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Agency: Nuclear Regulatory Commission

Title: Investigative Interview of  
Michael Nichols (CLOSED)

Docket No.

LOCATION: Gore, Oklahoma

DATE: Thursday, March 7, 1991

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BEFORE THE

U. S. NUCLEAR REGULATORY COMMISSION

In the Matter of: )

INVESTIGATIVE INTERVIEW OF: )

MICHAEL NICHOLS )

(CLOSED) )

Conference Room

Sequoyah Fuels

Gore, Oklahoma

Thursday, March 7, 1991

The above-entitled matter convened for  
INVESTIGATIVE INTERVIEW pursuant to notice at 8:52 a.m.

APPEARANCES:

On behalf of the U.S. Nuclear Regulatory Commission:

DONALD D. DRISKILL, Field Office Director

LARRY CHAPMAN, Senior Investigator

Office of Investigations

U. S. Nuclear Regulatory Commission

Suite 1000, 611 Ryan Plaza

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On behalf of Sequoyah Fuels:

IRA S. SHAPIRO, Attorney  
Winthrop, Stimson, Putnam & Roberts  
1133 Connecticut Avenue, N.W.  
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 Michael Nichols, who is employed by Sequoyah Fuels  
4 Corporation, Gore, Oklahoma. The location of this interview  
5 is the Sequoyah Fuels Facility, Gore, Oklahoma. The date is  
6 March 7 and the time is 8:50 a.m.

7 Present at this interview in addition to Mr.  
8 Nichols is Ira Shapiro, who is an attorney from the law firm  
9 of Winthrop, Stimson, Putnam & 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 Donald Driskill.

14 Mr. Nichols, would you please stand and raise your  
15 right hand?  
16 Whereupon,

17 MICHAEL NICHOLS

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

20 MR. CHAPMAN: Be seated, please, sir.

21 Also for the record, this is a continuation of an  
22 interview that was stopped yesterday afternoon, and some of  
23 the testimony of the previous couple of days may be discussed  
24 in this interview.

25 All right, sir, I think Mr. Driskill was going to

1 ask you a couple or three questions first before I continue  
2 on.

3 EXAMINATION

4 BY MR. DRISKILL:

5 Q Yeah, Mike, one of the things that we were  
6 discussing and looking at had to do with your position and  
7 job description. Essentially -- I know that we've probably  
8 been over this earlier in the interview, but would you mind  
9 restating what essentially the duties of your position are?

10 A Presently or --

11 Q At the time -- during the August time frame, August  
12 of 1990.

13 A Okay. I had been the Manager of Health and Safety  
14 up until about May and June, at which time Carol Couch came  
15 to work for me and they changed my title to Manager of  
16 Health, Safety and Environment. And it was my job to manage  
17 the health and safety program -- and environment program --  
18 for the people working here at Sequoyah Fuels Corporation to  
19 ensure that the work they did was by government regulations,  
20 by safe practices with respect to radiological safety,  
21 industrial hygiene, and after Carol came to work for me,  
22 environment.

23 Q So essentially during the August time frame, your  
24 duties required that you have supervisory responsibility over  
25 activities involving health, and I suppose that would include

1 all radiological aspects of work --

2 A Yes, sir.

3 Q -- at the facility. Safety, which would include  
4 not only personnel safety as it would relate to radiological  
5 matters, but also industrial safety and that sort of thing?

6 A Yes, sir, and industrial hygiene so to speak.

7 Q And then lastly, inasmuch as Carol was an employee  
8 of yours at that time, her responsibilities for essentially  
9 environmental activities that were present.

10 A Yes, sir.

11 Q Basically what were the parameters of her  
12 responsibility during that period of time?

13 A Carol was to monitor activities with respect to the  
14 environment as far as discharges from the plant, things that  
15 we found possibly in the ground or outside. She had several  
16 projects she was working on for Mr. Graves as far as ponds,  
17 we were building a lake, those kind of things. And to  
18 provide us the expertise for everything from Oklahoma Water  
19 Safety Board regulations -- she was more or less the subject  
20 matter expert when it came to environmental affairs.

21 Q Would environmental affairs encompass any of the  
22 responsibilities for radiological safety?

23 A Yes, environmental affairs would be to bring up and  
24 to check and help us monitor for radioactivity or other  
25 fluorides, these kind of activities, anything that might be

1 in the environment, whether it be something that's coming out  
2 of a stack that's abnormal, something we find in the ground,  
3 et cetera. If she saw something abnormal, she should bring  
4 it to our attention so that we could take a look at it.

5 Q Well would her duties have been limited to just  
6 outside the restricted area, or both inside and outside the  
7 restricted area?

8 A Both inside and outside. For example, the  
9 excavation pit, she had specific duties, it was inside the  
10 restricted area and she had specific duties with that.

11 We had had a meeting sometime before at which I had  
12 approached the staff that we had to be more aggressive, more  
13 assertive in our efforts and what we were doing, what we were  
14 trying to find, what we were watching. And I made it very  
15 clear that this department needed to be more assertive in all  
16 of our activities.

17 MR. SHAPIRO: Any time frame on --

18 MR. DRISKILL: We're talking about the August time  
19 frame.

20 MR. SHAPIRO: No, I mean any time frame on that  
21 meeting, Mike.

22 THE WITNESS: That was about June, July, it was  
23 before the excavation started.

24 BY MR. DRISKILL:

25 Q As I recall, Ms. Couch indicated that her sole

1 responsibilities with respect to the excavation were only to  
2 take some samples that were being required by this Oklahoma  
3 Water Board, and aside from obtaining and having those  
4 samples analyzed to satisfy those particular state  
5 requirements and EPA requirements, she had no other  
6 additional responsibilities relative to monitoring the  
7 excavation, is that correct?

8 A Carol definitely had those responsibilities, for  
9 sure. She also -- when it came with respect to contamination  
10 in the soil, had worked on these before she worked for me,  
11 for example, the sandwells. Back in early '89, I had  
12 discussed it with her because that was her area of expertise,  
13 that was something out of my field of understanding.

14 Q What was that?

15 A Back when we decided to terminate the sampling of  
16 what you call the sandwells, the pipe in the ground. I had  
17 discussed that with her before I stopped because I did not  
18 the expertise in that area.

19 Q Okay, at that time she worked for Lee Lacey, is t  
20 hat correct?

21 A Yes, sir.

22 Q We'll get back to that particular thing, but it's  
23 not a secret no; that she, during the course of the  
24 excavation adjacent to the SX building in August of 1990, she  
25 early on in the period of excavation took some water samples



1 and sent them to the lab to have them analyzed and so on.  
2 Would you have considered her taking of those water samples  
3 and so on to be consistent with her duties or something she  
4 did above and beyond the duties that --

5 A I considered it to be consistent. We do not tell  
6 our people -- give them limits as to what they can look at.  
7 We try to run the department -- and that's what I had meant  
8 in that meeting, if you see something unusual, if you need to  
9 address it, be aggressive as necessary. And that's why we  
10 had had the pep talk, so to speak. I mean, I felt that --  
11 and I talked to the technicians and I had talked to them  
12 before this excavation and since then, to ask questions, to  
13 look and see -- question what's going on.

14 (Brief pause.)

15 BY MR. DRISKILL:

16 Q Would Ms. Couch's training, education and/or  
17 experience qualify her to make any judgments relative to the  
18 results of those analyses that she had performed?

19 A I would say yes, she would look at those and look  
20 at the limits, you know, as far as what's allowed in the  
21 soil, what's allowed in the water, and be able to make the  
22 judgments to understand them.

23 Q And --

24 A I had the impression from talking to her before  
25 that she did, if that's what you mean.

1 Q She did what?

2 A That she did understand.

3 Q Because the point I was trying to make is I could  
4 walk outside this building and see yellow water, take a  
5 sample of it and send it to the laboratory and get a result  
6 back, but it wouldn't mean much to me as far as license  
7 conditions or NRC regulations and all that sort of thing. In  
8 your opinion, was she qualified and trained in those  
9 particular areas in such a way that she could look at that  
10 lab analysis and make some sort of judgment relative to  
11 personnel safety, license conditions and that sort of thing?

12 A As far as license conditions, well activities and  
13 samples like that, the answer is yes, because Carol has been  
14 watching our well program around here for hears. She's been  
15 looking at the pond two and knowing what it meant, et cetera.

16 As far as personnel safety, I'm not sure that Carol  
17 has that expertise. I would not expect her to relate  
18 everything to an MPC value to know that this is, for example,  
19 a tenth of an MPC and it's not a problem or it's more than  
20 one MPC and they need be on respirators or do other things.  
21 No, I would not necessarily expect her to do that.

