

ORIGINAL
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Agency: Nuclear Regulatory Commission

Title: Investigative Interview of
David Nieto (CLOSED)

Docket No.

LOCATION: Gore, Oklahoma

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On behalf of Sequoyah Fuels:

IRA S. SHAPIRO, Attorney

Winthrop, Stimson, Putnam & Roberts

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Washington, D.C. 20036

P R O C E E D I N G S

1
2 MR. CHAPMAN: For the record, this is an interview
3 of David H. Nieto who is employed by Sequoyah Fuels
4 Corporation of Gore, Oklahoma. The location of this
5 interview is the Sequoyah Fuels facility, Gore, Oklahoma.
6 The date is February 28, 1991 and the time is 3:38 p.m.

7 Present at this interview in addition to Mr. Nieto
8 is Ira Shapiro, who is an attorney from the law firm of
9 Winthrop, Stimson, Putnam and Roberts, Washington, D.C. and
10 is representing Sequoyah Fuels Corporation. Also present at
11 this meeting representing the U.S. Nuclear Regulatory
12 Commission, Office of Investigations, is Larry Chapman and
13 Robert Kirspel.

14 Mr. Nieto, will you please stand and raise your
15 right hand?

16 Whereupon,

17 DAVID NIETO

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

20 EXAMINATION

21 BY MR. CHAPMAN:

22 Q Mr. Nieto, before we get too far into asking a few
23 questions, would you mind giving me a little short background
24 of your work experience here at Sequoyah Fuels since you've
25 been employed -- when you became employed and since then?

1 A In '75 when I was employed here, I was employed as
2 a health physics technician. I've done whatever that I had
3 to do. I've just about done everything out here at some time
4 or another.

5 Q Are you still currently in that position?

6 A I'm still currently in that position.

7 Q When you started in 1975 it was Kerr McGee at that
8 time?

9 A Yes, sir.

10 Q Who was your first supervisor?

11 A My first supervisor was Chuck Grosclaude.

12 Q And were you here -- or who was your second
13 supervisor?

14 A There wasn't -- there was not a second...

15 Q After Chuck.

16 A There -- there wasn't anybody under Chuck other
17 than -- okay, the senior -- it would be -- the senior tech
18 would be the next man.

19 Q I'm sorry, I didn't make myself clear.

20 A Okay.

21 Q What I meant was, after Chuck left who was the next
22 manager in charge?

23 A Okay, after Chuck left, it was...

24 (Brief pause.)

25 MR. SHAPIRO: He didn't stay long.

1 THE WITNESS: He was from Tennessee.

2 BY MR. CHAPMAN:

3 Q Was his name Sakelosky?

4 A Sakelosky -- yeah.

5 Q And then after that came Mr. Nichols?

6 A Lacey -- Lee Lacey and then Nichols.

7 Q Mr. Lacey was Manager of Health and Safety for a
8 period of time?

9 A For a period of time.

10 Q Do you know when?

11 A Not very long. It was right after -- I believe
12 after George Sakelosky that Lee Lacey was in Health and
13 Safety?

14 Q Was he manager?

15 A Yes.

16 Q Okay. Now as a health physicist technician, who is
17 your immediate supervisor now?

18 A Now is Rick Callahan.

19 THE REPORTER: I'm sorry?

20 THE WITNESS: Rick Callahan.

21 BY MR. CHAPMAN:

22 Q As a health physicist technician, what are your
23 primary duties?

24 A My primary duties are strictly just monitoring and
25 control contamination, people and equipment.

1 Q All right, sir. Have you had any training by
2 Sequoyah Fuels in regards to uranium contamination?

3 A Yes.

4 Q Are you familiar with NRC established regulations
5 regarding the least limits of uranium?

6 A Yes.

7 Q Are you familiar with the fact that there are some
8 NRC established release limits in reference to ground water
9 or in reference to liquids that contain uranium?

10 A I'm familiar with them but I'm not -- I wasn't --
11 I'm just familiar with them. I didn't have any deals with
12 them other than just take a sample and the results were
13 hardly ever mentioned to me, you know, as results. But the
14 limits, yeah, I do know the limits.

