particular statement in the  
18 March 10th letter.

19 MR. MILLER: Page 18,132 in the transcript.

20 MS. BERNABEI: I'll just proceed. There's no  
21 pending question.

22 BY MS. BERNABEI:

23  
24 Q Mr. Cook, do you acknowledge that there was a  
25 quality assurance breakdown at the Midland site?

1 A (Witness Cook) Yes.

2 Q I'm speaking about the one that was documented in  
3 the diesel generator building inspection report?

4 A Yes.

5 Q Now, did Consumers Power prior to the exit inter-  
6 views conducted in October - November of 1982 give any in-  
7 dication of a QA breakdown in other areas, other activities  
8 at the Midland site?

9 A We had a dissatisfaction with the performance of  
10 at least part of the project team in doing their work, which  
11 we had identified as having negative results in terms of the  
12 project itself. The lack of completeness of construction  
13 being turned over to inspection through the field engineering  
14 function had been deemed to be unsatisfactory and we had  
15 been taking steps to try to improve that situation.

16 I don't think any of us believed that that con-  
17 stituted a QA breakdown.

18 Q Do you believe or have you any information about  
19 any QA breakdown in any other activity at the site or any  
20 other area of the site outside the diesel generator building?

21 A No.

22 Q Are you familiar with an audit conducted by Consumers  
23 Power of Bechtel having to do with the hydrostatic pneumatic  
24 test pressure program conducted in September of 1982?

25 A Just vaguely.

1 Q Did you receive the finding of that audit report?

2 A Yes.

3 Q And did that audit report document a quality assur-  
4 ance or quality control breakdown in that area?

5 A I don't believe it was our conclusion that it did,  
6 otherwise we would have stopped the work.

7 Q Was the work stopped?

8 A I don't believe it was.

9 A (Witness Wells) No, I don't think so.

10 Q It is true that the audit report found that there  
11 were -- that Bechtel's performance in this area, again that's  
12 the hydrostatic and pneumatic pressure test program -- that  
13 it was unsatisfactory, is that correct?

14 A If that's what the audit report says, I'd have to  
15 ask you to share the document with me so I could refresh  
16 myself.

17 Q Mr. Wells, do you have any information.

18 A (Witness Wells) No. Again, that was before I  
19 arrived on the scene.

20 Q I'm going to show you what I've marked as Stamiris  
21 Exhibit #102.

22 (The document referred to was  
23 marked Stamiris Exhibit #102  
24 for identification.)

25 MR. MILLER: Do you have a date on the document?

1 MS. BERNABEI: Yes, it's 20 through 29, 1982.

2 BY MS. BERNABEI:

3 Q Mr. Cook and Mr. Wells, I ask you to review the  
4 audit report for the period September 20 through 29, 1982,  
5 identified as Stamiris Exhibit #102, specifically focusing  
6 on page 3.

7 A (Witnesses reading document.)

8 MR. PATON: Mr. Chairman, could we note for the  
9 record that Intervenor is continuing the practice of not  
10 supplying the Staff with a copy of the document. We're  
11 shown a copy of the document and we get to look at it for  
12 a minute and then it is given to the witness or something,  
13 and we're continuing this practice and the Staff is sitting  
14 here without the document, and I'd like to note our objection  
15 to that proceeding.

16 MS. BERNABEI: I will provide a copy of all docu-  
17 ments starting tomorrow morning. I assume that the Board's  
18 ruling allowed a certain grace period to all parties.

19 STAFF: That's fine. We are still without documents  
20 #98, 99, 100, and 101 and 102, and I hope we will receive  
21 those tomorrow morning.

22 BY MS. BERNABEI:

23 Q Mr. Cook, does that audit report indicate there  
24 was a quality assurance or quality control breakdown in the  
25 pneumatic and hydrotesting area?



1           A     It's a matter of what you consider breakdown. It  
2 clearly was an audit that had a number of findings associated  
3 with it and it was concluded based on the meeting referred  
4 to in paragraph G of the document, that certain things had  
5 to be done to improve the implementation of the hydrostatic  
6 program.

7                     It had the full attention of the key people on the  
8 site, Mr. Miller and Mr. Kirilin, who had, I think, voiced  
9 some of the concerns initially, and I think it reflects the  
10 practice that we try to have when a new activity starts.

11                    Hydrostatic testing, basically, was coming up to  
12 speed last summer, that we look at it very carefully and try  
13 to make sure that implementation is all we expect of it.

14                    So, I guess I would not agree with you that it  
15 represents a breakdown. It represents a new process getting  
16 checked out, clearly not being done to the expectations of  
17 the Consumers quality group and the Consumers construction  
18 personnel and the appropriate steps being taken to get the  
19 process in line with our expectations.

20           Q     And, in fact, the Bechtel performance was found to  
21 be unacceptable, I think were the words of the audit?

22           A     Unsatisfactory.

23           Q     And the corrective actions were required were that  
24 there were certain amendments and modifications to the work  
25 packages or changes to the procedures?

1           A     There were quite a few, at least as inferred by  
2 this paragraph. What I don't have attached to this are  
3 all the particular documents that went with this audit.

4           Q     Is it fair to say there were serious quality  
5 assurance failures documented in there?

6           A     There were a number of findings.

7           Q     Do you consider those serious quality assurance  
8 problems?

9           MR. WILCOVE: He answered that question, didn't he?

10          MS. BERNABEI: He said there were findings. I'm  
11 not sure what findings.

12          WITNESS COOK: The findings were sufficient to make  
13 the audit team believe that the performance was unsatisfactory.

14          BY MS. BERNABEI:

15          Q     I'm asking you to answer yes to no to my question,  
16 were there serious quality assurance failures documented in  
17 that audit report?

18          A     I can't answer your question because I don't have  
19 the individual findings in front of me according to the  
20 conclusions of the audit team.

21          Q     If you were to review the findings, did you deter-  
22 mine whether or not there were serious quality assurance  
23 failures there?

24          A     More than likely, I would rely on the findings of  
25 the audit team.

1           A       (Witness Wells) We need to understand that we're  
2 mixing the quality assurance program and the procedural  
3 problem is the quality assurance program and the procedural  
4 problem is the quality assurance program found this problem  
5 which was a procedural problem on implementing a process.  
6 The quality assurance program is the program that requires  
7 the audits which found the problem.

8                   The specific problem identified in the audit relates  
9 to -- and again we don't have the findings attached, but I  
10 think it related to an attachment that was used prior to the  
11 hydrostatic tests being done and indicated that the control  
12 and use of that particular form and part of that process  
13 was not adequate.

14                   And therefore, reading on in the same document, it  
15 says based on the commitments in paragraph G above, where  
16 the corrective action was spelled out, when temporary attach-  
17 ments have been developed so the interim process was stopped  
18 and then allowed to move forward -- that's the way a quality  
19 assurance program is supposed to work.

20           Q       Those procedures themselves, though, were deficient.  
21 Those were part of the quality assurance/quality control  
22 program, were they not?

23           A       I don't believe they were. I think they were part  
24 of a field procedure.

25           Q       Is it fair to say that there are no quality

1 assurance/quality control problems documented in that audit  
2 report, is that what you're saying?

3 A No, I didn't say that. I explained what I wanted  
4 to say.

5 Q I'm asking you the question now, Mr. Wells, are  
6 there any quality control or quality assurance failures  
7 noted in that audit report? And if you need the audit  
8 finding reports to help you, we can give you those.

9 A Well, I guess the way you phrased the question, no  
10 problems identified in the audit report, I would have to  
11 look at all the findings.

12 There was a procedure identified as not being  
13 satisfactory. This will take a little while because I under-  
14 stand from you there were 19 findings and some other infor-  
15 mation.

16 Q I'm going to show you the audit findings and I  
17 won't mark them as an exhibit. They were produced in  
18 discovery.

19 You can take a minute to review and tell me whether  
20 or not those findings indicated quality assurance or quality  
21 control problems.

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1           A       (Witness Cook) Ms. Bernabei, clearly without  
2 reviewing the actual findings, the audit conclusions were that  
3 there were problems in implementation of the appropriate  
4 procedures. Nobody is disputing that whatsoever. I think what  
5 we have difficulty with is your characterization of QA failure  
6 in terms of asking us these questions.

7           Q       I know. I understand, Mr. Cook, but I'm asking  
8 you supposed the field engineering problems or problems with  
9 the procedures -- the field engineering procedures -- are  
10 there any problems with quality assurance or quality control  
11 procedures?

12          A       That we will have to research. These were quality  
13 related or Q-listed procedures that had to be carried out as  
14 part of the execution of the work on the site. And therefore,  
15 whether it was done by field engineering or quality control  
16 or whomever, if it wasn't being done satisfactorily it was  
17 a project problem that had to be addressed and corrected.

18          Q       And it was quality assurance, something that fell  
19 into the quality assurance program that had to be corrected?

20          A       Yes, we'll go through the actual findings.

21          Q       But my question to you is these were procedures  
22 that were required for quality work, or Q work. They were,  
23 therefore, necessarily procedures that fell under the quality  
24 assurance program?

25          A       Absolutely.

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1 Q And as such, if there were problems with the  
2 procedures or problem with a procedure these were, in part,  
3 quality assurance failures?

4 A You're using the word failure again.

5 Q Deficiencies?

6 A Deficiencies.

7 Q You would agree to that?

8 A Oh, absolutely.

9 A (Witness Wells) May I also comment?

10 Q Certainly.

11 A To the extent that these -- these were field  
12 procedures, they would have been quality procedures and, by  
13 program, they would have been reviewed by the Quality Department  
14 to the extent there were problems with the procedures not  
15 identified during that review that could have been a failure.  
16 My point also is that the same quality assurance program, through  
17 another step in the process, identified the problem and caused  
18 corrective action.

19 Q Now the quality assurance deficiencies noted in the  
20 audit report, do you consider those of a serious nature? I'm  
21 asking you from your review of the audit report. Mr. Cook,  
22 I'm referring this question to Mr. Cook, for the moment.

23 A (Witness Cook) Without having spent a great deal  
24 of time, I think just the way the findings were characterized  
25 in the inspection, or the audit report, definitely it was felt



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1 to be of concern.

2 Q A serious concern?

3 A Yes.

4 Q Is it fair to say this is an indication of serious  
5 quality assurance deficiencies in an area outside the diesel  
6 generator building? In fact, in the hydrostatic pneumatic  
7 testing area?

8 A It is certainly an area of concern at that point  
9 in time and it was corrected.

10 Q Now given the fact that the quality assurance  
11 breakdown in the diesel generator building and given the  
12 serious quality assurance deficiencies noted in the hydrostatic  
13 pneumatic testing area, do you consider that the quality  
14 assurance breakdown documented in the DGB report is site-wide?

15 A I believe the concerns that were identified in  
16 those findings, and the ones that caused us to take the actions  
17 we did, were assumed to be site-wide, yes.

18 A (Witness Wells) Could I come back to this for a  
19 moment? I tried to be responsive but there's a lot of stuff  
20 to go through there.

21 JUDGE BECHHOEFER: Go ahead.

22 WITNESS WELLS: I'd like to point out that what  
23 this is generally referring to, at the point of the hydro test,  
24 there's a specific inspection plan. It's listed in here as  
25 PQCIT1.00 that has to be performed, which is the final

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1 inspection of record of that unit that has been hydrotested.  
2 What caused this to be identified was that that final inspection  
3 record required that certain documentation be available. And  
4 in looking back and checking that requirement against the  
5 procedures that supported that documentation being available,  
6 the audit team found the procedures were not adequate. This  
7 could not have resulted in a significant problem of quality  
8 because the final inspection of record would not have allowed  
9 this to pass through the gate. This is a procedural problem.  
10 I'm putting the package of documentation required to support  
11 that record, so although this is not to be minimized as a fact  
12 the procedures were not adequate, this, in my judgment, would  
13 not constitute the breakdown of a quality assurance breakdown  
14 because the ultimate inspection of record simply would not  
15 have allowed the process to go forward.

16 BY MS. BERNABEI:

17 Q Would agree with Mr. Cook that there were serious  
18 quality deficient failures, or deficiencies, noted in there?

19 MR. WILCOVE: Mr. Cook testified that there were  
20 deficiencies.

21 BY MS. BERNABEI:

22 Q Would you agree with Mr. Cook?

23 A (Witness Wells) From the standpoint the procedures  
24 were inadequate, that was a problem.

25 Q Would you agree with the characterization of Mr.

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1 Cook?

2 A I guess I'd have to hear exactly what he said again.

3 Q That there were serious quality assurance deficiencies  
4 in that audit area.

5 A Yes, from a procedural standpoint.

6 JUDGE BECHHOEFER: Mr. Cook, just one bit of  
7 clarification. We have had this questioning in the last few  
8 minutes about how some things are characterized as quality  
9 assurance deficiencies and some things are characterized as  
10 breakdowns. A couple of years ago you, I think, testified that  
11 you really didn't know what a breakdown was and you considered  
12 deficiencies or breakdowns or deficiencies or problems in  
13 the same light. Do you now have somewhat better idea of  
14 what a breakdown is or what a deficiency is, or do you have  
15 the same reservations you had a couple of years ago? Transcript  
16 1708, if you need a reference.

17 WITNESS COOK: I would think probably I'm still in  
18 a gray area in terms of exact definitions of what constitutes  
19 a deficiency and when it becomes a breakdown and when a  
20 failure. I think in terms of our own experience over the  
21 past year and in terms of the actions that we have taken  
22 we believe that, without having an exact definition of the kind  
23 of discipline and the kind of attention to detail that we have  
24 been striving for in improving our implementation in which  
25 the CCP was generated to try to address a project wide situation

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1 which probably could be characterized as a breakdown.

2 JUDGE BECHHOEFER: And I take it it might as well  
3 be characterized as numerous efficiencies, or the like.

4 WITNESS COOK: Let me address the question this  
5 way to you. I think each of the items of the Notice of  
6 Violation that we received from the diesel generator building  
7 inspection, with the exception of the IPIN question which is  
8 separate, that the multiple findings in that inspection could  
9 be taken individually as nothing more than an item of non-  
10 compliance to be addressed by the Licensee and corrected.