22 Q Well based on some data that we've collected, she  
23 took some samples I think around August 4, August 5, August  
24 6, August 7, in that time frame, a number of water samples.  
25 At any time during that period, did she tell you she was

1 taking those samples?

2 A Those water samples?

3 Q Yes, sir.

4 A No, sir, I did not know it.

5 Q Did, at any time during that period of time, did  
6 she discuss with you any concern she may have relative to the  
7 existence of water in the excavation?

8 A The fact that there was water in the excavation  
9 was, like I say, no big secret, because of the sewer line  
10 busting and everything. As far as her discussing it with me,  
11 I don't remember, honest, you know, as far as --

12 Q You knew that a water line had broken?

13 A Yes, sir.

14 Q And I believe there was a water line over on the  
15 southwest corner. I think you described it as an old shower  
16 line or something.

17 A It was a shower line. We looked at shutting it  
18 off, but couldn't because it was a safety shower. We  
19 discussed that on several occasions. I discussed it I think  
20 with Gary Barrett and --

21 Q So that contributed to some of the water that was  
22 in at least that particular area of the excavation?

23 A Yes, sir.

24 Q Early on during the excavation.

25 A Yes, sir.

1 Q And you were aware of that.

2 A Yes, sir.

3 Q And you I believe previously indicated that you  
4 were also aware of the existence of some liquids that  
5 resulted from the breaking of a sewage line that extended  
6 across the north end of the excavation.

7 A Yes, sir, I remember that.

8 Q In fact -- I guess you're aware of the fact that  
9 that was repaired fairly quickly, but in fact did contribute  
10 to some liquids existing in the excavation.

11 A In the excavation, yes, sir.

12 Q There was notable seepage coming into the  
13 excavation at the north -- I'm sorry, the southeast corner,  
14 which they took some photographs of the water seeping or  
15 running down the southeast corner or wall of the excavation,  
16 which would have been near the northeast corner of the SX  
17 building, immediately adjacent to the southeast corner of the  
18 excavation.

19 A I understand the corner you're talking about.

20 Q Yeah, there was water seeping -- apparently there  
21 was an old water line that ran down the east side of the  
22 excavation and from the photographs that I observed, it  
23 appeared that the water -- as that line continued on under  
24 the SX building, it appeared that perhaps some of the water  
25 that was coming into that corner was following the path along

1 the outside of that water line. And there were some  
2 photographs taken by Carol or somebody else about that time,  
3 to document the fact where that water appeared to be coming  
4 from. Did you ever see those photographs?

5 A I do not remember it.

6 Q Did anybody discuss with you at that point in time  
7 the fact that water was coming from an unknown location or  
8 from a known location there into the excavation?

9 A No, sir. When was this? Do we have --

10 Q It would have been the first few days, first week  
11 of the excavation.

12 A Like I said, the first week, I spent almost the  
13 entire week with NRC inspectors. I went out there a couple  
14 of times but my -- if you'll interview Mr. Vasquez and Mr.  
15 Spitzberg, you'll find out that almost all my time was with t  
16 hem.

17 Q If I'm not mistaken they weren't there the first  
18 week.

19 A You're talking the first through the --

20 Q Seventh -- sixth or --

21 A I was thinking after the fourth, I'm sorry. No,  
22 sir, I don't remember that.

23 Q Then we get to the period of I guess Monday, the  
24 6th, and I guess that was the day that Blair Spitzberg and  
25 Mike Vasquez arrived here, and I remember previously your

1 stating that that interfered with something else you were  
2 doing. I don't know, maybe the visit was unannounced, I  
3 don't know --

4 A It's always unannounced.

5 Q And they showed up and you had some other plans  
6 that you had made and you weren't there the whole afternoon.

7 A Right.

8 Q When they made their initial walk-around on the  
9 site. But you say that you spent most of that week with  
10 them?

11 A Yes, sir.

12 Q Were you involved at all with Carol Couch obtaining  
13 her samples for the state people on the 7th? Did she discuss  
14 with you the fact that the excavation was completed on the  
15 morning of the 7th or about to be completed, and that she was  
16 going to take those samples to look at requirements for the  
17 state?

18 A Carol had previously announced to me that she was  
19 taking the samples for the state. Okay? And I'm sure  
20 afterwards we discussed it, but as far as actually being  
21 there when she took them; no, sir.

22 Q Okay, it was about that time that she indicated she  
23 had some concern relative to the excavation and the plan and  
24 I guess it was Jim Mestepey's plan to install a french drain  
25 system around the outside of that excavation or around the

1 outside of the wall of that excavation, and she went and had  
2 a conversation with Mr. Mestepey on I believe the morning of  
3 the 7th, and I believe that you previously indicated that she  
4 told you that she was going to talk to him, is that correct?

5 A Uh-huh. She talks to him quite frequently -- I  
6 mean, they talk to each other quite a bit and Jim, I think,  
7 if I remember right, was in charge of the facility at t hat  
8 time.

9 Q Right.

10 A As far as the french drain, I first approached  
11 Carol, we had some 300 barrels of rock, whatever you want to  
12 call it gravel, to put in there, and I approached Carol about  
13 it to make sure that -- to see if she had any problems with  
14 it because she was our environmental expert, and would it be  
15 all right to backfill with this. And the first conversation  
16 was yes, it was all right.

17 Q It was all right with her.

18 A Yes, sir.

19 Q Did she tell you what she planned to discuss with  
20 Mr. Mestepey on the morning of the 7th when she went over to  
21 talk to him about her concerns?

22 A I don't believe she talked to me before she went to  
23 see him. I don't remember. She may have said something --

24 MR. SHAPIRO: That is an important point and I was  
25 wondering, Don, it seems your question -- the previous

1 question said that they had talked, he and Carol had talked  
2 about her going to see Mestepey. I don't know if that's what  
3 you meant to say -- I'm not sure whether that's true.

4 MR. DRISKILL: Mike and I have talked about this on  
5 previous occasions and I believe he indicated that he was  
6 aware she was -- she intended to talk to Mr. Mestepey about  
7 some concerns relative to that, and I believe those are  
8 documented in transcripts of that report.

9 THE WITNESS: I believe she did.

10 MR. DRISKILL: And the reason I asked the question  
11 -- and I'll tell you -- is that in most large organizations,  
12 it's sort of unusual for a person to bypass their supervisor  
13 and go to a higher level management representative with  
14 concerns, if their supervisor is not aware of it. And I was  
15 just -- it just seemed logical that she would have said  
16 something to Mike here about her plan to talk to Mestepey.

17 THE WITNESS: About the gravel being put in?

18 MR. DRISKILL: Well whatever it was she talked to  
19 you about. I'm just inquiring as to your recollection of any  
20 conversation you may have had with her about that business.

21 THE WITNESS: Don, to the best of my recollection,  
22 we first talked about putting the rock into the around the  
23 vault, so to speak, and she didn't have any problems with it  
24 at first because she thought it was a good chance to get rid  
25 of the rock. She was concerned as to whether it would be



1 pumped to a sump or a tank and then taken from there. Just  
2 to be sure it wasn't put out in the environment, because like  
3 I said, she was well involved in this project.

4 She may have indicated some hesitancy afterwards.  
5 She talked to Mestepey on a regular basis about different  
6 items that were going on, everything from the combination  
7 stream to the vault to -- it wasn't unusual at all for her to  
8 go talk to him, it's not like "I'm going to see the boss  
9 today." It was almost an every day affair with her, talking  
10 to him or Graves or whatever. And she may have said  
11 something to me about -- talked to me about putting the rock  
12 in, et cetera.

13 Q Did she after-the-fact discuss with you or make you  
14 aware of the results of her conversation with him?

15 A I can't be sure if it was that conversation or  
16 another one or what, Carol had been upset about several  
17 things, her and Mestepey. I can't put a time frame on it,  
18 but the one thing I do remember is her saying one day that  
19 she had been -- expressed dissatisfaction with Mr. Mestepey,  
20 over projects she was trying to get done, but that again  
21 wasn't unusual. She was used to coming to me and saying she  
22 wanted to get something fixed and couldn't get it fixed or  
23 she wanted something done. And many times I found myself in  
24 the role of trying to calm her down and satisfy her, you  
25 know, she's got these concerns, et cetera.

Q Well Ms. Couch has told us that one of her concerns relative to the excavation was the existence of water in that excavation and the existence of water in the ground around where the excavation would be, and obviously the plan to put in a french drain was not solely to accommodate removal of this existing water there, but to also perhaps --

A Any water that rained in.

Q -- take rain water and whatever other --

A Yes, sir.

Q -- moisture may exist there, to keep from creating pressure beneath that vault that they were building.

A Yes, it's a multi-faceted thing.