15 Q Okay, sir. Rather than me bouncing around, perhaps
16 you can tell me, in relationship to environmental ground
17 water limits -- and I can perhaps clarify it a little bit by
18 saying what can be released into the north ditch or into the
19 combination streams; are you familiar with those limits?

20 A No, not very much. I don't know the exact limits,
21 no, ma'am -- no, sir.

22 Q Is there any kind of rule of thumb that you use or
23 any personal knowledge that you would have as to what level
24 uranium reaches in a liquid, say water or something, that you
25 cannot allow it to go off-site? Do you have a working number

1 or knowledge?

2 A No, I do not.

3 Q Well, what I'm trying to understand, Mr. Nieto, if
4 you're out taking some water samples and you get a result
5 back, what does the result mean to you? How do you establish
6 whether you should take some action or you should bring it to
7 someone's attention?

8 A Okay, the results that I get goes to the lab and
9 then the lab reverts back to the supervisor and he -- he's
10 the one that makes the decision for release or not -- or no
11 release. I have never been asked or authorized to release
12 water or anything else.

13 Q All right, sir. Let me get into some specifics
14 here then.

15 A All right.

16 Q In the discussions that I've had previously with
17 some individuals regarding what has now been somewhat
18 commonly referred to as fire stations or sand wells --

19 A Sand wells.

20 Q -- I understand there are several sand wells/fire
21 stations identified as number 2, number 3, number 4 and
22 number 5 which are in proximity to the SX solvent extraction
23 building, and in fact somewhat circle that area.

24 A Yes.

25 Q And of particular interest to me is station number

1 5, which is in the southeast corner of the SX building,
2 station number 3, which is in the south -- the northwest
3 corner and station number 2 which is in the northeast corner.
4 As I understand, sir, station number 3 and station number 2
5 are adjacent to the excavated area when the solvent dump tank
6 and the hexane tank were unearthed. In other words, they are
7 very close to the excavation area.

8 A Yes, they are.

9 Q Now with that somewhat geographic location of them,
10 I understand that there were some samples taken of these fire
11 stations through a pipe --

12 A Standpipe.

13 Q -- standpipe that was driven into the ground some
14 six feet around these fire stations?

15 A Yeah, about that deep. Maybe not quite that far.

16 Q And that you, yourself, on occasions took liquid --
17 took samples of liquids that accumulated in the bottom of
18 these standpipes, is that correct?

19 A Yes, sir.

20 Q Perhaps you could just give me an explanation of
21 who would tell you to go take these samples and what would
22 drive you to go take these samples, what you did once you
23 took them, whether you turned them into the lab? If you
24 don't mind, give us a walk-through.

25 A Okay. These sand wells were a monthly item. We

1 took them every month at a certain time. We sampled each
2 sand well, 2, 3, 4 and 5. I got a 160 mil bottle -- I took a
3 160 mil bottle -- or sample from each -- from each one, or in
4 that case, sometimes, I didn't quite get a full 160 mil, but
5 whatever I got. They were placed on a sheet, a chain of
6 custody sheet, in some cases a whole chain of custody, a
7 whole custody sheet. It was placed on a sheet and they were
8 turned into the lab for analysis. And that was all that --

9 Q Just for correction, what you meant when you said
10 placed on a sheet; you took the samples, you identified the
11 sample bottle --

12 A Identified the sample bottles.

13 Q -- turned them into the lab with a chain of custody
14 request --

15 A Yes.

16 Q -- and you would identify the required analysis to
17 be performed, normally pH, nitrate and uranium?

18 A Yes, sir. That's about all they could run with the
19 160 mil sample.

20 Q Okay. And these samples, once the results were
21 known, they did not necessarily come back to you, even though
22 you were the requestor?

23 A Yes, sir. I hardly ever was even told of the
24 sample results. Once in a while, I might happen to see them
25 and that would be it.

1 Q Your answer to my question was, yes, sir, I don't
2 see the results?

3 A Yes, I don't.

4 Q Who would these come back to -- the sample results
5 come back to as your supervisor? And let me limit it to --
6 between the period of January 1988 and the last sample we
7 have a record of is May 4, 1989. Who would have been your
8 supervisor at that period of time and who would have been the
9 recipient of the lab results?