11 Taken in total together it represented to us a lack  
12 of appropriate discipline and control at the very detailed  
13 level, which the question to detail addresses, that gave us  
14 the conviction based upon what we knew about the job that  
15 something more comprehensive and more forceful than just  
16 individual corrective action for one, or each individual  
17 item, was necessary and that was what basically was prompting  
18 us to make the decisions we did last December, to institute  
19 the CCP.

20 BY MS. BERNABEI:

21 Q Mr. Cook, on page 31 of your testimony, you state  
22 that as a basis, partial basis, for your opinion that Midland  
23 can be successfully and safely completed is the successful  
24 implementation of remedial soils QA programs since December  
25 of 1982. Is that correct?

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1 A (Witness Cook) Yes.

2 Q Now have you reviewed Mr. Moody's testimony in  
3 this proceeding?

4 A Yes.

5 Q Now Mr. Moody testified primarily in response to  
6 some questions I asked and his reaction to certain problems  
7 or incidents that have occurred in the soils area at the site.  
8 Are you familiar with his testimony in that regard?

9 A His cross examination? No, I don't believe I am.

10 Q I asked him very specifically about the number of  
11 soils problems and whether or not he considered them significant.  
12 And what I'm asking you, as Vice-President do you, as a rule,  
13 overview Mr. Moody's work to determine if there is any problem  
14 that is more significant than he considers it?

15 A Yes.

16 Q Do you think you might have your own impression  
17 of any particular problems encountered in the soils area,  
18 above and beyond Mr. Moody's impression?

19 A Yes.

20 Q And I assume the basis for your opinion, on page  
21 31, is that you believe the remedial soils program has been  
22 successfully implemented, from your review of the work since  
23 December 1982?

24 A Yes. Now this testimony was filed -- I would have  
25 to ask my counselor when the actual filing was. So the



1 testimony represented my review of the soils work up until  
2 the completion of the testimony. But I have overviewed the  
3 ongoing activities and while the work has increased and there  
4 have been some things that I have been made aware of, I still  
5 have the opinion that I have in this testimony, that the work  
6 is going on at a level of quality assurance limitation that is  
7 satisfactory and gives me confidence in the overall work.

8 Q Are you familiar with Dr. Landsman's testimony,  
9 that there have been certain problems that he considers that  
10 have occurred during the remedial soils work that has proceeded  
11 since December 1982?

12 A I am familiar with it to a certain extent.

13 Q Are you also familiar with his testimony, that he  
14 considered the activities and the problems significant enough  
15 that he was beginning to lose faith, confidence and trust that  
16 Consumers was going to be able to pull the soils work off?

17 A I'm not sure I've come across that particular comment  
18 but I'm sure he said it.

19 Q You understand the general sense of that to be what  
20 he says?

21 A Yes.

22 Q It seems to me, that indicates he's not overly  
23 enthusiastic about the success of the remedial soils program  
24 up to this point. Is that fair to say?

25 MR. MILLER: I don't know. To ask a witness to



1 comment on Dr. Landsman's testimony seems to me to be improper.  
2 I object.

3 MS. BERNABEI: I'm asking him how he understands  
4 Dr. Landsman's view of the soils program to this point.

5 WITNESS COOK: I believe my --

6 MR. MILLER: That's all right. If the question  
7 is modified, I'll withdraw my objection.

8 WITNESS COOK: Restate the question.

9 BY MS. BERNABEI:

10 Q Is it your understanding that Dr. Landsman is not  
11 overly enthusiastic about the progress of the remedial soils  
12 work, up to this point?

13 A Yes, but I believe that is his general demeanor.

14 Q Well, there is a difference, do you not believe,  
15 between Dr. Landsman's assessment of the success of the QA  
16 program in soils to your own?

17 A Yes.

18 Q And to what do you account this difference?

19 A The difference in judgment, the difference in how  
20 we evaluate the same information.

21 Q Does it concern you that Dr. Landsman has a  
22 different view of the success of the remedial soils work up  
23 to this point?

24 A Yes, it does.

25 Q What steps has Consumers Power taken to insure --

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1 to address that concern?

2 A To try to address each and every one of the concerns  
3 that he raises. To try and improve our relationship with  
4 Dr. Landsman through every step available to us. To try  
5 to find ways, in the carrying out of our day to day activities,  
6 that will be able to, sometime in the long term, change the  
7 man's opinion of us and the quality of our work.

8 Q Do you believe it's a problem in your personal  
9 relationship? That is, management's personal relationship  
10 with Dr. Landsman?

11 MR. MILLER: I'm going to object unless there is  
12 some specific identification of management.

13 BY MS. BERNABEI:

14 Q Mr. Cook, yourself, perhaps a few people in the  
15 soils area, Mr. Moody --

16 A (Witness Cook) I believe I have very little personal  
17 contact with Dr. Landsman. I am aware, of course, of his  
18 criticism of our people. I find it regrettable because I  
19 don't share his views on the quality of our people.

20 Q My question is do you consider it a problem of a  
21 personal relationship between the people he has criticized  
22 and Dr. Landsman?

23 A I don't see the day to day interactions with Dr.  
24 Landsman and the individual people so I am afraid I'm really  
25 not able to give you an appropriate assessment to your

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1 question.

2 Q When you say that you're hoping to improve relations  
3 with Dr. Landsman, what particular steps are you taking to do  
4 that?

5 A Well, Mr. Moody, as I understand it, is embarking  
6 on a personal interview with Dr. Landsman to try to see if he  
7 can better understand and directly deal with some of the  
8 concerns that have been raised. I'm certainly doing everything  
9 I can with the NRC management to try to keep them aware and  
10 informed of what is going on on the job and to ask for their  
11 assistance in working with Dr. Landsman and trying to resolve  
12 his questions and problems.

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end t5d

1 Q Do you believe any part of the differing opinions  
2 might be a lack of information on either your part or on  
3 Dr. Landsman's part?

4 A I'm not sure I know the answer to the question, because  
5 I really don't know what information he has that I don't  
6 have, or vice versa.

7 Q Mr. Cook, would you agree that an important factor  
8 in a good management attitude is honesty in dealing with  
9 the NRC?

10 A Certainly.

11 Q And would that carry over to honesty in dealings  
12 with the Congress, the oversight committee of the NRC?

13 A Certainly.

14 Q And I assume the public, as well?

15 A Yes.

16 Q Now you testified, did you not, before the  
17 Subcommittee on Energy and Environment of the House Committee  
18 of the Interior?

19 A Yes, I did.

20 Q And that was on June 16th of this year?

21 A Yes.

22 Q Now in response to one of Congressman Luhan's  
23 questions, you stated, did you not, the diesel generator  
24 building was the only building that actually had any  
25 settlement that occurred that was beyond normal predictions

1 of what buildings normally do on soil sites?

2 A I believe that is correct.

3 Q Isn't it true that there were other buildings  
4 at the Midland site that had differential settlement  
5 problems beyond the predictions of how much they would  
6 settle?

7 MR. MILLER: Excuse me. I believe that the first  
8 question dealt with settlement, and now this question deals  
9 with differential settlement.

10 BY MS. BERNABEI:

11 Q Excessive settlement. Don't you believe there  
12 are other buildings on the Midland site that have  
13 excessively settled beyond the predicted settlement?

14 A (Witness Cook) Not to my knowledge, caused  
15 by soils compaction problems.

16 Q Hasn't the administration building in fact had  
17 excessive settling problems?

18 A No. It had one grade beam that experienced  
19 difficulty.

20 Q Wasn't it a foundation problem that led to  
21 excessive settlement?

22 MR. MILLER: Excessive settlement of what?

23 MS. BERNABEI: Of the building.

24 WITNESS COOK: The building wasn't even built then.

25

1 BY MS. BERNABEI:

2 Q Of the foundation, then?

3 A It was a single grade beam that experienced a  
4 localized problem that was repaired.

5 Q Has the auxiliary building experienced excessive  
6 settlement, that is settlement beyond the predicted settle-  
7 ment?

8 A Not to my knowledge.

9 Q How about the service water pump structure?

10 A Not to my knowledge.

11 Q How about the borated water storage tank?

12 A That cracked at a joint due to a design problem.

13 Q So your view is that none of these buildings,  
14 the borated water storage tank building, the service water  
15 pump structure, or the auxiliary building settled more  
16 than the predicted amount?

17 A That is my understanding, yes.

18 Q And why did those structures or buildings crack,  
19 then? I'm talking about the three that I just mentioned.

20 MR. MILLER: I really think we are getting far  
21 afield from Mr. Cook's direct testimony and anything that  
22 is remotely related to the general subject matter of this  
23 hearing.

24 MS. BERNABEI: Management attitude is the  
25 subject matter of this hearing, and it seems to me if there



1 is a question about the accuracy of his testimony before  
2 Congress, then that would be a reflection on his management  
3 attitude. That's the questions I'm asking him right now.

4 MR. MILLER: Excuse me, we've gone from a question  
5 asked by the Congressman to Mr. Cook's knowledge; then there  
6 was examination on that to a whole new subject matter  
7 involving cracks in structures on which there has been no  
8 representation made that that was a subject that Mr. Cook  
9 was interrogated on at the Congressional hearing or any other  
10 place.

11 MS. BERNABEI: I understood that Mr. Cook's  
12 answer to Congressman Luhan's question was the only building  
13 that experienced excessive settlement was the diesel generator  
14 building, and I'm trying to make sure I understand his  
15 position.

16 JUDGE BECHHOEFER: He's confirmed that. He's  
17 expressed his opinion on that.

18 JUDGE HARBOUR: The last question had to do with  
19 cracking.

20 JUDGE BECHHOEFER: Did he make any representations  
21 about cracking?

22 MS. BERNABEI: No, but I'll go on.

23 BY MS. BERNABEI:

24 Q In response to Congressman Luhan's statement,  
25 didn't you also state that when the cracks in the diesel

1 generator building were discovered, the building had already  
2 been built -- not the cracks, the settlement. When the  
3 excessive settlement at the diesel generator building was  
4 discovered, that the building was built?

5 A (Witness Cook) I don't believe I made any comment  
6 regarding that particular question.

7 Q Well, perhaps I can refresh your recollection.  
8 You're speaking about the diesel generator building, and I  
9 believe you said when the building was built, then you  
10 started to see the settlement. That indicates that the  
11 building, the diesel generator building, was already built  
12 at the time you noticed the settlement.

13 A Well, I don't believe I was that specific in  
14 the characterization. My recollection would be that we  
15 talked about when the settlement markers were installed,  
16 but I really can't respond to your question.

17 Q Is your testimony incorrect when you said when  
18 the building was built, then we started to see the settle-  
19 ment?

20 MR. MILLER: I'd like to point out for the record  
21 that there is no transcript of that hearing available as  
22 yet.

23 MS. BERNABEI: There is an informal transcript,  
24 and these notes are exact copies of that.

25 MR. MILLER: I'm not aware of what an informal

1 transcript is, and frankly, given the loose way with words  
2 that fly around this hearing room, I don't trust the copy.

3 MS. BERNABEI: Perhaps I can inform Mr. Miller,  
4 who seems to be ignorant of what an informal transcript is,  
5 given the Congressional hearings were lengthy, it takes up  
6 to a month sometimes to get a formal transcript. However,  
7 there are informal transcripts produced by the reporter  
8 which are made available to any participant who wishes to  
9 copy, which is what we did, and I assume would be available  
10 to Consumers Power.

11 BY MS. BERNABEI:

12 Q I am asking you whether or not you remember you  
13 made the statement that when the building was built, the  
14 diesel generator building, then we started to see the  
15 settlement?

16 MR. MILLER: That question has been asked and  
17 answered, and I object on that basis.

18 MS. BERNABEI: I haven't heard the answer.

19 JUDGE HARBOUR: I'm very confused at what you're  
20 trying to get at. How can the building settle before it  
21 was built?

22 WITNESS COOK: It wasn't complete.

23 JUDGE HARBOUR: Is she trying to find out the  
24 degree of completion?

25 MS. BERNABEI: No, I'm trying to find out, first

1 of all, what he said at the Congressional hearing; secondly,  
2 if that was an accurate statement of when the settlement  
3 was found in 1978. But I don't think that I have to make a  
4 proffer of exactly what I'm trying to find out.

5 (Board conferring.)

6 JUDGE BECHHOEFER: I'm not sure we see how useful  
7 this line of questioning is, without a formal transcript,  
8 particularly when we are arguing about what one word meant  
9 or another word meant.

10 MS. BERNABEI: It is a transcript that was provided  
11 by the reporter. It simply cannot be copied until it is  
12 formalized into a formal hearing report.

13 My question is if Mr. Cook remembers; perhaps he  
14 doesn't remember saying it. We can all wait for the formal  
15 transcript to come out and we can produce it at that time.  
16 My question was whether or not he made that statement at  
17 the hearing.

18 MR. MILLER: And that question was answered by  
19 Mr. Cook.

20 MS. BERNABEI: He did not say that in a yes-or-no  
21 answer to my question.

22 MR. MILLER: I object on the basis it has been  
23 asked and answered.

24 (Board conferring.)

25 JUDGE COWAN: I distinguished myself by listening

1 to what you were saying, I think, and I think you said that  
2 the building was partially finished. You were aware of the  
3 settling when the markers were put in, and that you don't  
4 recall saying just exactly what the transcript or the  
5 unofficial transcript indicated you said.

6 WITNESS COOK: I do not have exact recall of  
7 what I said.

8 JUDGE COWAN: Did I get the rest of it right?

9 WITNESS COOK: In terms of my understanding the  
10 facts of the situation, yes.

11 JUDGE BECHHOEFER: Okay, then I guess the question  
12 has been answered.

13 WITNESS COOK: Could I add one more item just to  
14 give the Board some characterization?

15 JUDGE BECHHOEFER: Certainly.

16 WITNESS COOK: The Congressional testimony was  
17 trying to condense a highly complex matter into a very  
18 few minutes. We were asked by the Congressional staff to  
19 try to speed up the presentations before I even got on. If  
20 I said anything that is not exactly accurate, it was  
21 certainly uninter'ional.

22 MS. BERNABEI: Anything that I'm asking about is  
23 in response to specific questions from the Congressman.  
24 It is not part of your prepared testimony.

25 JUDGE BECHHOEFER: I understand Mr. Cook's last

1 response, too.

2 JUDGE HARBOUR: Will you have a chance to review  
3 that Congressional testimony and correct it before it is  
4 published?