Q But with her discovery -- it wasn't her sole discovery -- but with her finding that this water was coming into the excavation in a greater amount than would have been expected, I believe that she -- and the fact that it was yellow water, which was obviously contaminated, I think that she had a concern about what was going to be done with this water and how the Sequoyah Fuels was going to deal with it once the concrete and vault had been put in, and how they were going to keep that water from creating a problem down there. And also the sufficiency of the french drain to deal with that apparent quantity of water. And I think that she's indicated to us that that was part of her concern relative to the adequacy of the plan to use the french drain, and that

1 was what she went to talk to Mestepey about. And apparently  
2 he told her that that was the plan and that was going to stay  
3 the plan, and any concerns she may have relative to that we  
4 really not for her -- it was not her place to question his  
5 engineering judgment relative to the adequacy of that, I  
6 guess is the bottom line. And I think she left somewhat  
7 unhappy about it.

8 A I remember the conversation you're talking about,  
9 part of it. I don't quite remember it in the time frame  
10 you're talking about. Carol expressed to me that she wanted  
11 to make sure that any water that went through the rock was  
12 taken care of and sampled and everything before it was  
13 discharged. And I believe I discussed that with Jim as far  
14 as -- again, I was thinking rain water and everything that  
15 would wash down through this contaminated rock, because we  
16 didn't want it to go out. And the impression I got from Jim  
17 was that we'd go to a sump -- in fact I remember specifically  
18 asking about that twice, and I remember in a meeting we had  
19 that Monday or so, and it was my impression that Carol was  
20 satisfied, because I can almost assure you that I asked her  
21 about it. I can't recall the exact conversation date but I  
22 got the feeling that she was happy because any water that was  
23 collected was going to the sump and would be sampled before  
24 it went out and could be pumped back to miscellaneous digest  
25 or something. That's the concern I remember her stating to

1 me.

2 Q As a matter of curiosity, upon completion of that,  
3 they had the french drain, the french drain was installed in  
4 that. Did it go to a sump?

5 A Yes, sir, I believe it does. I'd have to check  
6 with Jim, but it's supposed to go to a sump and it's supposed  
7 to be sampled before it's discharged. And then once that  
8 happened, to me, all of her concerns died away.

9 Q But at any time during the course of this, did she  
10 discuss with you her concern relative to the migration of  
11 existing liquids in the soil into that area?

12 A Well the concerns I had myself and I believe she  
13 had was that we knew that it rained out there and it rained  
14 quite heavy and anything that washed down through it would be  
15 washing this rock, this fill rock that we were putting into  
16 it. When you talk about the french drain, there's a french  
17 drain as people normally speak, that comes up a foot or so  
18 above the concrete or below the concrete or something, I'm  
19 not sure, I'm not an engineer. And we were concerned about  
20 this fill rock we were going to put in on top of that, which  
21 would let it -- and the conversations we had, to the best of  
22 my recollection, were on that, making sure that that --  
23 anything that washed off the rock -- because we knew that  
24 rock was contaminated, we knew --

25 Q Okay, but what you're saying is you don't recall

1 any conversations relative to the existing water there that  
2 was migrating into the excavation from another --

3 A No, sir, I do not.

4 Q -- area adjacent to that excavation.

5 A No, sir, that was --

6 Q Okay, so then we proceed beyond the 7th and on  
7 through that week, I guess later during that second week, the  
8 same week that Spitzberg and Vasquez were here, and based on  
9 my recollection of the chronology of events, they began  
10 laying the footings or -- preparing to lay the footings for  
11 that -- for the wall that would be around the outside of this  
12 vault. And in talking with some of the people who were  
13 involved in the -- not the excavation but the -- well the  
14 Engineering people out there, Kiehn and some of the others --  
15 this migration of fluids or water from apparently underneath  
16 the SX building and so on, most particularly at that  
17 southeast corner that I referred to a few minutes ago, caused  
18 some problems in trying to prepare that area to pour concrete  
19 in. Were you aware of that?

20 A No, sir. One thing that has been of concern to us  
21 is a point that you actually brought up and we tried to  
22 follow up on, that Bob Kiehn was coming in like three and  
23 four in the morning pumping the water out before we got  
24 there. I questioned Mr. Simeroth about that extensively. I  
25 said were you aware of this, and he said no.

1 MR. SHAPIRO: Now this is -- just to get the time  
2 frame straight, you -- this is after-the-fact, after the NRC  
3 came in.

4 THE WITNESS: Yeah.

5 MR. SHAPIRO: You didn't know that Kiehn was  
6 pumping the water out then.

7 THE WITNESS: No, sir, I did not.

8 MR. SHAPIRO: And when you asked Simeroth, he  
9 didn't know that Kiehn was pumping the water out.

0 THE WITNESS: No, sir.

11 BY MR. DRISKILL:

12 Q That's what you told me when we talked about it  
13 somewhere in the middle of September.

14 A It was a shock to me. I mean, I wanted to check.  
15 I said Ken, what's going on.

16 Q And I'm not sure that Kiehn told me that, I think  
17 it was Fryer or somebody else was the one that told me that  
18 Kiehn had come in on at least one or more occasions and was  
19 pumping that water out. I think we have since found out that  
20 they brought in some, one or more additional people, either  
21 from the operations staff or from the contractor's staff or  
22 somewhere, to take care of pumping that water out of the  
23 excavation. So Kiehn, based on my knowledge at this point in  
24 time, apparently was not the only individual who was pumping  
25 water. And I'm not absolutely certain as to the times, I'm

1 just -- when I asked that question previously, it was based  
2 on something I was told by Fryer or Mestepey or somebody else  
3 that indicated that, and I think -- so I wouldn't swear to  
4 the accuracy of their statement.

5 Q To summarize the last couple of questions I've  
6 asked you, through the first couple of weeks, the first week  
7 of August being principally associated with the excavation,  
8 the second week of August was a period in which they were  
9 finalizing the excavation and beginning to lay the -- prepare  
0 the forms to pour concrete, the concrete walls, and also  
1 during that second week was the week that several NRC  
2 representatives were here and you were involved with that.  
3 But what you're telling me is that at no time during those  
4 first two weeks were you aware of any significant migration  
5 of water, contaminated or otherwise, into the excavated area,  
6 aside from the leaking pipe where a shower existed and a  
7 broken sewage main.

8 A The only time I knew of water was the water we've  
9 talked about and questions I had asked of my supervision I  
0 had out there watching it for me, et cetera -- and I can't  
1 tell you who I asked -- was what kind of levels are we  
2 getting, and it was always below MPC values, it was always  
3 real low levels. It was never this one to eight grams, for  
4 example. Nothing that would indicate to me that we had that  
5 kind of a problem.

Q Were you aware that water samples were being taken or samples -- any sampling was going on of any existing fluids there?

A Obviously so because I had asked what kind of levels are we getting in this water, as far as what's the microcuries per cc or what's the levels. It's .01, .02, .04 was what I was being told.

MR. SHAPIRO: Well the fact that you knew about some samples that had been taken doesn't necessarily mean you knew whether they were sampling on a continuous basis.

THE WITNESS: No, sir, it does not. Like I said, I -- and I don't mean to belittle the excavation or say it's unimportant, but I was trying to manage about six or seven projects at the same time as well as satisfy an NRC inspection.

MR. DRISKILL: Okay, that's fair. I'm not trying to indicate, and I really never have tried to indicate that this was the only thing that was going on around here. I recognize, you know, that there were a lot of different projects going on and that those projects in various ways beared on the responsibilities of a number of managers here. And so that excavation was only one thing going on.

THE WITNESS: It was probably five percent of my work load, considering what we had going on in the plant and everything. And we have -- our department has typically, in



1 other problems that we have had in this facility, been the  
2 ones to encourage that we take action, that we do things.

3 BY MR. DRISKILL:

4 Q Let me ask you this, it was during that second week  
5 of August that they began pumping water into barrels out of  
6 the excavation. Did anybody discuss with you the  
7 acceptability of pumping water into barrels or where the  
8 barrels would come from or where the pump would come from?

9 A That's pretty well common practice around here, to  
10 pump it into barrels and then to do something with it, put in  
11 the miscellaneous digest or something. It has always been --  
12 for example, the o'ner day, this last week we had a problem  
13 with some H2S and typically what you do is you pump it into  
14 barrels so you can keep it -- lined barrels. That's pretty  
15 well common practice, it's very common around here.

16 Q Okay. And as I understand it and I ask Mr. Chapman  
17 to correct me if I'm wrong, but I think that during the  
18 second week when they began pumping the water into barrels  
19 and on up to the third week when they were pumping water, a  
20 considerable number of barrels accumulated and they were  
21 being stored -- I don't know whether they were on pallets or  
22 just sitting directly adjacent to the area where the  
23 excavation was located. Did you notice the accumulation of  
24 these barrels of water there at that period of time?