10 A I would have to look and check. I don't -- the '88
11 -- I'd have to check. Either -- Lacey -- I believe Lee Lacey
12 was in -- may have been in that position at the time. I
13 don't remember. I mean, I don't remember the date exactly.
14 It would either be Lee Lacey -- I think -- I don't know if
15 George Sakelosky was there at that time or not. And then in
16 '88, in that later part, the last one you had there was when
17 we stopped the sampling.

18 Q Would Mr. Nichols also have been one of the
19 supervisors during the period of time from '88 to '89?

20 A I don't know. I don't know -- I don't remember
21 when he got here.

22 Q Okay. Do you ever recall discussing --

23 A He probably should have been.

24 Q All right, sir. Do you ever recall knowing these
25 results, even if you didn't see the actual lab results?

1 A No, sir.

2 Q So you would have no direct knowledge of
3 contamination levels of the uranium in the water?

4 A Right. That's right.

5 Q Okay, sir. Was it your understanding that you were
6 taking these laboratory samples just to follow procedures or
7 was it your understanding that you were taking these
8 laboratory samples to check for any uranium contamination?

9 A To check for any kind of uranium...

10 Q Contamination?

11 A Yeah, uranium contamination.

12 Q Were you -- did you have any personal knowledge
13 before you went out to take these samples that there had been
14 uranium contaminated water in these pipes earlier?

15 A No, not -- I wasn't told. It just -- I've seen
16 some of the results and I was where there was some uranium in
17 there along with a lot of nitrates. But no, they did not --
18 I was not told or anything.

19 Q Well, you made the comment that you had seen some
20 of the results; my question to you was basically, when you
21 went out to take these samples, did you have an understanding
22 or knowledge that there was some uranium contamination in the
23 water that these pipes were sampling?

24 A Okay, yes.

25 Q I understand that you didn't know the specific --

1 A Okay, yeah, I --

2 Q -- results know every time.

3 A Okay.

4 Q But it was an understanding by you that there was -
5 - back in this time frame, '88 and '89, as you were taking
6 these samples -- water in these standpipes which did, in
7 fact, contain some levels of uranium contamination?

8 A Yes, sir.

9 Q Would I be correct in characterizing that your
10 knowledge of that did not equate to the fact that you made
11 any decisions as to these levels meeting any discharge levels
12 or any needs to take any action on the NRC's part?

13 A (No response.)

14 Q Do you understand my question?

15 A I think I do. Yes.

16 Q You knew there was contamination but it didn't have
17 a value to you of a worry or concern that you had to notify
18 the NRC or someone? As far as you were concerned, your
19 supervisors were being apprised?

20 A As far as I was concerned, my supervisor was
21 supposed to take -- was supposed to take care and do all the
22 necessary reports or whatever else he needed to do.

23 Q Were you privy to, or a party to any conversations
24 regarding these uranium contaminated levels where it was
25 discussed that these were above release limits or above any

1 NRC requirements?

2 A No, I wasn't.

3 Q Did these numbers have particular significance to
4 you, these laboratory analysis numbers, when you saw them on
5 the few occasions you did? Did they ring any bells in your
6 mind that this was a fairly substantial amount of
7 contamination or a fairly low amount?

8 A Yeah, other than just -- that there was some
9 contamination in there.

10 Q Okay. Now, I believe I asked you a little earlier,
11 these numbers are from samples that were taken at stations 2,
12 3, 4 and 5?

13 A Yes, sir.

14 Q Were you familiar, when you were taking these
15 samples, that the SX building was setting on a layer of sand?

16 A No, I wasn't.

17 Q You're not familiar with the construction of this
18 facility --

19 A No.

20 Q -- that it's basically a shale bottom with a sand
21 topping on it?

22 A No.

23 Q Are you familiar with, or are you cognizant of the
24 regulations regarding environmental groundwater requirements
25 of either the EPA, the state or the NRC?