5 WITNESS COOK: If it would serve some useful  
6 function, I would be pleased to do so.

7 JUDGE HARBOUR: Do you know whether you will do so?

8 WITNESS COOK: I am not aware.

9 MR. MILLER: It is our understanding that there  
10 are no present plans to publish the transcript, that is to  
11 make it publicly available. That's what sort of non-event  
12 it was.

13 JUDGE HARBOUR: The proceedings of the committee  
14 or subcommittee will be published, I believe, and I think  
15 that will --

16 WITNESS COOK: We were told after the proceeding  
17 that they did not always publish a transcript of these  
18 lengthy hearings, and in our case there was probably some  
19 leaning by the committee not to publish one. That's just  
20 my informal understanding.

21 JUDGE HARBOUR: Thank you.

22 BY MS. BERNABEI:

23 Q I have one more question on this.

24 Did you state to Congress, again on the 16th of  
25 this month, that you believe the NRC needs to "beef up"



1 their inspection staff -- I'm quoting again from the  
2 informal transcript -- if in fact we're going to have to  
3 continue the level of interaction, communication and under-  
4 standing and knowledge that is necessary between our people  
5 and the NRC people.

6 Did you say something to those words or substance?

7 A (Witness Cook) I believe there was a question along  
8 those lines.

9 Q Did you say something to the effect that the NRC  
10 needs to beef up their inspection staff to maintain an  
11 adequate communication level with the staff?

12 A Again I'm not exactly sure what was said.

13 Q You can't remember whether or not you said that  
14 during that hearing?

15 A That's right. I would really want to refer to a  
16 transcript if one was available, to try to find out  
17 exactly what the response was and what the question was.

18 Q Do you believe in fact that it is necessary for  
19 the NRC to beef up their inspection staff in order to have  
20 proper communication with them?

21 A I believe we are going to need considerable  
22 involvement on site of a number of their people to carry out  
23 everything that we are attempting to do, yes.

24 Q More than the current number of inspectors?

25 A Not necessarily more than the current number. It's

1 really the face-to-face interaction with the individual  
2 inspectors on the matters requiring their consideration.

3 Q The words "beef up," that means increase inspec-  
4 tion staff, do you mean there is an increase in the  
5 inspection staff needed to make an adequate communication  
6 level between Consumers and NRC?

7 MR. MILLER: That question Mr. Cook just answered.

8 MS. BERNABEI: Not yes or no.

9 MR. MILLER: But he explained what he meant by  
10 "beef up." I don't understand the purpose of this  
11 examination.

12 JUDGE BECHHOEFER: He did answer the question.  
13 He did say "not necessarily increase the numbers."

14 BY MS. BERNABEI:

15 Q Do you believe the miscommunication problem between  
16 Consumers Power and the NRC in the past has been caused by  
17 too little interaction?

18 A (Witness Cook) And perhaps not enough formal  
19 documentation of that interaction.

20 Q So you believe there hasn't been enough interaction  
21 and there's too little documentation of the interaction that  
22 does occur; or rather, that did occur?

23 A Generally I think those are the two areas I would  
24 try to work on in terms of trying to make improvements to the  
25 communication, yes.

1 Q Are you familiar with the Bowes investigation  
2 conducted by Mr. Weil of the Office of Investigation?

3 A I am aware that it was done. I was aware of the  
4 general conclusions reached, and I believe that I was  
5 interviewed as part of the investigation.

6 Q And do you know that it is one of the issues examined  
7 by or investigated by Mr. Weil, was whether or not Mr.  
8 Marguglio's statement was correct, that there was an  
9 agreement between you and Mr. Keppler? Are you familiar with  
10 that portion of the investigation?

11 A Not intimately, but generally, yes.

12 Q Now you stated to the investigator -- that is, to  
13 Mr. Weil -- that you believe that you had an agreement with  
14 Mr. Keppler regarding when Consumers Power could be held  
15 in nonconformance?

16 A No, I don't believe that was what I represented  
17 to him. I believe I represented that I had a request to Mr.  
18 Keppler that that be considered.

19 Q Have you reviewed the report that is a report of  
20 your interview with Mr. Weil?

21 A In detail, no.

22

23

24

25

1 Q I'm going to show you Inspection Report 82-13, which  
2 I believed has been introduced as a Staff Exhibit.

3 MR. WILCOVE: Correct.

4 MS. BERNABEI: Do you know what number that is?

5 MR. WILCOVE: 22.

6 BY MS. BERNABEI:

7 Q I'm going to show you Staff Exhibit 22 and ask you  
8 to review for a minute, on page 26, the reported interview  
9 with you.

10 A (Witness Cook) I have reviewed it.

11 Q You have reviewed it?

12 A Yes.

13 Q Now in this review of Mr. Weil's interview with  
14 you it states, does it not, that Keppler had agreed Consumers  
15 should not be held in non-compliance by the NRC for non-nuclear  
16 safety related work?

17 A Yes, it says that but I don't believe that was  
18 exactly the essence of our discussion.

19 Q So you believe this is an inaccurate recordation.

20 A Just in that particular phrase. I think the phrase  
21 immediately under it correctly represents what was said, that  
22 Mr. Keppler said yes he would consider that he would consult  
23 with his staff on it.

24 Q It's fair to say you did not believe you had an  
25 agreement with Mr. Keppler, as noted in this interview?

5flb2

1 A That's right, but he had agreed to look into it.

2 Q Did you, at any time, communicate to Mr. Marguglio  
3 that you had such an agreement?

4 A I don't remember the exact communication we had.  
5 After I made a telephone call he knew I was going to do it and  
6 I did it and I believe, in some form or another, I reported  
7 back to the project team, whether directly to Mr. Marguglio  
8 or not, that I had had the conversation and Mr. Keppler had  
9 agreed to look into it.

10 Q Did you, at any time, speak to anyone on the team,  
11 Mr. Marguglio or someone else, that you had an agreement with  
12 Mr. Keppler that Consumers would not be cited for non-compliance  
13 in non-nuclear safety related work?

14 A I don't believe I did that, no.

15 Q Is it your understanding Mr. Marguglio, in fact,  
16 told the NRC he understood from you that Mr. Keppler and you  
17 had such an agreement?

18 A Would you rephrase the question?

19 Q Yes.

20 Do you know whether -- well, there's been testimony  
21 by the NRC. They were informed by Mr. Marguglio that you  
22 and Mr. Keppler had such an agreement. The question to you  
23 is do you have any information as to whether Mr. Marguglio,  
24 in fact, told the NRC that you, Mr. Cook, and Mr. Keppler had  
25 such an agreement?

5flb3

1 A No. I don't know what Mr. Marguglio told the NRC.

2 Q Have you done any investigation, on your own,  
3 whether or not Mr. Marguglio made that statement to the NRC?

4 A No, I haven't.

5 Q Do you consider that a possible source of friction  
6 between the NRC and the Staff -- excuse me, the NRC and  
7 Consumers Power?

8 MR. MILLER: There's no antecedent for that.

9 JUDGE BECHHOEFER: You mean assuming if such a  
10 statement were made?

11 BY MS. BERNABEI:

12 Q Do you consider the possibility that such a  
13 statement was made, friction between the NRC and Consumers  
14 Power?

15 MR. MILLER: Possibility of a source of friction?  
16 The question is still quite vague.

17 JUDGE BECHHOEFER: You'd better rephrase it.

18 BY MS. BERNABEI:

19 Q Isn't it true that the NRC, to your knowledge,  
20 believed that such a statement was made by Marguglio?

21 A (Witness Cook) I believe you represented that to  
22 me, yes.

23 Q You didn't know prior to this date?

24 A I didn't know the details of what the NRC actually  
25 believed and what they didn't believe.



5f1b4

1 Q Have you read this report?

2 A No.

3 Q You've never read this report?

4 A Only the conclusions.

5 Q And that's the cover letter you're talking about?

6 A Yes.

7 Q Which contains no conclusions.

8 MR. MILLER: Is that a question?

9 BY MS. BERNABEI:

10 Q Is that what you meant? That there's testimony  
11 that this cover letter contains no conclusions and I'm just  
12 asking you whether or not you read the cover letter and that's  
13 what you're referring to, the conclusions in the report?

14 MR. MILLER: That is complete mischaracterization  
15 of the testimony of the NRC Staff as to what contains  
16 conclusions and what doesn't. And I cannot imagine that  
17 Counsel wasn't here when Mr. Weil explained, in painstaking  
18 detail, what the format of the report was and who was  
19 responsible for writing the cover letter, what it was supposed  
20 to include and not include.

21 BY MS. BERNABEI:

22 Q Outside of the cover letter, you've never read  
23 any other part of the report?

24 A (Witness Cook) That's correct.

25 Q Now is it of concern to you, that an investigation

5f1b5

1 was made of a possible agreement between yourself and Mr.  
2 Keppler?

3 MR.. WILCOVE: Is he concerned now that it was made  
4 or was he concerned at the time?

5 BY MS. BERNABEI:

6 Q Are you concerned now?

7 A I can understand the investigation to have that as  
8 its focus.

9 Q Well, it was a focus, if not the major focus, isn't  
10 that correct?

11 A I don't know.

12 Q In fact, you didn't even know the investigation  
13 touched on this area. Is that correct?

14 A It was part of the events surrounding the investiga-  
15 tion.

16 Q Did you conduct -- you meaning Consumers Power --  
17 conduct your own investigation of these events? I'm referring  
18 specifically to the events -- the allegation that Mr. Marguglio  
19 made a misstatement about an agreement between yourself and  
20 Mr. Keppler?

21 MR. MILLER: I believe that one has been asked,  
22 about ten minutes ago.

23 MR. WILCOVE: I think so, too.

24 JUDGE BECHHOEFER: Yes, he did answer that.

25 BY MS. BERNABEI:

5flb6

1 Q Was your answer no or just don't know?

2 MR. MILLER: The fact that Counsel can't keep  
3 track of the questions that are asked and what the answers  
4 are seems to me to be a problem that's unique to her and  
5 shouldn't be imposed on everybody else in the hearing room,  
6 particular the witnesses.

7 MS. BERNABEI: I would like the answer to that  
8 question read back, if I can.

9 MR. WILCOVE: I'm willing to stipulate that Mr.  
10 Cook said no, he did not.

11 MS. BERNABEI: Well, he may have stipulated. I  
12 don't know.

13 MR. MILLER: Perhaps you could inquire as to whether  
14 there are any other questions along this line and, if so, why  
15 can't we just get on with it.

16 MS. BERNABEI: I've asked a number of preliminary  
17 questions which are objected to and I'd like the answer to  
18 that question read back.

19 MR. MILLER: I will not stipulate.

20 MS. BERNABEI: But I'd like it read back, which  
21 is going to take a considerably long time. I'd like the  
22 opportunity to ask it again. I do have a number of questions  
23 about if there wasn't an investigation, why not?

24 JUDGE BECHHOEFER: I think we'll save time this  
25 time and let you answer again. You answered it because I

5flb7

1 remember the answer, but I can't tell you when.

2 WITNESS COOK: Could you please ask the question  
3 again?

4 BY MS. BERNABEI:

5 Q Did Consumers Power conduct an investigation of  
6 the alleged misstatement by Mr. Marguglio?

7 A (Witness Cook) No, I don't believe so.

8 Q Is it your understanding that that alleged misstate-  
9 ment was the source of friction, in the past, between Consumers  
10 Power and the NRC?

11 MR. MILLER: It seems to me we're going over the  
12 same script again. I believe that question was asked and  
13 answered?

14 JUDGE HARBOUR: Didn't you ask that question,  
15 exactly that question?

16 MR. WILCOVE: There might have been an objection.

17 MS. BERNABEI: I'm not sure he answered the question.

18 MR. WILCOVE: I don't remember the answer to that  
19 one, so I won't object to it.

20 JUDGE BECHHOEFER: You may answer.

21 WITNESS COOK: I'm trying to think -- I'm sorry.  
22 Could you go back over the question, if you don't mind?

23 BY MS. BERNABEI:

24 Q Was this alleged representation by Mr. Marguglio  
25 a source of friction between NRC and Consumers Power?

5flb8

1           A       (Witness Cook) Was it a source of friction? I  
2 believe it was.

3           Q       And did you have a concern, you as the manager,  
4 that that friction be resolved, that this source of friction  
5 be determined?

6           A       I believe my larger concern was over two other  
7 issues, one the resolution of the primary question about the  
8 coverage of the quality assurance program for the soils  
9 area; and two, my understanding, which I thought was the major  
10 focus of the NRC's investigation, that they had been misled  
11 in a telephone call on March 12th, I believe it was, by  
12 Mr. Bowes.

13          Q       So it's fair to say that you did focus on the  
14 alleged misrepresentation by Mr. Marguglio?

15          A       I wasn't aware that it was an alleged misrepresenta-  
16 tion.

17          Q       But you were aware that it was a source of  
18 friction?

19          A       Yes.

20          Q       Do you consider the statement -- to have any  
21 information about the statement made by Mr. Marguglio concerning  
22 an agreement between yourself and Mr. Keppler?

23          A       No.

24                    JUDGE BECHHOEFER: Just to clarify it, did you  
25 know, before just a few minutes ago, anything about this

5flb9

1 alleged misstatement, that some statement had been made? Or  
2 that there was a misunderstanding?

3 WITNESS COOK: Yes, I believe there had been a  
4 misunderstanding and there was some contentiousness in terms  
5 of the interactions.

6 JUDGE BECHHOEFER: Had you known that Mr. Marguglio  
7 had said something that the Staff was raising some questions  
8 about? I'm just trying to figure out what detailed. I know  
9 the cover letter about this does not have anything about the  
10 Marguglio statement.

11 WITNESS COOK: I simply understood that his  
12 participation, in the event surrounding the March 10th meeting  
13 and the March 12th telephone call, were part of the overall  
14 investigation and there had been some, I believe, possible  
15 friction in his particular role.

16 JUDGE BECHHOEFER: I see.

17 BY MS. BERNABEI:

18 Q Is it fair to say, despite your understanding,  
19 you took no steps to determine the cause for that friction?

20 A (Witness Cook) That's right.

21 MS. BERNABEI: I have no other questions.

22 JUDGE BECHHOEFER: Why don't we take a fifteen  
23 minute break?

24 (Recess.)