25 A I remember some barrels being out by the heat

1       exchanger building.

2           Q     The what?

3           A     I want to call it the heat exchanger building, I  
4       can't think of the term -- it's the cooling tower, I'm sorry  
5       -- some barrels out by the cooling tower.

6           Q     Okay, that was directly north of the excavation  
7       area, about 100 yards or 200 yards?

8           A     Now as to when I noticed those, I can't give you an  
9       exact date.

10          Q     But you didn't notice barrels accumulating --

11          A     No, I'm not sure -- when they bring barrels, they  
12       don't bring two or three, they bring a truckload, 10 or 20.

13          Q     Okay. Then do you recall that on the weekend of --  
14       I'm just guessing at the dates, but the end of the second  
15       week, which was -- well we went from the 6th through the 11th  
16       and then we had the 12th and 13th that would have been  
17       weekend, or something like that -- there was a considerable  
18       amount of rain over that weekend, which -- a good portion of  
19       which collected in the excavation and needed to be pumped  
20       out. Did anybody discuss with you the acceptability or the  
21       propriety of pumping that water out on that particular  
22       occasion?

23          A     Yes. Nobody discussed it with me prior to --

24          Q     Well it would have been on Monday morning when  
25       everybody returned to work, they said we've got a lot of

1 water in there, we've got to get rid of it so we can go back  
2 to work.

3 A That's I believe the water that Mr. Mestepey pumped  
4 to the north ditch, if I'm not mistaken, or barreled it or  
5 something.

6 Q Well my question was did anybody discuss with you  
7 the acceptability of pumping that to the north ditch, whether  
8 it should be put in barrels or what -- at that time.

9 A I believe I talked to Jim Mestepey, now exactly the  
10 time -- I remember when they were talking about the water, I  
11 asked him what were the levels and I was told that the levels  
12 were the low levels, whatever it was. And he said they  
13 pumped it to the north ditch.

14 Q When you say levels now, are you talking about --  
15 had they sampled it, did you ask him if they had sampled it  
16 and what were these lab results?

17 A Yes, yes. I'm not sure if I asked Jim and got the  
18 numbers or whether Jim gave me the numbers or if I asked  
19 somebody else and they told me the numbers. But the feeling  
20 I had at the time was that the water was like below MPC  
21 values and we could discharge it off-site. I remember  
22 thinking okay, and I remember after that Jim talking about he  
23 was going to barrel any more water that was in there.

24 Q At the same time or at a later time?

25 A I don't remember, I just remember --

1 Q He just let you know then that they had water in  
2 the excavation -- did you see it yourself?

3 A The rain water? I remember walking out there after  
4 it rained and thinking how muddy and gooey and everything it  
5 was.

6 Q Was that before or after they pumped the water out?

7 A I can't tell you, sir. I just remember the fact  
8 that it had rained and I was concerned about water in the pit  
9 and discussed it with someone and found out that it was low  
10 and that it had been discharged. Now whether it was before  
11 it was discharged or after, I can't tell you.

12 Q Okay, and he told you though that any further water  
13 that collected in the pit, that they were going to put into  
14 barrels?

15 A Well Jim -- I don't know if it was two days later,  
16 three days later, but I remember him making a comment that he  
17 was going to collect anything in the future and put it in  
18 barrels.

19 Q And at that point in time, you didn't know that  
20 anything had been put in barrels?

21 A Don, I really can't remember at the time. I just  
22 remember -- because, you know, we put a lot of stuff in  
23 barrels after that, for months.

24 Q Okay. So at least through these first two weeks  
25 and up to the point of the 14th or something like that, you

1 were not aware of the existence of any significant amount of  
2 contaminated water?

3 A No, sir, I was not. I'm not saying I shouldn't  
4 have, I'm just saying that I was not.

5 Q I guess Mestepey went out of town on the 16th or  
6 something like that, but Lacey came over to your office and  
7 asked you about the existence -- he's heard a rumor --

8 A Yes, sir, he'd heard a rumor.

9 Q -- relative to the existence of some lab analysis  
10 showing some rather high --

11 A I can't even be sure he used the word lab analysis.

12 MR. SHAPIRO: He'd just heard about some elevated  
13 levels?

14 THE WITNESS: Yeah, if he'd heard some lab  
15 analysis, that might have helped me some. The impression I  
16 got from our conversation was that he asked me what numbers I  
17 had heard and I told him I had heard everything was like the  
18 .01, the .02, the .04 -- everything was real low, and I  
19 hadn't seen anything. He said he heard a rumor and I asked  
20 him where he heard it, could he give me an indication, and he  
21 said no. And I said well do you have any idea where this is  
22 coming from, and he couldn't tell me. So I called -- I think  
23 it's in my testimony at least a couple of times, I called the  
24 lab that was working for us at the time, and asked them. I  
25 asked Sonny, I said what numbers can you give me, what have

1 you seen as far as these kind of numbers.

2 Q What kind of numbers are you referring to?

3 A The -- Lee said he had heard something like one  
4 gram or so, he'd heard some much higher numbers. And I'm not  
5 even sure he used the words "one gram", he just said he heard  
6 some elevated numbers, enough to be of concern. And so I  
7 called Sonny, who did our analysis for us, and he said no, he  
8 didn't have anything along those lines. Well Carol was gone  
9 and I said well, let's just check and see. So we went in and  
10 I guess you might use the term "rifled her desk". Carol  
11 keeps a notebook, we found the notebook and tried to go back  
12 through it, couldn't find anything. So we went through her  
13 in-basket, out-basket. I remember going through my own desk  
14 to see if I could find anything to indicate it after we came  
15 back to my office. And Lee said well he didn't know, he  
16 would have to check on it and let me know.

17 Q We discussed this previously, but refresh my memory  
18 as to why you didn't contact the other lab, you or he or  
19 somebody, or the thought didn't cross your mind?

20 A Well the analysis before, the levels we had seen,  
21 were typically done by our lab because their lab couldn't go  
22 that low. And I was so used to working with our lab, I had  
23 set it up -- and we just didn't think about it.

24 MR. SHAPIRO: Our lab being the environmental lab?

25 THE WITNESS: Environmental lab, I'm sorry. That

1 was the one that was working for us. It just didn't cross my  
2 mind.

3 BY MR. DRISKILL:

4 Q Well why did you go to Carol's office and dig  
5 around through her desk?

6 A Just to see if she had received a report or  
7 something.

8 Q Well I mean --

9 A Carol is our environmentalist, okay? She would  
10 typically see these kinds of things, and in my own group,  
11 anybody would know those kind of environmental type things  
12 would either be her, myself or something.

13 Q Did you go to talk to Simeroth about it?

14 A I can't recall, sir.

15 Q Did you rifle his desk?

16 A Not with Mr. Lacey, I did not, no.

17 Q Did you by yourself?

18 A I don't recall.

19 Q Well essentially what I'm looking for --

20 A Ken -- I understand what you're saying, and Ken, it  
21 just didn't seem to me would be the place to look, I guess.  
22 I may have asked him about it, I don't know -- I do not  
23 remember. I may very well have asked Mr. Simeroth, but --

24 Q You've indicated to me previously that you didn't -  
25 - you were not aware that Ms. Couch was taking samples of

1 water out there, you were not even apparently aware of the  
2 existence of any water out there in any significant amounts.  
3 And Lacey comes to you with a rumor that there's been some  
4 high levels or high -- more than would normally I guess be  
5 expected, contaminated water. So you immediately go to  
6 Carol's or you look -- go to Carol's office and look and like  
7 I say, she had finished her responsibilities, as she has  
8 related to me, way back at the beginning of the second week  
9 and this is already up to the third week.

10 A I guess I don't see it that way as far as Carol's  
11 responsibilities. I mean she had been involved in the rock  
12 we were putting in, she had been involved in other  
13 environmental things. So I guess I didn't see that her  
14 responsibilities had ended.

15 Q But you were not aware that she had been taking  
16 water samples out there, with the exception of those she --  
17 the soil samples she had taken for the state?

18 A No, I didn't know she took those, no, sir.

19 Q Okay, did Lacey tell you that she had taken some  
20 samples and they showed high levels of contamination --

21 A No, sir.

22 Q -- when he came over and said he'd heard a rumor?

23 A No, sir, he did not. He couldn't tell me -- I  
24 questioned him, I said give me something to work on, what are  
25 we talking about. And at that point he wasn't even sure he



1 heard it, he said I might be wrong, he said it's just a  
2 rumor, he said I don't know for sure.

3 Q He didn't tell you where he heard the rumor?

4 A No, sir, I asked him and he -- it was almost like a  
5 gut feeling more than anything, he couldn't really tell me  
6 for sure that he had.