1 A No, sir.

2 Q Did you have any discussions of these limits, or
3 these numbers with -- or the fact you were taking these
4 samples, with either Carolyn Couch or any operations
5 personnel, in particular Jim Mestepey?

6 A No, sir.

7 Q Do you recall any conversations with Mr. Nichols
8 regarding these numbers or the uranium contamination being
9 present in the water in these pipes out around the SX area?

10 A No, sir.

11 Q Can you tell me how it came to pass -- you may have
12 answered this. If you have, I'm sorry. Came to pass that
13 you were the primary person that ended up taking most of
14 these samples? Was it a regular duty of yours or were you
15 just picked on a lot?

16 A I wasn't picked on. I just happened to be on the -
17 - on the time when it was due, I think. I guess that's all.
18 I don't know.

19 Q Well, sir, what I want to know, was it a regular
20 course of your duties?

21 A Oh, no.

22 Q You weren't regularly assigned to do that?

23 A No, sir. In '88 -- okay, in -- let's see, in the
24 latter part of '86, I started on days. Okay, so I would --
25 that would kind of fall -- yes, it would fall on my -- under

1 my routine as for monthly. Okay, that's right. I'm sorry.

2 Q Were you normally scheduled to do this, or would it
3 normally be your supervisor that would remind you it was time
4 to do this?

5 A We usually have a schedule that tells us when we're
6 supposed to do any kind of a monthly, and this happened to be
7 on a sheet that says monthly SX sand wells. So it was an
8 appointed thing.

9 Q Okay, sir. Do you know who prepares this schedule?

10 A No, I don't.

11 Q Is it --

12 A I'm assuming that -- again, this -- these was --
13 these would have been taken ever since I've been here.
14 They've been on the sheet -- we've kept them on our routines
15 ever since when I started in '75 -- that we've been doing
16 these.

17 Q And the schedule would just -- who normally hands
18 out the schedules, or how do you normally get your schedule?

19 A The schedule is just a run-off sheet that we keep.
20 It's just strictly a monthly.

21 Q Do you know, or do you have any information as to
22 why these samples ceased to be taken in May of '89?

23 A No, sir, I sure don't.

24 Q There was no discussion with you about the value of
25 these lab samples or anything?

1 A No, sir.

2 Q Okay, David, I appreciate it. Now, let's talk a
3 little bit about a couple of other things.

4 A Okay.

5 Q I believe that you've indicated as we've talked
6 here a little bit, that although you didn't know the exact
7 values of the samples, you did know, or had cognizance of the
8 fact that there was some uranium in the water in these fire
9 station samples?

10 A Yes.

11 Q Of course, these fire stations are located around
12 the SX area, and of particular notice is station number 2 and
13 number 3 are very, very close to the excavation or the
14 solvent dump tank and the hexane tank. I spoke with you
15 earlier in September of 1990, and as I understand, you stated
16 to me that you were in and around the excavation area as it
17 was being -- as it was progressing when they were digging up
18 these tanks?

19 A Yes, sir, they just started digging.

20 Q Were you regularly assigned to be out there as a
21 health physicist technician?

22 A Per se, no. I on shift work at the time and one of
23 the -- on midnights at the time, and one of our duties when
24 they started digging there was to go out there and do an
25 explosive check, explosive meter, and check for hexane fumes

1 or anything else. That was the midnight man's main job at
2 seven o'clock when the people came and started to work, to
3 make sure the area was clear. That was just a duty that we
4 had assigned to us.

5 Q Okay, sir. When you first went out there to work
6 around the excavation area; were they just beginning the
7 initial stages of digging the tanks -- unearthing the tanks?

8 A Yes, just beginning.

9 Q Once they began digging down to some depth, were
10 you -- did you happen to observe any water in the bottom of
11 the excavation in the early stages?

12 A No, I didn't. Not the early stages, because I
13 didn't -- when I was there, they hadn't really dug very --
14 you know, that deep yet -- two feet at the most.

15 Q Do you recall the first time that you noticed some
16 yellow water? I believe you were -- between the time the
17 excavation started and some period, you were moved over, as
18 you indicated, to work a truck entrance and you weren't
19 around the excavation area.