25



1 JUDGE BECHHOEFER: We will go back on the record.

2 MR. MILLER: Before we recessed, Mr. Cook and Mr.  
3 Wells have had a chance to review the original response to the  
4 SALP report and are, I think, prepared to answer some questions  
5 although not in any detail with respect to the specific  
6 examples that were referred to earlier in the afternoon.

7 BY MS. BERNABEI:

8 Q You believe that the examples stated to you now are  
9 not totally dependable.

10 A (Witness Cook) That were in disagreement with the  
11 staff based on their recollection of the same activities.

12 I was just going to start the discussion by saying  
13 that the one that jumped out at me upon reviews as the one  
14 I remembered most vividly was the question that our people  
15 felt that they had identified a number of the supposed 15  
16 deficiencies in the -- I believe it was the Woodward-Clyde  
17 quality assurance manual review which was part of the boring  
18 program, which was not the way that the original SALP report  
19 was written.

20 That was the one that I remember being brought to  
21 my attention most graphically.

22 I would like Mr. Wells to continue with the discussion  
23 because he became more involved on what came after the  
24 original response was submitted.

25 A (Witness Wells) I will try to pick up on that.

1 By the way, if you happen to have the SALP response, it is  
2 on page 1-7.

3 Q Ms. Bernabei: For the record, that is Exhibit 56  
4 for the record.

5 A (Witness Wells) Attachment 1, page 1-7, and it is  
6 Item 5. The NRC findings said -- I will try to paraphrase  
7 so I do not just read it word for word.

8 The NRC had identified 15 deficiencies in the  
9 principal supplier's quality assurance program manual. As it  
10 turned out -- I am jumpoing ahead just a little. As it turned  
11 out, there was not a non-compliance written on this particular  
12 concern but nevertheless, it was included in the SALP response  
13 as a concern of the NRC.

14 So, the finding or the statement was that the NRC  
15 had identified 15 deficiencies. Our response to that basically  
16 said we were concerned about the substantive and procedural  
17 implications of the comment -- and again I am going to para-  
18 phrase what our response said -- that basically we felt that  
19 the problems had been identified by MPQAD rather than NRC.

20 We said that it is simply counter-productive -- and  
21 here I am quoting -- "simply counter-productive and unnecessarily  
22 adversarial for the NRC inspector to take 'credit' for having  
23 identified the deficiencies. Indeed, he did not do so." That  
24 was sort of the tone of our response.

25 As I looked into more details of the issue it was

1 simply more confusing than that. What had happened was that  
2 there was a meeting scheduled -- it happened to be on the  
3 26th of March -- to review this quality assurance manual.

4 We gave the inspector at the time a copy of the  
5 draft quality assurance manual procedures. I think he was  
6 trying to be helpful in reviewing these with us. He reviewed  
7 them the night before the meeting.

8 When he came to the meeting he had identified 15  
9 items that he felt were deficiencies in those procedures.

10 Over that same period of time, our people, Consumers  
11 Power Company QA, were also reviewing the procedures and had  
12 also identified a number of procedural problems. That was  
13 to be the subject of the meeting which would have then  
14 culminated in the changes being made before the approval of  
15 the manual.

16 So, really, the issue boiled down to being one of  
17 who found the problems, was it the NRC or was it Consumers.  
18 The facts of the matter simply turned out that they both did  
19 and they found them in parallel. In our revised response we  
20 simply took out the comment that tried to hinge on who found  
21 it first and we indicated that surely the inspector did  
22 review the program procedures, did find problems. So did we,  
23 and they were corrected. But we took out the prior wording  
24 that we felt was counter-productive and adversarial, et cetera.

25 So, we just simply tried to restate the facts. That

1 was one example of a change that we made.

2 I had time to find one other one, if you want  
3 another one.

4 This would be on Attachment 1, page 1-11, it is  
5 Item 5, also.

6 The SALP report indicated a citation that Dr. Landsman  
7 had written based on the failure of the licensee to supply a  
8 qualified on-site geotechnical engineer. This was a commitment  
9 that we had made, to provide such a qualified on-site  
10 technical engineer.

11 The issue here boiled down to the fact that we  
12 had two potential geotechnical engineers -- and I will refer  
13 to those as No. 1 and No. 2. We also had two NRC inspectors  
14 involved in the review of what would be the preferred  
15 geotechnical engineer, No. 1 or 2.

16 Our response indicated that Mr. Gallagher, who was  
17 one of the NRC inspectors, expressed an opinion to Consumers  
18 Power Company's Mr. Horn in the soils area that he preferred  
19 the second engineer. Really, it is incidental to which was  
20 one or two, but that he preferred the second.

21 Based on that, we selected the second engineer.  
22 Again I am reading to you what our initial response was.

23 "The basis of Mr. Gallagher's opinion, our Mr. Horn  
24 believed to be the experience factor. However, the second  
25 engineer did not have a degree. When Dr. Landsman reviewed the

1 qualifications he said he preferred the first engineer and  
2 cited us for not having a qualified geotechnical engineer."

3 We immediately replaced the second with the first,  
4 so we put the man aboard that was preferred by Dr. Landsman.  
5 Then our response finally said, "In view of these facts, the  
6 citation seems to us to be unfair."

7 So, really the substance of our response said NRC  
8 gave us guidance as to which geotechnical engineer they wanted  
9 and then the second inspector changed the position and cited  
10 us because we went along with the first.

11 As we found out in asking more detailed questions  
12 and with a little more time to look into the issue, in fact  
13 our Mr. Horn says that he may very well have recommended  
14 the second inspector to Mr. Gallagher. So, it was not NRC  
15 initially saying this is the man I want, but he was responding  
16 to a recommendation by Consumers.

17 Mr. Horn's recollection is that Mr. Gallagher agreed.  
18 Mr. Gallagher then says he does not remember. I think it simply  
19 boils down to the fact that two people, trying to recollect  
20 facts, came to different conclusions.

21 We went about, after our review, to challenge Mr.  
22 Gallagher's recollection and we changed our response simply  
23 to say that based on the recollection of our Mr. Horn this was  
24 the series of events, and we took out the reference to the  
25 fact that the citation seems to us to be unfair. We think it

1 was simply a misunderstanding or a misunderstanding of the  
2 sequence of facts.

3 Now, that's two examples of the types of changes  
4 that we made where we looked at our initial response and found  
5 that really -- let me just say it -- sort of the strong  
6 position we had taken in these two cases could not be supported  
7 by the additional investigation that we did of the facts, and  
8 we changed our response.

9 JUDGE BECHHOEFER: Do you have anything further  
10 on that?

11 MS. BERNABEI: I would like to move some exhibits  
12 into evidence at this time.

13 I would like to move Stamiris Exhibit 97, which is  
14 the November 19, 1982 letter from Mr. Novack to Dr. Shewmon  
15 of the ACRS and the attached report on design and construction  
16 problems for the period from the start of construction to  
17 June 30, 1982.

18 I believe this has been previously distributed to  
19 all parties.

20 MR. MILLER: Judge Bechhoefer, I have an objection  
21 to the irrelevance and materiality of the document. I believe  
22 that is the same report that Mr. Keppler testified about when  
23 he was on the stand and he said it was not responsive to the  
24 ACRS inquiry and that he believed it was going to have to be  
25 supplemented or changed to more fully respond to what he



1 believed the thrust of the ACRS question was.

2           Accordingly, I think that the document in its  
3 present form has very little probative value with respect to  
4 anything other than the fact it was sent.

5           MS. BERNABEI: I think it is very probative. It is  
6 the NRC's best effort up to this point to give a comprehensive  
7 review of the design and construction problems over the history  
8 of the Midland plant.

9           It is specifically what I questioned Mr. Cook on and  
10 was the basis for many questions of the Midland panel and  
11 Mr. Keppler himself.

12           I think it is a misstatement to say that Mr. Keppler  
13 has disavowed it. Even a cursory review of the report would  
14 show that it is the staff's best effort up to this point to  
15 document the continuing history of the construction and design  
16 problems.

17           I think it is very probative to this panel's  
18 consideration. I would also note that specifically when we  
19 questioned Mr. Cook about the staff's bottom line conclusions  
20 as to the reason for the failures at Midland and whether or  
21 not Mr. Cook and his panel agreed with the staff's conclusion.  
22 I think that is very important for the panel to understand.

23           MR. MILLER: I am not saying anything about the  
24 testimony, the testimony will stand, obviously. Just that  
25 this document seems -- go ahead.

1 MR. WILCOVE: Mr. Chairman, I also oppose the  
2 introduction of that document at this time.

3 If Ms. Bernabei had wanted to introduce this for a  
4 number of reasons when the staff was on the stand it might  
5 have been appropriate if it had been sponsored and parties  
6 had a chance to cross-examine on that document.

7 But in this case it was used to a very limited  
8 extent by the panel. None of these men -- they had not  
9 written the document. At one point I remember it being used,  
10 just a couple of words, the whole room was trying to figure  
11 out what was meant and nobody knew.

12 Another point, as I recall, there was a listing of  
13 quality assurance problems and Ms. Bernabei did ask the panel  
14 their views on what caused those problems. I think that  
15 testimony can stand by itself without the document.

16 MS. BERNABEI: Let me note that this particular --  
17 I thought you were through.

18 MR. WILCOVE: I have a couple of comments after  
19 Ms. Bernabei speaks.

20 MS. BERNABEI: This particular document has been  
21 referred to separately in three different people's testimony,  
22 one Mr. Keppler; one, I believe, was Dr. Landsman, and now we  
23 did use it to examine Mr. Cook.

24 I believe it is a very instructive document. Mr.  
25 Keppler reaffirmed that stating it was the first attempt of

1 the NRC staff to address the ACRS concern about a design and  
2 construction review to Midland plant.

3 I must note that I am surprised the staff itself  
4 does not want to introduce this because it addresses precisely  
5 the question that this Board should address.

6 I will also note that there would be no reason to  
7 introduce this or have this sponsored by the Midland panel  
8 because they did not participate in the preparation of this  
9 report. In fact, there has been no witness offered that, as  
10 I understand it, helped in the preparation.

11 Certainly, if they want to produce a witness that  
12 could sponsor that, they could.

13 MR. MILLER: Mr. Gardner.

14 MS. BERNABEI: In fact, I think that they should  
15 be asked to produce a witness who can sponsor the report.  
16 I would note that it comes under cover letter from Mr. Novack  
17 to Dr. Shewmon. Mr. Novack is with the Division of Licensing  
18 in Region III.

19 MR. WILCOVE: I would note that specifically in  
20 response to one of Ms. Stamiris' questions Mr. Gardner simply  
21 mentioned that he wrote that report. I remember Ms. Stamiris  
22 asking if it had been made available to the public and he  
23 responded that it had been a Board notification letter.

24 MS. BERNABEI: Well, if Mr. Gardner returns -- I am  
25 sure at one point he will -- I will ask you to introduce it

1           mr. wilcove: We are not planning to have Mr.  
2 Gardner back.

3           MS. BERNABEI: Well, I think it is simply incredible  
4 that there is some question about the authenticity of this  
5 document. It has been distributed to all parties, and that  
6 is the only reason we need to have Mr. Gardner come and  
7 sponsor the document.

8           We have been questioning three witnesses about it  
9 and I think it is very relevant to the Board's consideration.

10          JUDGE BECHHOEFER: The question I have is whether  
11 these comments go to the weight or to the admissibility of  
12 the document.

13          First the Applicant's comments. And I am not  
14 talking about authenticity at the present time.

15          MR. MILLER: That was not my objection.

16          JUDGE BECHHOEFER: I realize that. I realize that.

17          MR. MILLER: But it seems to me that given the  
18 comments made about the document by Mr. Keppler, its materiality  
19 to the issues before the Board is almost nil.

20          The fact is that given a record of this size and  
21 complexity -- we now have over a hundred exhibits from Ms.  
22 Stamiris and probably 40 or 50 from the other parties  
23 combined -- I think it is going to be difficult to sort through  
24 what is truly important and what is just absolutely minimal  
25 relative to the issues.

1           This document falls in the latter category and I  
2 think it ought to be excluded on that basis.

3           MS. BERNABEI: I would heartily disagree. In fact,  
4 and I think in fact the reason Mr. Miller is fighting so hard  
5 to keep it out of the record is that this is the staff's best  
6 evaluation of the severe design-construction policy over  
7 the history of the Midland Project.

8           Mr. Miller, you can find a place in the transcript  
9 characterizing Mr. Keppler's testimony. The testimony was  
10 that the staff in response to ACRS concern, an extraordinary  
11 ACRS concern in the summer of last year presented a cursory  
12 review of the history of the problem.

13           He said he did not believe that satisfied the  
14 ACRS because they had not had enough time to go a complete job  
15 and they owed the ACRS something else. That was his testimony.

16           He didn't say that this is inaccurate, or incomplete,  
17 or of minimal importance. In fact, it was to the contrary,  
18 that because the ACRS concern was so serious that he wanted to  
19 do more.

20           In fact, even a cursory examination of the document  
21 would show that it is the best staff overall evaluation of  
22 the Midland Project that I have ever seen, and the panel members -  
23 not this panel but the NRC panel -- said it is the best over-  
24 all history of Midland Project they have seen. That was  
25 clearly their testimony.

1 MS. SINCLAIR: The ACRS offered itself that this  
2 was an unprecedented request on the part of the ACRS in any  
3 licensing proceeding.

4 Since this was the first effort to meet this unusual  
5 request, I think it should be accorded the kind of significance  
6 that there is action on the part of the ACRS.

7 MR. MILLER: Judge Bechhoefer, I believe I have  
8 located what Mr. Keppler had to say about it. I think the  
9 first reference is at page 15342.

10 MS. BERNABEI: If you will give us a chance to  
11 get the transcript?

12 MR. MILLER: Sure, May 2.

13 JUDGE HARBOUR: I am sorry, Mr. Miller, I did not  
14 hear the number.

15 MR. MILLER: Page 15342, sir.

16 In response to examination by counsel for the  
17 Intervenors in discussing this document Mr. Keppler says,  
18 "This report is not very responsive to the ACRS request  
19 because it is a compilation of problems without a l f  
20 context being put on these problems and the solutions to  
21 what we are going to hear. I really think that we owe the  
22 ACRS something more than that. Let me be honest with you,  
23 we have not gotten anything else."

24 He said this should get review from the staff. "We  
25 have not gotten back to the ACRS. We probably want to talk



1 to them more about it."