7 MR. CHAPMAN: Mike -- can I ask a question please?

8 MR. DRISKILL: Yeah.

9 BY MR. CHAPMAN:

10 Q I believe, for the record, that Mr. Lacey later  
11 spoke to Mr. Chilton on the same day, the 17th, in which Mr.  
12 Chilton relayed to Mr. Lacey some values because he had done  
13 some composite -- Chilton had done some composite samples.  
14 Did Mr. Lacey, to your knowledge, contact you after he had  
15 had a discussion with Mr. Chilton, and relay any specific  
16 values?

17 A No, sir, he did not.

18 Q Okay.

19 A I mean I've questioned both of those gentlemen. I  
20 said hey, did I miss something in the meeting? I left, we  
21 had another discussion with Operations on another project  
22 that was going on and Mr. Chilton and I were arguing over  
23 some things. And at that time, I left the meeting -- they  
24 were both sitting in there and I walked in there and I had a  
25 very short but exciting I guess conversation with Mr. Chilton

1 over some activities I didn't think Operations should be  
2 doing as far as the plant. At which time I got up and left.  
3 After that, I didn't see either one of them the rest of the  
4 day.

5 BY MR. DRISKILL:

6 Q Okay, well this I believe occurred on the 16th and  
7 17th --

8 A 17th, that Friday afternoon.

9 Q Yeah. You had gone through Carol's desk that  
10 morning looking for some stuff, later during the course of  
11 that day Lacey has a conversation with Chilton where he  
12 learns that Chilton has discovered some lab analysis  
13 reflecting contamination of water in the excavation, to a  
14 range of one liter --

15 A One gram per liter.

16 Q -- one gram per liter up to eight grams per liter,  
17 something like that. He told Lacey about that and based on  
18 what I believe you told Mr. Chapman, he didn't contact you  
19 and say hey, there were some out there.

20 A No, sir, he did not.

21 Q So you weren't aware of it?

22 A No, sir.

23 Q And then he later on had a discussion, a meeting,  
24 and sat down apparently with Mr. Chilton and they talked  
25 about it -- this is based on his own testimony -- and they

1 talked about it and Mr. Chilton again related to him, you  
2 know, that there had been some samples taken and the results  
3 showed one to eight grams per liter. You didn't know about  
4 that?

5 A No.

6 Q So you went home that weekend and was unaware of  
7 the discovery of his lab analysis?

8 A Yes, sir, I did not know about it, I went home.

9 Q Okay, well we'll stop there at the end of the third  
10 week of this whole thing and let me to back and ask you about  
11 Sequoyah Fuels Facility procedures. Were there any  
12 procedures in existence requiring that people notify you  
13 about the existence of conditions which pose a potential  
14 problem for personnel, either Sequoyah personnel or --

15 A G-160 I believe is our general procedure and I'm  
16 not sure of the exact words in it, but it's pretty well  
17 common knowledge that if people see things that they think  
18 are abnormal or whatever, they should notify me or my staff  
19 so we can take care of it.

20 Q Well I'm asking you does there exist a regulation  
21 which requires people to notify you or Health Physics or  
22 somebody on the safety side of the house of the existence of  
23 an unsafe condition?

24 A G-160.

25 Q G-160 requires people --

1           A     I'd have to read it to be sure, sir.

2           Q     Well let me ask you this, would you believe that,  
3     in all honesty, that perhaps Mr. Mestepey or Mr. Kiehn or  
4     somebody out there was remiss in not notifying you of the  
5     existence, first of all, of the water which was contaminated  
6     in that area, that was migrating into that area? Since you  
7     were obviously unaware of all this stuff that was going on  
8     out there, was somebody remiss, was somebody in violation of  
9     the Sequoyah procedures in not notifying you concerning that?

10                   (Pause.)

11           Q     You don't answer me immediately, so obviously  
12     you're thinking about it, but you've had three or four --  
13     you've had six months to think about this and this --

14           A     Sir, the reason I didn't answer immediately was I  
15     was trying to put it in the right words. Yes, I think they  
16     should have -- I know they should have told me about it if  
17     they had any concerns as to what was there.

18           Q     You know -- obviously you've given this some  
19     thought because this has been a real problem for you and for  
20     Mr. Lacey and for Mr. Mestepey and for Mr. Graves and for Mr.  
21     Blue and for the NRC for a long time. So you've obviously  
22     given this some thought during all this period of time, about  
23     -- you told me early on you didn't know anything about the  
24     water, you're still telling me you don't know anything about  
25     the water up through the first three weeks of the project out

1 there. And that's been a real sore point with a lot of  
2 people, why didn't you know about the water, why didn't you  
3 know about the lab analysis -- I'm sorry for the finger  
4 pointing --

5 A I understand.

6 Q Why didn't you know about it and all that. Well  
7 obviously somebody made a mistake in not letting you know, is  
8 that right?

9 A Yes, sir.

10 MR. SHAPIRO: Don, I'd be willing to stipulate to  
11 that, I think we all would.

12 MR. DRISKILL: Well I'm working up to another  
13 point.

14 MR. SHAPIRO: Well I know, but -- and you might  
15 even put in the fact that he probably had staff on site and  
16 that somebody will say that they probably should have told  
17 him or they should have known themselves. We'll stipulate to  
18 that.

19 MR. DRISKILL: Okay, well then I guess we can  
20 stipulate to the point that in fact you had some of your own  
21 personnel out there who didn't notify you, obviously Ms.  
22 Couch didn't tell you about the lab analysis that she had  
23 taken and --

24 THE WITNESS: I don't mean to break your train of  
25 thought, but I need to go to the boy's room --

1 MR. SHAPIRO: Men's room.

2 MR. DRISKILL: Okay, we'll break for a minute, the  
3 time is 9:45.

4 (A short recess was taken.)

5 MR. DRISKILL: It's 9:55 and we'll resume the  
6 interview.

7 BY MR. CHAPMAN:

8 Q Mr. Nichols, I'd like to cover a couple of areas  
9 that you and I were discussing yesterday, and one was  
10 Sequoyah Fuels Operating Procedure HS-005. And we discussed  
11 that it was in effect at the time of the excavation and that  
12 it basically came into effect in December of 1988 and that  
13 you had reviewed it and were aware of the procedures in here.

14 For the record, I kind of wanted to get in here the  
15 fact that it was rescinded on October 18, 1990.

16 A Okay.

17 Q And it was rescinded for some -- the letter  
18 rescinding it is from Mr. Mestepey to Derrell Martin, and I'm  
19 a little bit confused why Mr. Mestepey is rescinding a Health  
20 Physics Notice, but I will preface it with the fact that  
21 there is a letter from you on the second of October to Mr.  
22 Derrell Martin, "Subject: Procedures Required Review" and  
23 ask for your changes, and you basically -- I assume this is  
24 your handwriting down here that says "Please rescind."

25 A It's not my handwriting but --

1 Q But that's your instructions I guess?

2 A Yes, we made a departmental procedure. We had  
3 decided sometime ago in 1990, to take a lot of the  
4 procedures, like our routines and things that didn't affect  
5 other departments, the Plant Operating Review Committee, it's  
6 much easier for me to handle them, to change them, to work  
7 with them, rather than bother the PORC, because they had very  
8 little say-so normally with them anyway. And we had decided  
9 to do that.

10 Q Can you answer me why Mr. Mestepey is the man  
11 giving the final reasons for it to be rescinded?

12 A No, sir, I don't. I was unaware of this one. This  
13 one over here is typically -- we decided to make it a  
14 departmental procedure. This just may be because Mr. Martin  
15 worked for him or something, and he has to have instructions  
16 from him.

17 Q But in no way --

18 A Could be administrative.

19 Q -- was this memo correlated with any of your  
20 instructions for Mr. Mestepey -- this memo from Mr. Mestepey  
21 was not at your instructions or correlated through any of  
22 your requirements?

23 A No, it may have been generated by this other sheet  
24 though.

25 Q Okay.

1           A     They may have an administrative procedure that says  
2     you can't rescind a procedure unless a department head, which  
3     Mr. Mestepey is for administrative -- who handles all our  
4     procedures generation.

5           Q     Okay.

6           A     I don't know.

7           Q     Just in light of this procedure being rescinded in  
8     October of 1990, the procedure was still in here for sampling  
9     of the SX sandwells.

10          A     Yes, sir.

11          Q     I guess kind of my question is why did you stop  
12     sampling them in May of '89 if you still had a procedure that  
13     required you to do it.

14          A     Well typically we should have changed the  
15     procedure, and we did not. That was a fallacy of ours. The  
16     idea is that if you stop doing something, you go ahead and  
17     get the procedure changed.