20 A Yeah, I wasn't in and around that area until after
21 the wall was already up. The vault was already up and
22 everything.

23 Q Until after the walls themselves were poured?

24 A Yeah, the whole vault was already constructed and
25 the one -- the one side -- the west -- the west side of that

1 vault and the south side of that vault was the only two areas
2 that were excavated, that was down -- that was down there.

3 Q So there was still some open area around the vault
4 when you were there?

5 A Yeah, on the west and south side.

6 Q Did you happen to observe any yellow water or any
7 discolored water present down in that excavation?

8 A Some discolored water that was -- I did notice some
9 down there.

10 Q Did you happen to see anyone taking any samples of
11 this water?

12 A Not that water, per se, but I did remember seeing
13 Couch and -- I don't know if it was Robert Davis, but I saw
14 them -- they had gone down there and did sample some -- some
15 water then.

16 Q When was that? Was it early in the excavation?

17 A No. This was later -- this was after -- this was
18 all after the vault was up and then I got there -- I stayed
19 on the gate, the front gate, a good part of the time until --
20 like I said, until the vault was already up and everything.
21 When I first got back out there, that was on a weekend.

22 Q All right, sir. I believe, also, when I talked to
23 you a little earlier, you were not -- you did not remember
24 ever discussing the contents of this discolored water with
25 any of the contract personnel. Is that still correct?

1 A Yeah, because there wasn't any -- there wasn't any
2 personnel -- or contract personnel.

3 Q But, of course, they didn't all leave the site
4 until some time towards the end of the month and there was a
5 few still there. But you don't recall seeing any down in the
6 bottom?

7 A No.

8 Q Do you recall ever being asked by any contract
9 personnel early in the excavation if you knew what was in any
10 water seen in that pit?

11 A No.

12 Q Did you ever see any water being drummed or pumped
13 out of that pit?

14 A Not -- in the early stage?

15 Q Yes, sir.

16 A No, not during -- like I said, I wasn't -- I wasn't
17 around it that much and they hadn't -- apparently hadn't had
18 any water or anything while I was there anyway.

19 Q So consequently --

20 A Consequently, I didn't see anything.

21 Q And you don't know of any barreling of the water,
22 or did you ever hear of any of it being barreled?

23 A Later, yes.

24 Q But that was past the time of --

25 A Yes, sir.

1 Q Mr. Nieto, just a couple of final questions.

2 During the time that you were at the truck entrance and the
3 time between August 1st and basically August 22nd, which
4 would include the early excavation of the pit, you being at
5 the truck entrance and you being back around the pit when the
6 walls were being built; did you discuss or talk with anyone
7 or have any personal knowledge that the water down inside the
8 excavated pit contained uranium contamination?

9 A No.

10 Q No one from Sequoyah Fuels ever mentioned that to
11 you, that you recall personally hearing it from?

12 A That's right, nobody.

13 MR. CHAPMAN: All right, sir. Is there any other
14 information that you wish to add to the record or anything
15 that you want to say?

16 THE WITNESS: No, sir.

17 MR. CHAPMAN: Mr. Nieto, have I or any other NRC
18 representative here threatened you in any manner or offered
19 you any reward for this statement?

20 THE WITNESS: No, sir.

21 MR. CHAPMAN: Have you given this statement freely
22 and voluntarily?

23 THE WITNESS: Yes, sir.

24 MR. CHAPMAN: Is there anything further that you
25 would care to add to the record?

1 THE WITNESS: No, sir.

2 MR. CHAPMAN: The time is now three minutes after
3 four and this interview is closed.

4 Thank you.

5 (Whereupon, the interview was concluded at 4:03
6 p.m.)

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C E R T I F I C A T E

This is to certify that the attached proceedings before the
U. S. Nuclear Regulatory Commission in the matter of:

Name: Interview of David Nieto

Docket Number:

Place: Sequoyah Fuels Corporation, Gore, Oklahoma

Date: February 28, 1991

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission taken stenographically by me and,
thereafter reduced to typewriting by me or under my
direction, and that the transcript is a true and accurate
record of the foregoing proceedings.



WILLIAM L. WARREN

Official Reporter

Ann Riley & Associates