2 On page 15344 Mr. Keppler says, "I believe that we  
3 owe the ACRS something more."

4 MS. BERNABEI: I would just note that is exactly  
5 what I represented was his testimony. It is the staff's  
6 best effort to date in response to ACRS concern.

7 MR. MILLER: What he said was, it was not very  
8 responsive to their request.

9 JUDGE BECHHOEFER: The Board has just decided to  
10 permit the document for what it is worth. We think most of  
11 those comments go to whatever weight it can be given.

12 Now, we recognize that these witnesses are probably  
13 not the proper sponsors, but we also think that we have not  
14 heard anything to indicate that the document is not an accurate  
15 document or a correct reflection of the document that was sent.

16 So, we will allow it in for what it is worth.

17 (The document previously marked  
18 for identification as Stamiris  
19 Exhibit No. 97 was received into  
20 evidence.)

21 MS. STAMIRIS: I would just like to add that I did  
22 not provide the three copies for the Court Reporter and I would  
23 like to thank those present who are willing to go back and  
24 retrieve their own copy of this.

25 MS. BERNABEI: I would move to withdraw Stamiris

1 Exhibit 98, that is the Bechtel Engineering Master Markup.  
2 I am willing to provide copies if it needs to travel with the  
3 record, but I believe that Mr. Rutgers' testimony was probably  
4 as full as any information that is contained in the document.

5 MR. MILLER: Well, I would just like to say that  
6 I don't think withdrawing the document is going to add any-  
7 thing at all. The record is really going to be confused  
8 if a document is shown as having been marked for identifi-  
9 cation and we have a gap in the numbering system.

10 JUDGE BECHHOEFER: Well, I would assume that the  
11 document could be -- I don't know, maybe not physically  
12 withdrawn but at least not offered. We will consider it as  
13 not being offered into evidence.

14 I think it may well be useful for copies to travel  
15 with the record. Unfortunately, we don't have any copies  
16 ourselves.

17 MS. BERNABEI: We can provide copies for the Board.  
18 I did not intend to offer it into evidence.

19 MR. PATON: Mr. Chairman, copies will be provided  
20 to parties also.

21 MS. BERNABEI: Well, if I don't want it admitted as  
22 evidence I don't see why I need to provide copies.

23 MR. PATON: Mr. Chairman, if it is going to travel  
24 with the record, if it is a part of the record then we should  
25 be given a copy.

1 JUDGE BECHHOEFER: Well, presently it is not part  
2 of the record.

3 MR. PATON: Otherwise, let's keep it out of the  
4 record.

5 MS. BERNABEI: Well, that is what I was proposing  
6 to begin with.

7 What I was suggested, if there is any party who  
8 wishes it to travel with the record, that that party go to the  
9 expense of copying it.

10 MR. MILLER: I object. I mean, there is a procedure  
11 that I believe is proper to be followed and simply because  
12 one of the parties in this proceeding insists on their rights  
13 does not mean that they get saddled with additional costs.

14 JUDGE BECHHOEFER: Well, except that I am not sure  
15 there is any procedure that requires a party to offer something  
16 into evidence.

17 MR. MILLER: I agree. I have no objection to it.  
18 Counsel can do what she wishes with respect to the document in  
19 terms of offering it.

20 I just think that in order to keep the continuity  
21 of the record, that the document, as marked, ought to be along  
22 with the others exhibits that were marked.

23 MR. PATON: Mr. Chairman, that is fine. But if it  
24 is going to travel with the record we are entitled to get a  
25 copy.

1 JUDGE BECHHOEFER: That's correct.

2 The Board thinks that there is no legal requirement  
3 if the Intervenors do not wish, affirmatively wish this  
4 document to travel with the record, they do not have to  
5 provide copies.

6 We do think that no other document should be given  
7 that number.

8 MS. BERNABEI: That is fine.

9 (The document previously marked  
10 for identification as Stamiris  
11 Exhibit 98 for identification was  
12 withdrawn.)

13 JUDGE BECHHOEFER: But, Mr. Miller, if you wish it  
14 to travel with the record, you are welcome to provide the  
15 copies and let it travel with the record. I think if the party  
16 that sponsored it decides to withdraw it, that is their  
17 prerogative.

18 MR. MILLER: I will review the transcript, Judge  
19 Bechhoef, if that is appropriate.

20 JUDGE BECHHOEFER: But do not put any other number  
21 in its place because that will be confusing.

22 MS. BERNABEI: Right.

23 MR. PATON: Mr. Chairman, just to be very sure, right  
24 now the record stands that it is not offered in evidence and  
25 it will not travel with the record --

1 JUDGE BECHHOEFER: That's correct.

2 MR. PATON: -- subject to something the Applicant  
3 may wish to furnish.

4 JUDGE BECHHOEFER: That's correct.

5 The witnesses have answered some questions on the  
6 basis of it and their testimony is testimony.

7 MS. BERNABEI: I move Stamiris Exhibit 99, and  
8 that is a one-page note to DoM Miller to Mr. Lee.

9 MR. MILLER: I have no objection.

10 MR. WILCOVE: I have none.

11 JUDGE BECHMOEFER: It is received into evidence.  
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1 JUDGE BECHHOEFER: That document will be admitted  
2 into evidence.

3 (The document previously  
4 marked for identification  
5 as Stamiris Exhibit #99  
6 was received in evidence.)

7 MS. BERNABEI: We will provide copies of that  
8 document.

9 MR. PATON: Mr. Chairman, I note each time we talk  
10 about the document, the Intervenor says, I will furnish  
11 copies to you. Will she also furnish copies to the Staff?

12 JUDGE BECHHOEFER: All parties.

13 MR. PATON: Fine. Thank you.

14 JUDGE BECHHOEFER: We do have this one. You can  
15 have the other things back.

16 MS. BERNABEI: I would move Stamiris Exhibit #100  
17 into evidence. I would like the exhibit to be the cover  
18 memorandum, the title page on The Independent Design Review.  
19 Any particular page about which I cross-examine Mr. Cook  
20 which I believe has no number, but is entitled "Scope of  
21 Review" and it is a two-sided -- it's a page with typed copy  
22 on both sides. And I would propose to copy both pages.

23 MR. WILCOVE: Is this from the May 25th TERA report?

24 MS. BERNABEI: No, it's the Bechtel independent  
25 design review.



1 MR. WILCOVE: Okay, thank you.

2 MR. MILLER: I have an objection to that procedure.  
3 We are looking at a very voluminous document and just to take  
4 bits and pieces of it out of context I think is improper and  
5 inappropriate, and if counsel didn't wish to provide the  
6 entire exhibit into the record -- to pick and choose pages  
7 out of what was a carefully compiled report, and introduce  
8 that as an exhibit, I think is improper.

9 MS. BERNABEI: The only part of this report I  
10 examined on had to do with the scope of the review. It was  
11 one sentence on the fifth page of this report -- the fourth  
12 page of the report, the fifth page of the exhibit.

13 And, again, if we had the financial resources of  
14 Consumers Power, we would be delighted to provide as many  
15 copies as necessary. Unfortunately, we do not.

16 JUDGE BECHHOEFER: What is this one?

17 MS. STAMIRIS: #100, July 29th.

18 (Board conferring.)

19 JUDGE BECHHOEFER: Let me just ask if there would  
20 be any objection to a different alternative and see what  
21 reaction I get?

22 Would there be any objection to including as the  
23 exhibit cover sheet, and everything up to the section that  
24 is marked 4.5 ; 4.5 and beyond that seems to be reviews of  
25 specific systems. And that to me would -- now, I may be

1 wrong, but before that it seems to be more or less a general  
2 description. But if there's anything that's likely to be  
3 in there that could affect as we look at the general infor-  
4 mation that appears earlier, then I would be inclined to  
5 say it all should go in.

6 But my question really is, is it possible to divide  
7 it in that way?

8 MR. MILLER: I guess I'd like the opportunity to  
9 look the document over overnight, and perhaps that is a  
10 way of solving the problem.

11 MR. WILCOVE: I'm totally handicapped because I've  
12 never seen this document.

13 MS. BERNABEI: It was shown you during the cross-  
14 examination of the panel.

15 MR. WILCOVE: That does not give me enough time to  
16 be able to assess whether certain portions can be surgically  
17 removed.

18 (Laughter.)

19 JUDGE BECHHOEFER: I can't even guarantee that my  
20 quick look has identified what I was trying to divide out  
21 if possible were the discussions of the particular systems  
22 as distinguished from the more general discussion. I don't  
23 think we can admit just a page or two that has been offered  
24 alone.

25 But we don't have to do this today. We can get the

1 answer to that and either admit it or not admit it tomorrow.  
2 And we would include, by the way, the cover sheet in really  
3 well, my suggestion would be everything up until section  
4 4.5. This, I guess, is your copy.

5 MS. BERNABEI: I will provide to the other parties  
6 so they can determine whether or not they would go along  
7 with that.

8 JUDGE BECHHOEFER: It's even less their recommenda-  
9 tion. It's just something that's thrown out for considera-  
10 tion. We don't have an opinion. But I was just trying to  
11 find a logical place to possibly cut out some of the material.

12 MS. BERNABEI: I move Stamiris Exhibit #101 into  
13 evidence. That is the TERA report of May 27, 1983.

14 MR. MILLER: No objection. That includes all of  
15 the items listed, the items in Appendix III to the report  
16 as well?

17 MS. BERNABEI: Yes, it includes the entire report.

18 MR. WILCOVE: No objection.

19 JUDGE BECHHOEFER: And you included the cover  
20 letter by which it was sent to the parties?

21 MS. BERNABEI: Yes, including the transmittal  
22 letter which is two pages.

23 JUDGE BECHHOEFER: That document will be admitted.  
24  
25

1 (The document previously  
2 marked for identification  
3 as Stamiris Exhibit #101  
4 was received in evidence.)

5 Are you going to provide the reporter with copies  
6 of that?

7 MS. BERNABEI: Yes, I will.

8 JUDGE BECHHOEFER: I take it all the other parties  
9 have copies of that document, is that correct?

10 MS. BERNABEI: I wish to move Exhibit #102 into  
11 evidence. That's the audit report that appeared September 20  
12 through September 29th, 1982.

13 MR. MILLER: No objection.

14 MR. WILCOVE : No objection.

15 JUDGE BECHHOEFER: That document will be admitted  
16 into evidence. Please supply copies of it to everybody.

17 (The document previously  
18 marked for identification  
19 as Stamiris #102  
20 was received in evidence.)

21 MS. BERNABEI: Yes, sir, we will.

22 JUDGE BECHHOEFER: I guess Ms. Sinclair, we're  
23 ready to start with your cross-examination.

24 BY MS. SINCLAIR:

25 Q Mr. Wells, you said that the September 20th and

1 and 29th, '82 report on hydrostatic and pneumatic testing  
2 represented how well MPQAD worked because it found the prob-  
3 lems and addressed them, is that true?

4 A (Witness Wells) Not totally.

5 Q Could you explain further.

6 A What I said was it showed the audit process worked  
7 to find the problem.

8 Q Now, were there problems with Attachment 10 forms  
9 identified with that audit report?

10 A I'm not certain. I think that the procedures that  
11 were referred to may have included the Attachment 10, I'm  
12 not certain.

13 Q Why is the draft audit finding regarding the Attach-  
14 ment 10 forms not included in the final audit report?

15 MR. MILLER: Excuse me, may we have a foundation  
16 for the draft audit finding? I'm not aware of any.

17 BY MS. SINCLAIR:

18 Q Did you state that you were not sure that the  
19 Attachment 10 forms were a part of that audit?

20 A (Witness Wells) I said I think the procedures  
21 that were referenced in the audit report did include the  
22 Attachment 10 as part of the documentation process but I  
23 wasn't totally sure.

24 Q Are you aware of the inspection report 83-03?

25 A Sure, yes.

1 Q On page three of that inspection report, is it not  
2 true that you were cited by the NRC for failure to include  
3 these problems with the Attachment 10 forms in that Septem-  
4 ber to 29 audit report?

5 A Could I just see it, please?

6 (Document handed to witness.)

7 MS. STAMIRIS: This is attached to Mr. Landsman's  
8 testimony.

9 MR. WILCOVE: No, it's Staff Exhibit 18.

10 (Witnesses reading document.)

11 BY MS. SINCLAIR:

12 Q It's page three.

13 A (witness Wells) I've read it.

14 Q Now do you know why it was that the draft audit  
15 findings regarding the Attachment 10 forms were not included  
16 in the final audit report?

17 A Could I ask one point of clarification? It does  
18 reference the number of the audit, just to be sure we are  
19 talking about that when I think we were with MO-1-333-2.  
20 Is that the audit?

21 MS. STAMIRIS: No, 33.

22 MR. WELLS: Is that one we were talking about  
23 earlier?

24 MS. STAMIRIS: We'll show you the exhibit, which  
25 is the September 20 to 29 audit.



1 JUDGE HARBOUR: That's Stamiris Exhibit #102.

2 MS. SINCLAIR: It's the one that was just introduced.  
3 However, it is audit report M0-1-333-2 for the September 20th  
4 and 29th, 1982 audit.

5 WITNESS WELLS: Thank you. That was all I wanted  
6 to make sure we were talking about. I don't need to say it  
7 again.

8 JUDGE HARBOUR: But is that the one that is referred  
9 to in the inspection report?

10 MS. SINCLAIR: That's correct.

11 BY MS. SINCLAIR:

12 Q Do you why the draft audit findings -- why the  
13 Attachment 10 form was not included?

14 A (Witness Wells) I can only repeat what I was told  
15 my individuals that were involved at the time, because again  
16 I was not in this position.

17 Basically, what I've been told by the then-super-  
18 intendent charged with quality assurance was it was not  
19 included specifically in the audit report because, for one,  
20 the use of the attachment then was terminated because they  
21 felt that the general content of the audit adequately covered  
22 it without specific reference. But I have no personal  
23 knowledge other than being told that.

24 Q Why was it drafted as an audit finding if the  
25 Attachment 10 forms were being discontinued?

1           A       It was during the audit that the issue of the  
2 Attachment 10 came up, and immediate corrective action was  
3 the termination process again, as I understand it.

4           JUDGE HARBOUR: Excuse me, Ms. Sinclair, would you  
5 talk a little bit louder.

6           BY MS. SINCLAIR:

7           Q       Do you think that the NRC would have cited you  
8 noncompliance on this issue if they considered it non-  
9 essential?