18          Q     Well I realize that, but this is two years -- I  
19     mean a year and a half later. It doesn't take that long to  
20     change a procedure, does it, sir?

21          A     No, it doesn't. It evidently fell in the crack.

22                MR. SHAPIRO: From your standpoint though, Mike,  
23     the error was that you didn't take the procedure out of the  
24     routine.

25                THE WITNESS: That's right.



1 MR. SHAPIRO: I mean it wasn't that you were  
2 supposed to continue sampling.

3 THE WITNESS: No, sir.

4 MR. SHAPIRO: They made a decision to stop sampling  
5 and they didn't --

6 BY MR. CHAPMAN:

7 Q Well not to disagree with Mr. Shapiro, but if you  
8 have a procedure, Mike, and we're getting into procedural  
9 questions here, I don't know whether you have the authority  
10 to stop following procedures at Sequoyah Fuels and take it  
11 upon yourself to disregard the procedurals that are still in  
12 effect for a year and a half later.

13 A Well I'm not saying I do, sir, and that was not my  
14 intent. I was not -- my intent was that we had found  
15 something that -- to me, it's more of a clerical error, we  
16 did not put a TOP through to change it -- temporary operating  
17 procedure.

18 Q It's a clerical error that -- I'm not arguing with  
19 you, Mike, I understand what you're telling me, but I guess  
20 the point I want to make here is we are discussing water that  
21 contains uranium inside the restricted area.

22 A Yes, sir.

23 Q And you took it upon yourself to stop that sampling  
24 and you took it upon yourself as the Health and Safety  
25 Manager to let the procedure lie for a year and a half

1 without making the change -- I'm going to go on, because Mr.  
2 Simeroth has indicated that you and he discussed this at the  
3 time, and by your own admission you and Ms. Couch discussed  
4 it.

5 A Yes, I did. I and Ms. Couch discussed that it  
6 wasn't doing us any good and we decided to change it, and  
7 what happened was I then told Mr. Simeroth we were going to  
8 stop. I believe this was in January or February. Now we  
9 continued to do it for three or four months because it takes  
10 time to -- you've got to get used to doing it, winding down,  
11 quit doing it.

12 Q Okay.

13 MR. SHAPIRO: Well could I ask a question related  
14 to Mr. Chapman's question?

15 MR. CHAPMAN: Certainly.

16 MR. SHAPIRO: Mike, once you -- you've referred to  
17 a clerical error, by that -- once you decided that you were  
18 going to stop these sandwell tests, was there any other level  
19 of review that would have to be taken in the company?

20 THE WITNESS: Yes, I can put a TOP through, which  
21 means that I would -- temporary operating procedure -- which  
22 is good for 90 days or so, and I can be the requester, I can  
23 be the reviewer for Health and Safety and then that would go  
24 to -- at the time I'm not sure whether it would be --  
25 probably Mr. Scott Knight, it may have been Mr. Mestepey.

1 That's how TOP works. And the I could have stopped doing it.

2 MR. CHAPMAN: I guess, Mr. Shapiro, what does that  
3 have to do with the fact that he -- the procedure was in  
4 effect for a year and a half? He is the initiator to make  
5 the change, regardless if there's a review process upstairs.  
6 The same analysis would work that we're discussing here. As  
7 you didn't know about these elevated levels, top management  
8 isn't going to know about something that's stopped in the  
9 plant unless you notify them. So how does this tie together  
10 that an upper review gives you the authority to stop  
11 something and then not make a procedural change or notify  
12 someone that you've made a procedural change, upon your own  
13 volition?

14 THE WITNESS: I understand what you're saying, and  
15 we should have put a TOP through. Right now there's some  
16 procedure changes I have the authority to stop without going  
17 through a --

18 BY MR. CHAPMAN:

19 Q I realize now a lot of things have changed.

20 A At the time we've been discussing, it was kind of  
21 cumbersome to go through those kind of things --

22 Q The reason I think that this has some relevance,  
23 Mr. Nichols, is that in our previous discussions yesterday,  
24 you have indicated to me and even to some degree Mr.  
25 Driskill, that you were unaware of elevated levels of uranium

1 at the excavation. And you made some comments basically that  
2 had you known, certainly you would have taken some steps.

3 A Yes, sir.

4 Q And in discussions with Mr. Simeroth, the man that  
5 was basically at the site, as you said, there frequently and  
6 regularly, he has indicated to us that at no time did you as  
7 manager of Health and Safety tell him to have a concern about  
8 any uranium at the site, at the excavation. And I guess what  
9 I'm asking you, Mr. Nichols, taking upon yourself to  
10 discontinue testing that shows, or at least uranium presence,  
11 in the immediate area of an excavation -- why would you not  
12 instruct your man at the site to be cognizant of the fact of  
13 uranium in addition to your knowledge that there is  
14 contamination in the form of yellow chunks during the  
15 construction and that there had been contaminated soil, vis-  
16 a-vis a 1988 NRC split sample?

17 A Let's start from the beginning with the sandwells,  
18 that's the best place I can start here. We had reviewed the  
19 sandwells, I had talked to our environmentalist, we didn't  
20 feel that they showed us anything, and the levels we were  
21 seeing, seven and nine thousand micrograms are still below  
22 MCP values.

23 Q No argument.

24 A They're two feet below or whatever, in the ground,  
25 three feet -- these were not what we would call very good

1 indications, and that's why we stopped.

2 Q Very good indications of what, sir?

3 A Of what's really down in the ground. You know, we  
4 know we had surface contamination and we know we had a pipe  
5 in the ground, we didn't know that was a well.

6 MR. SHAPIRO: That is a question that we've all  
7 gone over three or four times with respect to why he argues  
8 that those indications --

9 MR. CHAPMAN: No, sir, that's not my question,  
10 Mike.

11 BY MR. CHAPMAN:

12 Q My question to you is as the Manager of Health and  
13 Safety, the man responsible to ensure that the health  
14 procedures here are followed, you have prior knowledge to  
15 this excavation that there is a potential for contamination  
16 out there -- let me finish, Mike.

17 A Not from those wells I don't, sir. That's what  
18 I've tried to come across and explain to you four or five  
19 times.

20 Q Mike, these sandwell sheets tell you there's  
21 contamination. I'll not argue with you the values, but the  
22 fact that there is a potential for contamination -- a  
23 potential, Mike, values unknown. Let me finish, Mike.  
24 Because we're not taking samples -- values unknown.

25 My question to you, Mike, is you have an

1 environmental manager named Carol Couch, you have an RSO out  
2 there. Your environmental manager is taking samples and your  
3 RSO is out there at your instructions and his instructions,  
4 by his testimony here are to watch for health and safety,  
5 particularly hexane. One of my questions to him was were you  
6 told to be aware of potential contamination out there and his  
7 answer was no.

8           So I'm asking you, sir, as the Manager of Health  
9 and Safety. With your prior knowledge, well known knowledge  
10 in this facility that there is a potential for contamination  
11 out there, discussed in pre-planning meetings, by your own  
12 admission you were at some of these meetings -- why would you  
13 not be very, very cognizant and very astute and aware of the  
14 potential and issue instructions to your staff to be  
15 sensitive to this area?

16           A     I will answer you if you will not interrupt me  
17 until I can finish.

18           Q     I will if you won't interrupt me any more, Mike.

19           A     I started to answer a minute ago.

20                   With respect to the sandwells, like I started to  
21 say awhile ago, I still to this date -- they're low numbers,  
22 they're not really an indication of what was down there, they  
23 were just surface contamination. I had talked to our  
24 environmentalist who told me they didn't give her any data.  
25 I did not have the feeling, right or wrong, it was an

1       indication of what was down below those tanks.

2               As far as Mr. Simeroth, his job is health physics  
3 supervisor. Now whether I specifically told him you watch  
4 for contamination, you watch for uranium in there, I should  
5 not have to do that. That's just part of our every day job,  
6 that is his job in Health Physics, is to watch for  
7 contamination, it's in his job description. As to whether I  
8 exactly said watch this or watch that, sir, I can't answer  
9 that, but I know I put Mr. Simeroth and a technician out  
10 there to watch for all the problems we have out there.

11           Q     Okay.

12           A     In fact, I have asked Mr. Simeroth myself, if you  
13 saw something, if you saw the yellow water, why didn't you  
14 tell me. These are conversations he and I have had several  
15 times since then.

16           Q     Not meaning to interrupt you --

17           A     Okay.

18           Q     I don't want you --

19           A     But his answer was he didn't think to. He said he  
20 did not see anything to indicate to him there was a problem.  
21 But Health Physics is watching for contamination, et cetera.