10          MR. WILCOVE: Mr. Chairman, I will object. I don't  
11 think these witnesses can speculate on what the NRC may or  
12 may not do.

13          MR. MILLER: I agree.

14          JUDGE BECHHOEFER: We'll sustain that.

15          BY MS. SINCLAIR:

16          Q       Mr. Wells, why do you think that the NRC cited  
17 you for a noncompliance in this instance?

18          MR. MILLER: I'm going to object. The reasons are  
19 spelled out in the inspection report and to have this  
20 witness speculate as to why the NRC did or did not do  
21 something, I think is not going to add anything at all  
22 to the record. The question is irrelevant.

23          BY MS. SINCLAIR:

24          Q       Do you think this is an example of failure to meet  
25 your obligation, your regulatory obligation, for full and

1 complete and accurate reporting?

2 A (Witness Wells) There's no objection to this?

3 MR. MILLER: No.

4 WITNESS WELLS: I don't think it's a failure to  
5 meet the obligation, no. I think that in hindsight, whoever  
6 finalized that audit should have left it in. It would have  
7 certainly have nothing but confirm the corrective action  
8 that had been taken.

9 BY MS. SINCLAIR:

10 Q Mr. Rutgers, you mentioned the congestion at the  
11 plant and the fact that the specification tolerances  
12 are tight.

13 A (Witness Rutgers) Yes.

14 Q When you were talking about pipe supports, can you  
15 tell me who determined who determined the stringency of  
16 the specifications to begin with?

17 A Design engineering.

18 Q Now, is that based on any particular code?

19 A The codes are input to the designer.

20 Q And how are those codes developed; are they de-  
21 veloped specifically for the nuclear industry or for industry  
22 at large?

23 A I don't know if they were developed specifically  
24 for the nuclear industry. Certain sections of the ASME  
25 apply to the nuclear industry.

1 Q Now, as a general rule, aren't these specifications  
2 for nuclear plants aimed at being more stringent and more  
3 careful than codes for industry at large?

4 A I don't know. I don't sit on a code committee.

5 Q But you're a project manager, and isn't the  
6 philosophy of the construction of nuclear power plants such  
7 that more stringent, or at least as stringent, requirements  
8 as codes for the industry at large should be followed?

9 A There's a section of the code that addresses the  
10 reactor coolant system boundary, which obviously doesn't  
11 apply to the rest of the industry because it applies to  
12 reactor coolant systems.

13 Q Were these codes in the category you're talking  
14 about right now?

15 MR. MILLER: Excuse me, the question is vague.  
16 I'm not sure about what the antecedent is for category,  
17 and "these codes" is very general.

18 MR. WILCOVE: I think so too. I think Ms.  
19 Sinclair should be more specific.

20 BY MS. SINCLAIR:

21 Q We're talking about the tolerances that he said  
22 were tight' as far as the pipe supports are concerned, isn't  
23 that correct?

24 A (Witness Rutgers) Yes.

25 Q And my question is, were these based on codes

1 that apply in industry at large?

2 A I don't think we can try a relationship between  
3 a code allowable and a tolerance on a pipe hanger.

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1 Q Are the specifications based on any kind of code  
2 that you're familiar with?

3 A Well, the basic specifications for system boundaries  
4 have the ASME code, but the tolerances I am talking about here  
5 are in pipe supports, which aren't necessarily governed by  
6 a pressure boundary code.

7 Q Are these specifications common to the nuclear  
8 industry, or are they designed for each particular plant  
9 themselves?

10 A They stem from a set of Bechtel standards. They  
11 tend to be tailor-made for individual jobs. Let me repeat  
12 myself. They tend to stem from Bechtel standards and they  
13 are tailor-made for individual jobs.

14 Q And what are the Bechtel standards based on?

15 A Industry experience.

16 Q And so in making the specs looser, you were in fact  
17 reducing the judgment of the original design as far as what  
18 was needed for this plant?

19 A The change in tolerances was developed by the  
20 original designers -- by the original design agency.

21 Q But the original design agency was responding  
22 to just simply difficulties in installing at the Midland  
23 plant, rather than based on what the best engineering  
24 judgment for safety is concerned?

25 A I cannot categorize that as a response deviating



1 from good engineering judgment.

2 Q Why were they made less stringent?

3 A Because the perhaps original design did not reflect  
4 in all cases the difficulty it would be to construct the  
5 design.

6 Q Were these original specifications a part of the  
7 FSAR?

8 A I don't know.

9 Q Do you know if the FSAR was changed to accommodate  
10 these less stringent specifications?

11 A (Witness Cook) If any change we make to a  
12 specification or a drawing changes an FSAR commitment, the  
13 FSAR has to be changed simultaneously before that change  
14 in the design can be implemented.

15 JUDGE HARBOUR: Are the specification tolerances  
16 for pipe hangers in the FSAR?

17 WITNESS RUTGERS: I don't know, Judge Harbour.

18 WITNESS COOK: I don't know for sure. My guess is  
19 they are not.

20 BY MS. SINCLAIR:

21 Q Do you know if the specification tolerances are  
22 the same as or more stringent than that that is used in  
23 industry generally as a whole for pipe supports?

24 A (Witness Rutgers) My view is that these tolerances  
25 are no less stringent than other plants in the industry.

1           Q     Do you know if it is the general practice at the  
2 Midland plant where difficulties are encountered, as you  
3 discussed, due to retrofitting and congestion in the plant,  
4 that engineering has a practice of accommodating difficulties  
5 simply to get the job done?

6           MR. MILLER:  Objection.  I think that is a mis-  
7 characterization of what Mr. Rutgers testified to.  
8 "Accommodating just to get the job done" is simply not in  
9 this record at all.

10          MS. SINCLAIR:  I am discussing the fact that here  
11 is an example that he gave us of how the specifications that  
12 were stringent to begin with were found to be a difficulty  
13 in construction of the plant, and in order to move forward  
14 with construction, the specifications were simply made less  
15 stringent, and I am trying to find out if this is the usual  
16 practice in the plant, to just make the specifications less  
17 stringent in order to accommodate construction, or if some  
18 real evaluation of the design itself so that you can maintain  
19 quality of construction is considered.

20          WITNESS RUTGERS:  I assure you that every design  
21 change evaluated for Midland has the full review of the  
22 originating design agency.

23          BY MS. SINCLAIR:

24          Q     Is it reviewed in terms of going ahead with  
25 construction or in terms of whether this will constitute an

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1 adequate design?

2 A (Witness Rutgers) It is viewed in the light of  
3 assuring that the design will perform its intended function.  
4 If it will not, the design change will not be approved or  
5 made.

6 A (Witness Cook) Can I augment your response?

7 As the engineers come up from the design ranks  
8 and have worked in a number of other plants besides this one,  
9 I'd like to just make the observation that the original  
10 design specification, when it is developed, cannot foresee  
11 all of the specific applications that it will have to contend  
12 with and the multiple situations that that specification  
13 is utilized for in the actual construction of the plant.  
14 When the construction forces find that a specific design  
15 requirement is giving them difficulty, there is a  
16 procedural avenue that is open to them to make that problem  
17 known to the engineering organization, who can then evaluate  
18 whether that particular concern can be modified in some way  
19 to make the design more constructable without violating any  
20 of the initial functions and criteria that the design  
21 was supposed to have. The original design organization has  
22 to do that evaluation and that is the procedure, but it is  
23 impossible for the designers who prepare the specifications  
24 originally and prepare the original drawings for the original  
25 hangers to be able to foresee every field application they

1 will encounter and therefore there is a standard process  
2 to have those kinds of concerns fed back from the field to  
3 the design organization, and reviewed, and an appropriate  
4 change made, if all of the design intent can be maintained  
5 with the design change.

6 Q Does the NRC have to give you approval for these  
7 kinds of changes in design specifications as is found in  
8 the FSAR?

9 A If it affects the FSAR, you have to submit an  
10 FSAR change, and they had the ability to disagree with that  
11 change.

12 Q On the pipe support changes in the specifications,  
13 did you have to go to the NRC for approval?

14 A (Witness Rutgers) I don't believe so.

15 Q Do you know if this is a common practice at the  
16 plant, the Midland plant, to change specifications from the  
17 original design?

18 A Specifications change from the original design  
19 as time goes on. In some cases the changes are made  
20 strictly in response to requests for increased --

21 Q One of Mr. Keppler's principal concerns as a  
22 result of the diesel generator building inspection, he states,  
23 was that the as-built condition of the plant could not perform  
24 to the design. Is that correct? Do you have that under-  
25 standing?

1           A     I believe I recall that comment of Mr. Keppler's.

2           Q     Can you tell us how these anomalies in the  
3 construction of the plant do not conform to the design if  
4 you have this particular route or method of changing the  
5 specifications and the design and going to the NRC with  
6 your changes? Can you tell us how that happens?

7           A     Well, let me talk about one example, if I may talk  
8 hypothetically. If construction finds that a particular hanger  
9 component support cannot be installed precisely in accordance  
10 with the design, and the only physical way that it can be  
11 installed is in a manner other than called out in the design  
12 drawing by our procedures, field engineering, not design  
13 engineering, but field engineering must initiate a field  
14 engineering change request.

15                     That request is forwarded to the original agency  
16 and upon approval of that field change request, then  
17 construction can proceed to install the pipe support in  
18 accordance with the approved field change request.

19                     In some instances that approval was not obtained  
20 before the fact. It may have been field engineering's  
21 judgment that the installation was very close or perhaps  
22 even might have been within tolerance, but in the diesel  
23 generator building we found several instances where construc-  
24 tion had proceeded in advance of obtaining a request --  
25 I'm sorry, an approved request by the originating design

1 agency.

2 Q Do you know if this has occurred in other  
3 buildings? I mean following the diesel generator building  
4 inspection, we understand that you tried to see if these  
5 kinds of problems were in other parts of the plant. Do you  
6 have any knowledge of whether there are other parts of the  
7 plant where the as-built condition does not meet the design?

8 A Yes, we found that in the pipe support review.  
9 Very often the subject of a nonconformance report written  
10 by QC will be that this design or this installation does  
11 not look precisely like the latest design drawing and the  
12 cause of the nonconformance may be the failure of field  
13 engineering to obtain an approval of a field change request  
14 before the fact of installation.

15 Q Do you consider this a failure of the quality  
16 control program when this happens?

17 A No, I view that as a lack of absolute discipline  
18 on the part of field engineering.

19 Q Can you tell us what percentage of the plant is  
20 constructed in a way that the as-built condition does not  
21 conform to the design or the FSAR?

22 A No.

23 Q Have you made any attempt to find that out?

24 A I believe we will find that out as we conduct the  
25 CCP.



1 Q Mr. Cook, I became concerned about how much you  
2 knew about the soils settlement and compaction problems  
3 from the answers, and so I'd like to find a few things out  
4 about that.

5 What do you think is the purpose of the extensive  
6 underpinning at the site at the present time?

7 MR. MILLER: I object. I think that question is  
8 simply so broad and general that the answer is not going to  
9 be meaningful on this record.

10 MR. WILCOVE: I agree with that.

11 MS. SINCLAIR: Just a minute. Mr. Cook has  
12 testified that to his knowledge the only building that was  
13 sinking excessively in the plant site was the diesel generator  
14 building and as a ratepayer, and a concerned one, and a  
15 taxpayer, I am aware that this massive underpinning is going  
16 to be done at extremely great cost, so that I would like to  
17 know what management believes is the reason for the  
18 expensive underpinning if the diesel generator building is  
19 the only building that is sinking excessively.

20 MR. MILLER: Well, that subject has been discussed  
21 at such length by all parties to this proceeding in weeks  
22 and weeks of hearings as to the reason for the remedial  
23 work under the DGB, the auxiliary building, and the service  
24 water pump structure, and we really can't add anything to  
25 the record at this time. To rehash that, even in summary

1 form --

2 MS. SINCLAIR: We haven't had any testimony from  
3 management until Ms. Bernabei brought this up as to their  
4 understanding of the extent of the soils settlement  
5 problem. What we heard in Congress at the Congressional  
6 inquiry on the part of both Mr. Selby and Mr. Cook really  
7 concerned us as to whether management really understood  
8 the extent of the problems as we understand them here, and  
9 this is why I want to get back to this as far as what Mr.  
10 Cook understands is the extent of the soil settlement  
11 problem at this time.

12 MS. BERNABEI: I would just concur with Ms.  
13 Sinclair. It seems to me that there would be -- it would  
14 be very easy for Mr. Cook to explain why other buildings  
15 are being underpinned if there are not excessive settlement  
16 problems. I believe that is the question she wants to ask.

17 MR. MILLER: I find it absolutely incredible that  
18 parties to this proceeding who have been here for weeks  
19 and weeks at a time are at a state where they can profess  
20 not to understand why the company is going through the  
21 underpinning program. I find it incredible.

22 MS. SINCLAIR: We understand it, but we are  
23 convinced that neither Mr. Cook nor Mr. Selby understands  
24 it, from the nature of their testimony. We understand it  
25 perfectly, and we are alarmed that management has a limited

1 and narrow view of what is actually going on out there.

2 (Board conferring.)

3 JUDGE BECHHOEFER: We have decided that we would  
4 sustain that objection because we don't see where the line  
5 of questioning could lead to anything that is pertinent or  
6 relevant.

7 MS. SINCLAIR: Don't you think we need to understand  
8 what management understands about the soil problem, given  
9 the fact that we have heard their testimony and given the  
10 fact even what Ms. Bernabei got into the record this  
11 afternoon --

12 MS. STAMIRIS: I'd like to put in my feelings. I  
13 don't think that Ms. Sinclair intends to go into the  
14 technical issues on this, and I do think it would be quite  
15 impossible at this point to deal with these issues further  
16 without some kind of transcript of what was said to  
17 Congress. But I believe it is important to get some kind  
18 of transcript of what was said at this Congressional hearing,  
19 because I believe that there was either a deliberate or an  
20 unintentional misrepresentation of several facts regarding  
21 soil settlement issues that was presented to Congress, and I  
22 do think that in view of the way that we have attempted to  
23 address those issues without that transcript today, we  
24 should leave this subject but come back to it when a  
25 transcript is available.

1 MR. MILLER: I'd just like to observe that there  
2 may have been misrepresentations to Congress in prepared  
3 testimony and otherwise, but it was not by Consumers Power  
4 Company, but by other participants in that hearing, as far  
5 as I am concerned. So I don't understand the pertinence  
6 of the inquiry into the Congressional hearings at all.

7 Mr. Cook has testified. It was a pretty lame  
8 attempt at impeachment, and it is past. Now to go into  
9 the technical reasons why underpinning is going forward at  
10 this point in time just seems to be a wholly fruitless  
11 exercise.

12 MS. BERNABEI: The purpose of my cross-examination  
13 was to demonstrate that Mr. Cook lied to Congress.

14 JUDGE BECHHOEFER: We recognized that.

15 MS. BERNABEI: Thank you. And I think Ms. Sinclair  
16 is not trying to get into the technical issues but to  
17 challenge his statement that the only building sinking at  
18 that site, the only building having settlement problems  
19 was the diesel generator building.

20 MR. PATON: Mr. Chairman, that is a gross  
21 misrepresentation. That is a gross misrepresentation.  
22 The Staff believes that Mr. Cook understands the problems.  
23 The Staff believes that Intervenors have misconstrued  
24 statements before Congress, and actually I oppose the  
25 Applicant's objection because I think in three minutes Mr.

1 Cook could clear this up. There is a huge cloud being  
2 generated here and it is not correct.

3 MS. STAMIRIS: But if we can't accept our  
4 representation of what was said, then we can't accept Mr.  
5 Cook's representation of what was said. That's why I  
6 believe my proposal is the only sensible one, that we  
7 have to wait until the transcript is available.

8 MS. BERNABEI: I was the only one that went to get  
9 the informal transcript so I could read the precise words  
10 of Mr. Cook, and I believe he agreed with my reading of  
11 the transcript.

12 MR. PATON: Mr. Chairman, I really think as a  
13 practical matter giving Mr. Cook the opportunity to explain  
14 in what I'm sure he can do in three or four minutes, I  
15 think Intervenors have misconstrued a statement he made. He  
16 didn't say that it wasn't necessary to underpin these  
17 buildings. He said that only one building was undergoing  
18 excessive settlement to date. My recollection of the record  
19 is absolutely true. I think that's what they are creating  
20 this big cloud about.

21 MS. STAMIRIS: My objection is that Mr. Cook said  
22 he doesn't remember his exact words.

23 MR. PATON: No, no, he testified a while ago  
24 consistent with that, I believe, that in fact he did tell  
25 Congress that the diesel generator building was the only

1 building that had settled excessively, and that is my exact  
2 recollection of the record in this case. I have no reason  
3 to believe that he misled anybody.

4 MS. STAMIRIS: I am thinking of a different  
5 example.

6 JUDGE BECHHOEFER: What I am trying to figure out  
7 is how the last question or its answer could be pertinent  
8 to anything that we have to decide. The general purpose of  
9 the --

10 MS. SINCLAIR: -- management attitude and management  
11 competence --

12 JUDGE BECHHOEFER: If you're prepared to show --

13 MS. SINCLAIR: -- management attitude, character  
14 and competence, the nature and the extent and the fullness  
15 of information they are providing a public body like  
16 Congress, the fullness of information that they are providing  
17 for the hearing record.

18 I'd like to also say that Mr. Keppler has repeatedly  
19 said there seems to be a breakdown in communications between  
20 the QA people on site and top management, and I think I have  
21 tried to demonstrate time and again that Mr. Selby's  
22 public statements do not reflect an understanding of what is  
23 going on, and I say that Mr. Cook in his answers today and  
24 what we heard in Congress did not reflect what we know  
25 and what we have learned in this hearing.



1           JUDGE HARBOUR: I would like just to say something.  
2 I think that things have gone much too far. The  
3 difficulty, as I can see it, is that the testimony Mr.  
4 Cook has given has been accurate. There has been a mis-  
5 understanding on the part of the Intervenors between the  
6 relationships between cracking of structures, differential  
7 settlement, and settlement of buildings beyond the amount  
8 they were predicted to settle. And I agree we have a large  
9 amount of confusion here and we are wasting this Board's  
10 time. But in my view we are wasting the time because of  
11 lack of understanding of Intervenors as to what these  
12 technical relationships are.

13           If it would help to clear up the misunderstanding,  
14 then I think Mr. Paton's idea might possibly be a good one,  
15 to let Mr. Cook take three minutes and try to explain what  
16 these problems are. That is my only suggestion. But we  
17 have certainly wasted so much of this Board's time.

18           MR. MILLER: I will withdraw my objection and  
19 let Mr. Cook answer.

20           MS. STAMIRIS: I object strongly to that without  
21 the transcript.

22           Are you going to withdraw your question or --

23           MS. SINCLAIR: I have a note here about the  
24 large amount of settlement occurring at the north end of  
25 the auxiliary building, and I realize there is a difference

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1 between just settlement and different settlement, and I  
2 would like to have Mr. Cook spell that out, if he knows that.

3 JUDGE BECHHOEFER: Well, Mr. Cook, I guess you can  
4 spell it out if you know it.

5 WITNESS COOK: Can I have the question repeated,  
6 please, what you would like me to explain?

7 BY MS. SINCLAIR:

8 Q Besides the settlement at the diesel generator  
9 building, what kind of soil settlement problems are there  
10 that justify the large underpinning operation that is going  
11 on out there?

12 A (Witness Cook) It is my understanding that  
13 based on the extensive boring program that was undertaken,  
14 an investigation that was undertaken after that settlement  
15 was noticed, additional pockets of improperly compacted soil  
16 in various parts of the site were identified. As a result  
17 of the implications of having improperly compacted soil  
18 at various places on the plant in the plant field remedial  
19 measures were suggested to relieve the question of what, if  
20 any, unexpected settlement would ever occur in those areas.  
21 The overhang portion of the auxiliary building and the  
22 overhang portion of the service water pump structure were  
23 two areas which had to address that kind of question.

24 As far as I'm aware, there was no excessive  
25 settlement ever experienced by those particular buildings.

1                   However, to answer the question of what if, based  
2 on the fact that there was improperly compacted soil in  
3 those areas, remedial measures were suggested. Originally  
4 the remedial measures were a series of caissons under the  
5 electrical penetration areas and piles connected to the  
6 overhang portion of the service water pump structure. Then  
7 as part of the review by the NRC Staff of the remedial fixes,  
8 there was a question regarding the seismic design criteria  
9 that the remedial measures would be designed to.

10                   As a result of a change in the seismic design  
11 criteria, the extent of the remedial fixes was extended  
12 and they have now become total underpinning of both the  
13 south end of the auxiliary building, which is the electrical  
14 penetration area, the control tower, and the feedwater  
15 isolation valve pit, and the overhang portion of the  
16 service water pump structure.

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1 Q Do you know the cause of cracking in the service  
2 water pump structure and the auxiliary building?

3 A I am not completely familiar with all the analyses  
4 of those particular cracks.

5 Q Are the walls and the ceiling of the service water  
6 pump structure cracked all the way through?

7 A I believe there have been certain instances where  
8 there has been through-cracking. I believe they're quite small.  
9 I believe they've also been analyzed thoroughly by the  
10 structural experts that have been brought in and those reports  
11 are part of the record in this proceeding.

12 Q Are you aware of a larger amount of settling  
13 occurring at the north end of the auxiliary building?

14 A What larger amount of settling?

15 MR. MILLER: Larger than what?

16 BY MS. SINCLAIR:

17 Q The larger amount of settlement that is occurring  
18 in the other parts of the auxiliary building that is now  
19 occurring at the north end of the auxiliary building. There  
20 was a major telephone discussion of this and we got a report  
21 on it on January 19th, and I think I'll introduce it as an  
22 exhibit.

23 A I guess I'm not familiar with that particular  
24 report.

25 Q Are you aware of the problem of the electrical

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1 penetration areas rising on site?

2           A       I'm aware that the monitoring system for those  
3 buildings has tracked all of the movements of those individual  
4 structures, and there have been over the course of this -- I'm  
5 not sure of the exact time frame -- but it's been, I think,  
6 ever since the instrumentation system has been in operation,  
7 that there has been movement tracked and there have been  
8 extensive analytical investigations to see if we could  
9 understand it. And I believe it is, in some people's minds,  
10 cases of actual thermal characteristics of the buildings  
11 themselves have gone through changes and the actual mean  
12 temperatures of the buildings have changed.

13                 I am not aware of any major concern about building  
14 movement that is putting any great potential for change in  
15 our plans, but we are certainly monitoring the movement of  
16 those buildings carefully, and if there were concerns about  
17 movement I believe I would have heard about it.

18           Q       Well, this was a major telephone call, precisely  
19 on the concern about unusual settlement in the north end  
20 of the auxiliary building and this is an example, I think,  
21 of the unexpected problems that are surfacing at the --  
22 pardon the expression -- the soils area of the Midland plant  
23 which have been --

24                 MR. WILCOVE: I will object to Mrs. Sinclair  
25 testifying.

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1 JUDGE BECHHOEFER: Yes, you can't do that. If you  
2 can show him a document, or ask him if he knows about it, that's  
3 all right.

4 BY MS. SINCLAIR:

5 Q Are you aware of the extensive telephone call, that  
6 involved about 20 people --

7 JUDGE BECHHOEFER: Were any of these gentlemen  
8 included, or do you know?

9 MS. SINCLAIR: I don't think so.

10 WITNESS COOK: I'm aware of numerous telephone  
11 calls on all of the aspects of the soils work. The specific  
12 detail of each conference call I am not aware of, except in  
13 limited situations, feel a necessity to bring that subject  
14 matter and information to my attention.

15 MS. SINCLAIR: I think I'd like to move this  
16 document into evidence because it contains a lot of significant  
17 information. For one thing, it discusses the fact that  
18 dewatering is considered a possible explanation for the fact  
19 that there is an uneven immediate settlement over a relatively--

20 MR. WILCOVE: Mr. Chairman, I'm going to object.

21 JUDGE BECHHOEFER: This has to be relevant to  
22 something that these witnesses are testifying about.

23 MR. MILLER: If we're going to have the document  
24 offered, let's take a look at it.

25 JUDGE BECHHOEFER: Nobody knows what document you're



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1 referring to at the moment.

2 MS. SINCLAIR: I'd like to have this marked as  
3 Sinclair Exhibit No. 4 and I'll provide you copies.

4 (The document referred to was  
5 marked as Sinclair Exhibit  
6 No. 5 for identification.)

7 JUDGE HARBOUR: Mrs. Sinclair, I believe that  
8 would be Sinclair Exhibit 5.

9 MS. SINCLAIR: Okay. I'm sorry.

10 (Pause.)

11 WITNESS COOK: I have skimmed this document and  
12 I believe if you look at the first paragraph, the timing of  
13 the records that were discussed was for the August through  
14 October period of 1982. And I believe I indicated to you  
15 that I was aware of some monitoring information that had come  
16 up that was, at least initially, attributed to temperature  
17 variations that the building had been experiencing. I think,  
18 as I skim this, I can see the same thread of that discussion  
19 in here in several different places, but I don't profess to  
20 have any firsthand, detailed knowledge of the exact analysis  
21 that were done.

22 I believe Mr. Moody, in briefing me, had at least  
23 brought this information to my attention, and I'm sure that  
24 he can give you a much fuller discussion of it if you wish  
25 to pursue it when he comes back to the witness stand.

1 BY MS. SINCLAIR:

2 Q I appreciate that explanation, but again, I want  
3 to say that these are the kinds of unusual and unperceived  
4 events --

5 MR. WILCOVE: Mr. Chairman, I do object to testimony  
6 by Mrs. Sinclair.

7 JUDGE BECHHOEFER: I might note that Mr. Wheeler,  
8 who will also be here with a participant in this particular,  
9 called.

10 WITNESS COOK: Although, with the rolled carpet  
11 identity attached to him.

12 JUDGE BECHHOEFER: That's correct, he was. But  
13 I assume it's the same Wheeler.

14 WITNESS COOK: He was.

15 BY MS. SINCLAIR:

16 Q Can you tell us if IPINs were employed site-wide  
17 until they were discontinued, as you recorded in your letter  
18 of March 10th '83, Mr. Cook?

19 A (Witness Cook) Can I tell you if IPINs were --

20 Q Were they employed site-wide until they were  
21 discontinued, as you reported in your letter of March 10th,  
22 1983?

23 A I may have to ask my colleague, Mr. Wells, to help  
24 me with that. I believe they were, but I think the soils  
25 area had made a decision to not utilize the IPINs prior to

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1 the rest of the job discontinuing the use of them.

2 A (Witness Wells) I could supplement that, if you  
3 like.

4 Q Yes.

5 A IPINs were used, I think I'm correct on the date,  
6 generally after 1981 is when they came into being and they  
7 were used as part of the Bechtel quality control program.  
8 So where there were Bechtel quality control inspections being  
9 performed, they would have been used. Except, as Mr. Cook  
10 said, they were discontinued permanently in the soils area --  
11 I think it's December 12th, or December 13th, prior to the  
12 restart of major activity. And then they were discontinued  
13 in January, by my letter, totally on the site.

14 Q But prior to that, IPINs were also used in the  
15 soils area. Is that correct?

16 A Yes.

17 Q Do you know if a similar reinspection of soils  
18 work will be made, comparable to that that is going on in  
19 other parts of the plant as a result of the IPIN problem?

20 A We are reinspecting all closed inspection records,  
21 where it's accessible, that had IPINs associated with them,  
22 unless there had already been a full overinspection performed  
23 by the quality assurance people.

24 Q Can you tell us to what extent those inspections  
25 have completed?

7dlb7

1           A           (Witness Wells) I can comment in general. Actually,  
2 in the soils area, in the civil area, there were approximately  
3 84 IPINs written. Approximately half of those received a  
4 full overinspection at the time, and so that's already  
5 documented. We're about oh, I'd say 80 percent complete with  
6 the review of the remaining 40. Let me correct, I misspoke  
7 here. There are 84 in the electrical area and 12 in the civil  
8 area. So the 84 relate to the electrical area, but the rest  
9 of what I repeated was correct. There are 12 in the civil  
10 area and they're still in the process of being closed.

end t7

1 Q And oversight is not one-hundred percent re-inspection,  
2 is it?

3 A (Witness Cook) It is in this case.

4 Q I see. And in Mr. Cook's letter of again March 10  
5 he discusses the deficiency report that was used as a pre-  
6 decessor for the IPIN test; is that correct? Do you recall?