22           Q     Well Mr. Simeroth has indicated to me that you and  
23 he went out there and observed yellow chunks of solids on the  
24 surface of the excavated area, or the dirt next to the  
25 excavated area.

1           A     That may have been the first day.

2           Q     The first day?

3           A     Not the first day, the day we went out there and  
4     scraped them off, he may have been out there with me.

5           Q     Okay, Mike, now I'll restate my question to you  
6     again. As the Manager of Health, Safety and Environment, now  
7     you've told me that you were physically out there and saw --  
8     and had personal knowledge early on of contaminated rock and  
9     you heard early on of some contamination in the water, low or  
10    otherwise -- I won't argue that. As the Manager of Health  
11    and Safety, why didn't you call your staff together and say I  
12    need you to be particularly attuned to the fact that I have  
13    indications that there are some potentials for contamination,  
14    I want you to make sure and take upon yourselves, your values  
15    and your interest to ensure that people working in that pit  
16    are not being subjected to any radiation unduly.

17          A     I felt that my staff was trained well enough,  
18    that's their normal every day job, is to make sure that that  
19    doesn't happen. We had seen the rock that was scraped back  
20    and we discussed this several times, when they scraped the  
21    rock back we had found the chunks, okay? I'm sure I  
22    discussed those with Mr. Simeroth.

23          Q     Okay, sir, let me ask you this question and then I  
24    won't belabor it any more. Did you ever instruct your staff,  
25    during this period of time, to be sensitive to the fact that



1 there's contamination out there and to report it back to you,  
2 if they so felt?

3 A No, sir, I did not.

4 Q Okay. Now Ms. Couch, by this organizational chart,  
5 reports directly to the Health, Safety and Environment  
6 Manager.

7 A Yes, sir.

8 Q You have indicated to me that you were aware of a  
9 meeting with Ms. Couch and Mr. Mestepey on a discussion of  
10 the french drain.

11 A Yes, sir.

12 Q And I believe that you indicated that Ms. Couch had  
13 some concerns about this french drain. I ask you, sir, in  
14 light of one of your subordinates going around your chain of  
15 command direct to the Senior Vice President, did you inquire  
16 of Ms. Couch of her discussions with Mr. Mestepey, the  
17 contents of it?

18 A Larry, I can remember her having several  
19 conversations with Jim Mestepey on different issues. And I  
20 can remember her saying something about talking to Jim  
21 Mestepey about the french drain, and I can remember trying to  
22 satisfy myself and her that the french drain was not going to  
23 be just something that if there was contamination on the  
24 rock, that we were going to put in and go anywhere.

25 Q Okay, Mike.

1           A     That I remember.

2           Q     Sir, I'll ask you, do you recall her conversation  
3 with Jim Mestepey -- scratch it. Did Carolyn Couch tell you,  
4 prior to the NRC's visit here, that she had had a discussion  
5 with Jim Mestepey on the 7th?

6           A     On the 7th?

7           Q     The 7th of August, sir.

8           A     I can remember her saying she had several  
9 conversations with Jim Mestepey.

10          Q     I asked you about the 7th, Mike. Did she  
11 specifically mention that one to you?

12          A     Sir, I can't give you that date. I remember she  
13 talked to him about the french drain.

14          Q     All right, sir.

15          A     And again I was trying to satisfy her, and the  
16 impression I got from Ms. Couch was that she was satisfied  
17 with what we were going to do, because like I said, when I  
18 first asked Ms. Couch, she was all for it, she thought it was  
19 great. Then she had some reservations and then she evidently  
20 talked to Jim and she was concerned and so was I, and I  
21 remember I talked to Jim about it and I think it finally  
22 ended up in a meeting on a Monday or so, in which we settled  
23 it out, you know, is it going to be all right to put this  
24 rock in there, is nobody going to have a hard spot with it,  
25 this contaminated rock, on the french drain. And where was

1 it going to go, was it going to go just to a tank, was it  
2 going to go to a sump, whatever.

3 Q So I guess a fair characterization of what you're  
4 telling me, Mr. Nichols, is Ms. Couch did not come to you and  
5 specifically discuss with you the meeting she had with Mr.  
6 Mestepey on August 7 relative to the french drain and  
7 contaminated water. Is that a fair assessment of what you're  
8 telling me after we discussed this for five minutes?

9 A I'm saying I discussed her meeting with him. Now  
10 did she come give me a blow-by-blow speech, I do not remember  
11 that.

12 Q That was my question.

13 A No, I do not remember that.

14 Q And the second part of that question was you did  
15 not inquire of one of your subordinates of the contents of  
16 that meeting regarding contaminated water?

17 A We discussed --

18 Q We're talking about the 7th, Mike, I don't want to  
19 trip you up on dates.

20 A I don't remember the date, I just remember we had  
21 two or three discussions because I was concerned that she  
22 would be satisfied that what was being in there was going to  
23 work and control contamination.

24 Q All right, sir. Prior to the NRC's visit on the  
25 22nd, --

1           A     This was prior to that.

2           Q     Okay, sir. So that I understand and the record is  
3 clear, Ms. Couch never, prior to the NRC visit, ever  
4 discussed with you her sampling or gave you any indication  
5 she'd ever took any samples or had lab results, right?

6           A     Yes, sir.

7           Q     Now by procedure, sir, is Ms. Couch remiss in  
8 knowing of a potential contamination out there, by knowing  
9 the water contains contamination by her own admission, and  
10 not bringing it to your attention -- did she fail to follow  
11 procedures?

12          A     Yes, sir. Larry, there's no doubt that the  
13 organizational chart, as you sit there, did not work.

14          Q     I'm not asking about the organizational chart. Was  
15 she remiss by procedures in not coming to you? Did she  
16 violate Sequoyah Fuels procedures, particularly if it's GS-10  
17 or G-10?

18          A     Yes, sir.

19          Q     Okay, sir. My next question to you, sir, is Mr.  
20 Simeroth has told us by his testimony that in the back of his  
21 mind, he knew there was potential contamination in the water,  
22 he didn't know the values either. Was Mr. Simeroth in  
23 violation of Sequoyah Fuels procedures by failing to bring to  
24 his superior knowledge that there is potential contamination  
25 in that water?

1 A Yes, sir.

2 Q Sir, is Mr. Callahan and the other health  
3 technicians that were out at the site, who have told me that  
4 they were -- scratch Mr. Callahan -- the other technicians,  
5 and we can get the names later, have gone on record in  
6 saying, sir, that they were asked by the contractors if the  
7 water contained any contaminants, and the ones that have told  
8 me that they knew there was a potential for contamination,  
9 were they also in violation of Sequoyah Fuels procedures by  
10 not bringing this to their superiors?

11 A Well it depends on whether they talked to Mr.  
12 Simeroth or not.

13 Q No, sir, I'm asking their superiors. I don't know  
14 who their superiors are. That's a general question and that  
15 can be established --

16 A They report to Mr. Simeroth.

17 Q Were they in violation of Sequoyah Fuels procedure?

18 A If they didn't tell him, yes, sir.

19 Q Okay, sir. Who is your superior at this time?

20 A Mr. Graves.

21 Q Sir, by the fact that Mr. Lacey came to you on the  
22 17th of August and indicated to you that he had high readings  
23 and that he was concerned about it, were you in violation of  
24 Sequoyah Fuels procedures by not contacting your immediate  
25 superior and telling him that you now have indications of

1       contamination at the site, values unknown -- are you in  
2       violation of procedures because there's now a potential  
3       health hazard?

4           A     I do not believe so, no, sir.

5           Q     Why not, sir?

6           A     Because it was a rumor, we couldn't --

7           A     No, you have a Vice President or a Regulatory  
8       Manager at that time, coming to you, saying yes, he has a  
9       rumor, but it's a concern. Now you have an indication of a  
10      potential violation. It's your obligation to determine --

11          A     Yes, sir, that is what I started to do at the time.

12          Q     No, sir, you told us you went home on the weekend  
13      and had no information and by your own comments, Mr. Nichols,  
14      you did not ask Mr. Lacey any further information. I ask  
15      you, sir, were you in violation of Sequoyah Fuels procedure.

16          A     I asked Mr. Lacey where he had heard it from, if he  
17      could give me solid data, and he told me no.

18          Q     I understand, Mr. Nichols. My question was were  
19      you in violation by not following through, according to  
20      Sequoyah Fuels procedures, in determining the values and  
21      levels?

22          A     I did try to follow through.

23          Q     You went home on the weekend and never asked him  
24      again, never once questioned your staff; Carol Couch, Ken  
25      Simeroth --

1           A     Carol Couch was not there.

2           Q     But you never contacted her or attempted to contact  
3 these people. My question to you is by not taking action,  
4 were you in violation of Sequoyah Fuels procedures,  
5 particularly the one you mentioned.