7 A (Witness Cook) Yes.

8 Q And in that letter you said it was under investiga-  
9 tion to determine if corrective action is needed; is that  
10 correct? That is in the footnote.

11 A (Witness Cook) Yes.

12 Q Can you tell us if that investigation has been  
13 completed?

14 A (Witness Cook) I will let Mr. Wells take it because  
15 he is the one that conducted it.

16 A (Witness Wells) Actually, we determined, rather  
17 than conducting an investigation, we simply committed to  
18 do one-hundred percent re-inspection of the inspection records  
19 that had DRs associated with them.

20 That is committed in the quality verification program.

21 Q Now, can you tell us who designed the IPIN process  
22 to begin with, who started the IPIN process?

23 A (Witness Wells) Who meaning a company or person?

24 Q Was it something that was unique to the Midland plant?

25 A (Mr. Wells) No. Whether the term IPIN is unique,

1 the process certainly is not. In-process inspection is not  
2 a unique program.

3 Q Do you know if this process ran into the same  
4 problems at other plant sites as it happened here?

5 MR. WILCOVE: That was covered earlier.

6 MR. MILLER: It is not relevant what happened at  
7 other job sites. It is not relevant to this record in any  
8 event.

9 MS. SINCLAIR: Well, it if worked successfully at  
10 other plant sites and led to very serious problems here  
11 according to the NRC at least, then there must have been a  
12 quality control breakdown here that probably didn't happen  
13 at others.

14 MR. MILLER: I am not aware of any testimony about  
15 characterizing the IPIN issue as a very serious problem.

16 MS. SINCLAIR: Well, we have the enforcement letter.

17 MS. BERNABEI: I really think that there is no  
18 other way to interpret the EGS inspection than that the IPIN  
19 issue was of serious concern to the NRC.

20 I really find Mr. Miller's characterization un-  
21 acceptable. In fact, I think that Mr. Cook concurred to some  
22 degree when he said they realized the extent of the NRC concern.

23 MR. MILLER: Not with respect to IPIN. That is not  
24 Mr. Cook's testimony.

25 MR. WILCOVE: Mr. Chairman, the point is, the staff



1 cited Consumers for non-compliance -- Appendix B. Consumers  
2 admitted violations. So, basically we are in agreement that  
3 there were quality assurance problems with IPIN.

4 So, whether there were or were not at other plants  
5 is really not relevant.

6 BY MS. SINCLAIR:

7 Q Do you agree that IPINs are serious problems?

8 MR. MILLER: You are asking another question?

9 WITNESS WELLS: Would you ask the question please  
10 again?

11 BY MS. SINCLAIR:

12 Q Well, do you agree that IPINs are a serious problem?

13 A (Witness Wells) The use of the IPINs as a tool and  
14 as an in-process inspection is a perfectly viable way of  
15 conducting inspections.

16 The issue came up because of the confusion that arose  
17 from the -- as we discussed yesterday -- the so-called turn-  
18 back option that may have clouded whether full inspection was  
19 done.

20 That was really a mis-use of what could well have  
21 been a perfectly acceptable tool, aside from the fact -- just  
22 to make the complete statement -- that NRC had also raised the  
23 question of whether because of the incomplete inspection all  
24 items were being identified.

25 Q Can you tell us what has taken the place of the IPIN

1 inspection?

2 A (Witness Wells) It is the formal non-conformance  
3 support system.

4 JUDGE BECHHOEFER: Mrs. Sinclair, you know, I  
5 cannot figure out where this fits in either to your plan or  
6 where it adds very much to the record. We have heard this  
7 before.

8 So, I think you should perhaps try to follow your  
9 plan a little more closely.

10 MS. SINCLAIR: Well, I wrote this plan before I heard  
11 quite a bit of the testimony this afternoon.

12 JUDGE BECHHOEFER: If the general areas have already  
13 been covered I think unless there is something that was left  
14 out -- I think the questions you have asked on this have not  
15 added anything different than what we have already heard in  
16 the record, that have been asked before.

17 BY MS. SINCLAIR:

18 Q Consumers Power Company came out with a case-load  
19 forecast in April of this year. Are you aware of the fact that  
20 the inspectors considered your case-load forecast too optimistic?

21 JUDGE BECHHOEFER: The case-load forecast, I think,  
22 is an NRC term.

23 MS. SINCLAIR: That's right.

24 BY MS. SINCLAIR:

25 Q Are you aware of the fact that they consider your

1 dates for completion much more optimistic than theirs are?

2 MR. MILLER: I am going to object. I really don't  
3 see the relevance of this to Mr. Cook's direct testimony.  
4 We have been over and over the schedule before and I thought  
5 the Board had ruled that the staff got around to his formal  
6 expression of the due-load date, and that would be a Board  
7 notification and that would be that.

8 JUDGE BEHHOEFER: I think those questions are  
9 probably a little premature because the staff has not come  
10 out with a formal forecast yet.

11 In fact, I noticed that the staff was asked by the  
12 Commission -- I read the transcript of that. I do not think  
13 the staff gave a specific answer. I understand they were also  
14 asked by Congress and did not give a specific answer at that  
15 time.

16 MS. SINCLAIR: Well, there is quite a bit of  
17 information in the transcript of Mr. Cook's testimony about  
18 what "lay-up" means. And lay-up means taking care of  
19 plant because there is a period of delay that they are expecting  
20 and taking care of the plant in certain ways.

21 Therefore, I thought it was pertinent to try to  
22 find out if he knew that the NRC predictions for completion  
23 of the plant are quite different from Consumers Power Company's.

24 JUDGE BEHHOEFER: Well, I thought the lay-up had to  
25 do with the cessation of work that took place in December and

1 which will presumatly be restarted.

2           It was my understanding that the lay-up was in that  
3 context and not in terms of eventual completion. But if the  
4 witnesses think differently, you can --

5           WITNESS COOK: No, that is correct. Your characteri-  
6 zation is right.

7           MS. STAMIRIS: Judge Bechhoefer, I know what Ms.  
8 Sinclair is referring to. There was a statement by Mr.  
9 Eisenhut at the Commission meeting on June 15. I could  
10 represent hypothetically -- until I find it -- what my  
11 memory is of his statement having to do with the case-load  
12 forecast panel.

13           He did not come up with the formal recommendation  
14 or formal statement representing the final case-load forecast.  
15 But I remember him making a statement that the NRC certainly  
16 considered Consumer's estimate to be -- I can't remember  
17 whether he said "optimistic" or "overly optimistic."

18           But he made quite a strong statement at the  
19 Commission meeting and I would like to be able to find that  
20 statement and let Ms. Sinclair use it as a basis --

21           MR. MILLER: I am willing to concede that the NRC  
22 staff's position for purposes of this question. The question  
23 is irrelevant.

24           JUDGE BEHHOEFER: I am not sure what this panel can  
25 add to that at this stage until the Commission has come out with

1 something more definite.

2 MR. PATON: Mr. Chairman, could I make a statement  
3 on this?

4 JUDGE BEHHOEFER: Yes.

5 MR. PATON: This has something to do with the dis-  
6 cussion here. It is my understanding that a meeting has  
7 been scheduled for July 12 for Consumers to come in to the  
8 NRC and discuss the construction completion date.

9 I believe that the NRC will announce its decision  
10 shortly after that. I am not sure of that. But I think that  
11 is the way the process works.

12 MS. SINCLAIR: Can I simply ask the question whether  
13 he knows that the NRC considers their completion date --

14 MS. BERNABEI: I believe we have a stipulation by  
15 Applicant counsel that he will stipulate to that fact.

16 MR. MILLER: No, I said it is still irrelevant.  
17 My objection stands.

18 JUDGE BECHHOEFER: I am not sure how it is relevant  
19 to what this panel knows.

20 MS. SINCLAIR: Well, it is relevant to me in this  
21 way. I would like his answer to this question: In your  
22 opinion, what are the major causes for the extended delay  
23 of this plant?

24 JUDGE BECHHOEFER: Well, I guess if the witnesses  
25 can answer. I know that the direct testimony includes

1 certain statements along that line. So, if nobody is  
2 objecting --

3 MR. MILLER: I am not sure that the question of delay  
4 is relevant to this Boards issues, the issues before the Board.

5 MS. SINCLAIR: It has everything to do with a  
6 much larger issue, and that is that Intervenors have been  
7 blamed for delays and costs. At this point we have some  
8 definite leads in the future to think about. The NRC has  
9 one set of dates the Consumers Power Company has another  
10 set of dates.

11 I would like to know what he considers the reasons  
12 for delaying.

13 MS. BERNABEI: I would just say that I concur  
14 with Ms. Sinclair that it is relevant. Obviously, the  
15 setting of any completion date is done after a particular  
16 analysis which indicates that the person who did the analysis  
17 had an understanding of the construction work to be done.

18 If there is a radical difference, or there is even a  
19 significant difference between the NRC estimate of when the  
20 plant will be completed versus Consumers Power's estimation  
21 of when the plant will be completed, I think that indicates  
22 different understanding of the construction process and the  
23 work yet to be completed.

24 I think that does reflect on this management's  
25 capabilities and understanding of the 20 percent, the 17 per-



1 cent of construction still to go.

2 JUDGE BECHHOEFER: It is my understanding that the  
3 NRC has not made an estimate at this stage.

4 MS. BERNABEI: There was a representation made in  
5 the meeting before the Commission that the staff considers  
6 Consumers' estimates not to be accurate, that it was too  
7 optimistic.

8 MR. MILLER: Judge Bechhoefer, I think this is an  
9 example of how far an examination can go astray from the  
10 issues.

11 These are three witnesses who are geared to talk  
12 about management attitudes and they really have been quite  
13 forthright in discussing their attitudes towards a variety  
14 of events that have occurred over the last year. Some of the  
15 have been really events that have caused the company to re-  
16 examine the steps that it is going to take to get the plant  
17 to completion.

18 There have been forthright admissions of failures,  
19 of personal failures in terms of the management and everything  
20 else by these witnesses.

21 We are now at the point where through teeniest of  
22 cracks through the back door Ms. Sinclair is trying to introduce  
23 an issue that is totally extraneous to this proceeding and  
24 to the testimony of these witnesses.

25 I really object to it.

MR. WILCOVE: Mr. Chairman, if I could just be heard.

1 Ms. Sinclair may personally be concerned with delays  
2 for a number of reasons, and I can appreciate that. But  
3 her questioning nonetheless has to have some relevance to the  
4 scope of the issues to be presented today, the quality  
5 assurance implementation.

6 All we have is just a statement made by Mr. Eisenhut  
7 at the Commission meeting and with the understanding that the  
8 staff position on the schedule is not out yet.

9 I just do not see how speculation by these witnesses  
10 as to what differences there may be with the staff position  
11 which has not come out yet, I just do not see how that is  
12 going to be relevant at all.

13 MS. SINCLAIR: There has been a recurring mis-  
14 calculation on the part of the Applicant as to when different  
15 things would be completed and what costs were going to be  
16 incurred, and so on.

17 I think their understanding of what is it going  
18 to take to get to completion of this plant, what the causes  
19 of delay are at this time has everything to do with their  
20 understanding of what the construction completion plans are  
21 about and what it is going to have to achieve.

22 MR. MILLER: I really believe that that last comment  
23 demonstrates that there is simply no relationship between  
24 the testimony of these witnesses and the issues Mrs. Sinclair  
25 wishes to explore, delay and costs.

1 JUDGE BECHHOEFER: I think that is really correct.  
2 These questions, the line that you have suggested I do not  
3 think is material to anything that we have to decide. Their  
4 testimony relates to QA policies and procedures.

5 I cannot see how your questions are material to that,  
6 to anything we have to decide along that line.

7 MS. STAMIRIS: Judge Bechhoefer, I am sorry, I  
8 really don't know whether you have made a rule.

9 JUDGE BECHHOEFER: We have. We have.

10 MS. STAMIRIS: Mr. Cook's own testimony die tie  
11 the cost and schedule to quality functions and his plan.

12 JUDGE BECHHOEFER: Well, we are not objecting to  
13 possible questions along that line. To the extent they have  
14 not been asked already we are certainly not interposing  
15 any objection to that.

16 Maybe it would be a good idea for us to adjourn  
17 for today and give you a little time to organize your  
18 questions because it is around 6 o'clock anyway.

19 MR. MILLER: I appreciate that, but if Ms. Sinclair  
20 really does not have much more, I would just as soon --

21 MS. SINCLAIR: No, I have more. I have just  
22 gotten started.

23 MR. WILCOVE: If Ms. Sinclair does need time to  
24 go over her notes, I would not object to it.

25 MR. MILLER: Judge Bechhoefer, I was wondering if

1 under any set of circumstances we can have some sort of  
2 understanding that these witnesses to be complete by the  
3 end of the day tomorrow. That is important for their  
4 schedule planning.

5 JUDGE BECHHOEFER: It looks to us like there will  
6 be no problem. But certainly, from what Ms. Sinclair has  
7 stated and from what we have of our own, and from what the  
8 staff has represented earlier there would not seem to be any  
9 problem with that.

10 MR. PATON: The staff's statement remains the same,  
11 no more than one hour total for the panel.

12 JUDGE BECHHOEFER: Ms. Sinclair, do you know about  
13 how much more you will need?

14 MS. SINCLAIR: It is hard to say. I am encountering  
15 so much objection to everything I say that it is very  
16 difficult. But I guess I would say it is a couple of hours.

17 JUDGE BECHHOEFER: I do not think you will extend  
18 beyond tomorrow, anyway. I do not think there should be  
19 any problem.

20 I think we will adjourn until 9 a.m. We still  
21 start sharp at nine.

22 (Whereupon, at 6:05 p.m. the hearing was adjourned,  
23 to reconvene at 9 a.m., Wednesday, June 29, 1983.)  
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CERTIFICATE OF PROCEEDINGS

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This is to certify that the attached proceedings before the  
NRC COMMISSION

In the matter of:

Date of Proceeding:

Place of Proceeding:

were held as herein appears, and that this is the original  
transcript for the file of the Commission.

Ann Riley

Official Reporter - Typed

*Ann Riley*

Official Reporter - Signature

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11 Elizabeth Hansen  
12 Official Reporter - Typed

13 Elizabeth Hansen  
14 Official Reporter - Signature