6           A     If I had information that there was water there,  
7 yes, I'm in violation.

8           Q     Okay, sir, was Mr. Lacey, once he got the values  
9 from Mr. Chilton, and was Mr. Chilton and was Jim Mestepey in  
10 violation of Sequoyah Fuels health standard procedures by  
11 failing to notify you, sir, of the values once they knew  
12 them?

13          A     Yes, sir.

14          Q     Were they also in violation of these procedures,  
15 sir, in the fact that they allowed workers to come back on a  
16 Monday and enter in that pit, knowing those values are high,  
17 and not coming to your staff and giving you that direct  
18 knowledge?

19          A     Yes, sir.

20          Q     Sir, was Mr. Kiehn and Mr. Fryer, the date that  
21 they knew these levels, were they also in violation for not  
22 coming to you, Mr. Nichols, and telling you -- violation of  
23 Sequoyah Fuels procedure -- and telling you, not informing  
24 you of these levels?

25          A     Yes, sir.

1 Q Okay, no question, you have no question about every  
2 one of these individuals being in direct violation of  
3 procedures. We assume it's G-10, and I realize that's --  
4 whatever procedure says that once a potential hazard is  
5 known, there should be actions taken.

6 A Yes, sir.

7 Q Each individual that knew this knowledge and failed  
8 to bring it to your attention are in direct violation of  
9 Sequoyah Fuels procedures. I mean, that's a statement that  
10 by procedure, anyone who knows that information and fails to  
11 bring it to your attention, is in direct violation.

12 A Yes, sir.

13 Q Sir, if that be the case, are these people also in  
14 violation of NRC regulations for having knowledge of  
15 potential contamination and not notifying these workers in  
16 Part 20 -- 10 CFR Part 20 notifications?

17 THE WITNESS: Could we take a break for a moment?  
18 I've got to stop and think about the regulations, what they  
19 say.

20 MR. CHAPMAN: I can bring them up here for you, Mr.  
21 Nichols, I'll certainly give you the break and I'll certainly  
22 give you an opportunity to review those regulations, if  
23 that's what you'd like.

24 MR. SHAPIRO: I think it's reasonable for him to  
25 review the regulations.



1 MR. CHAPMAN: I'd like to go on record as saying,  
2 Mr. Nichols, you are the Health, Safety Manager, it is your  
3 primary responsibility to know the regulations in 10 CFR Part  
4 20, 10 CFR Part 19. I don't hold you to every word in there.

5 THE WITNESS: That's what I'm trying --

6 MR. CHAPMAN: I do know that by this training  
7 officer's admission that workers at that excavation are given  
8 the knowledge that Part 20 and Part 19 do exist and they're  
9 there for their protection. And I want to know when you come  
10 back, after you've had a chance to review that, if the  
11 individuals I have named who now know of potential  
12 contamination out there have violated Part 20 or Part 19.  
13 And since you're going to review them, I would like your  
14 opinion of which specific parts they're in violation of, from  
15 your standpoint.

16 THE WITNESS: I'm not sure I have to review them,  
17 I'd like to talk to my attorney for a moment.

18 MR. CHAPMAN: You certainly may have a chance to  
19 talk to your attorney.

20 For the record, it's 10:20 and we're now off the  
21 record.

22 (A short recess was taken.)

23 MR. CHAPMAN: For the record, after a short break,  
24 it's now 10:33 and we're back on the record. Part of our  
25 discussion off the record was a reference to my question of

1 Mr Nichols does he feel that certain individuals here at the  
2 site, failing to bring information that they may or may not  
3 out there regarding the SX excavation and the potential for  
4 contamination of water, if it was unfair of me to ask Mr.  
5 Nichols to proffer an opinion as to whether those folks  
6 violated an NRC regulation. Is that right?

7 MR. SHAPIRO: Well unfair I think is not the word I  
8 would use. I think that Mr. Nichols has commented at some  
9 length to a series of questions asked by Mr. Chapman as to  
10 whether the actions of individuals in not bringing to him  
11 potential hazards or knowledge of contamination constituted a  
12 violation of Sequoyah procedures. And he has answered those,  
13 you know, specifically, and indicated that he did believe  
14 that Sequoyah procedures were violated.

15 I think it is a different question and one that has  
16 legal implications in asking him to go through specific cases  
17 and comment on whether NRC regulations were violated. He has  
18 not traditionally done that internally, nor do I think in the  
19 course of an investigation and an inspection that he should  
20 do it now, and so he's not answering the question on advice  
21 of counsel.

22 MR. DRISKILL: Okay, but would it be fair --

23 MR. SHAPIRO: I don't think unfair is the right  
24 word.

25 MR. DRISKILL: -- to ask is there a Sequoyah Fuels

1 procedure which requires that you advise workers, either  
2 Sequoyah Fuels workers or contract workers, of potentials for  
3 contamination in a particular area?

4 THE WITNESS: Yes, that's part of the training and  
5 everything else that they go through, is to advise them that  
6 they are working in a restricted area. The training is set  
7 up to tell them that also.

8 BY MR. DRISKILL:

9 Q But what I'm saying, if there's a particular hazard  
10 in a particular area that comes to somebody's attention, does  
11 Sequoyah Fuels procedures require that the individual be made  
12 aware of that?

13 A Yes.

14 Q If in fact these individuals were not apprised of  
15 the fact that they were working in contaminated -- uranium  
16 contaminated water in that pit, would that -- and the fact  
17 that they apparently all indicate that they were not aware of  
18 that contamination, would that constitute a violation of  
19 Sequoyah Fuels procedures, health and safety procedures and  
20 whatever other procedures may --

21 A If they did not receive any indication in training  
22 that they're going to be working with it and they were not  
23 aware of it, yes, sir, it would be.

24 Q Well what I was trying to go to was is there  
25 something that goes beyond the training?

1           A     HS I think 304 tell you.

2           Q     Tells you what?

3           A     That you should look at the hazard, advise it, put  
4     it on HWP, have the workers look at it, sign it and then if  
5     it changes, et cetera, you should do something about it, tell  
6     them.

7           Q     Okay, because I believe for the most part, and I'm  
8     not going to bicker about which ones received training and  
9     which ones didn't, but the majority of those people received  
10    one day training and based on -- we've taken a look at that  
11    and understand that that's a rather general training. They  
12    understood that they were working in a restricted area, or at  
13    least they were told they were working -- what they  
14    understood I won't argue about -- but they were told that  
15    they were working in a restricted area and the potential for  
16    contamination, uranium contamination or contamination of  
17    other chemicals and so on exists there and so on. With  
18    respect though, and what we're really aiming at is there was  
19    a particular -- several particular types of contamination in  
20    this particular water that existed down there. They were  
21    down there with shovels and they were using brooms to sweep  
22    it out of the way and they were trying to build forms to pour  
23    concrete, they were in that water. We've had individuals,  
24    and I don't guess it's any secret to anybody, who were  
25    indicating that in areas where they got the water on them,

1 they were burned -- they had a burning sensation on their  
2 skin and so on, so forth, and I don't know that it went  
3 beyond that. But that's probably attributable to perhaps the  
4 hexane contamination or something like that. I wouldn't --  
5 I'm not going to try to -- I'm not an expert so I'm not going  
6 to try to make anybody believe that that was a result of the  
7 uranium content in the water. But inasmuch as there was  
8 higher levels of uranium contamination in the water, would  
9 the regulations -- not regulations, but your procedures here,  
10 if strictly interpreted, require that those individuals  
11 should have been told that hey, there's uranium in this  
12 water, uranium contamination in this water, which exceeds the  
13 general level of contamination which would be in this area.  
14 Or we do now have knowledge that there's a higher level of  
15 contamination than would have been expected prior to  
16 initiation of this project.

17 A I would expect that if I had knowledge that there  
18 are higher levels, it would have been addressed with them and  
19 it should have been.

20 Q They should have known about it.

21 A Yes.

22 MR. DRISKILL: Okay.

23 BY MR. CHAPMAN:

24 Q All right, sir, a couple of questions I had in  
25 regard to Sequoyah Fuels procedures. Of a particular issue

1 and of a particular response on page 27 of the response to  
2 the NRC, is a discussion of Mr. Jimmy Smith, a contractor.  
3 And in that discussion there is an indication that Mr. Smith  
4 had received radiological training and had been previously  
5 employed by Sequoyah Fuels for ten years. The statement is  
6 his knowledge of uranium and associated work rules is  
7 extensive.

8 My question is how do we know Mr. Smith has  
9 extensive knowledge in uranium and associated work rules?  
10 And I'll open it up to Mr. Nichols or Mr. Shapiro, either  
11 one, that want to answer that question. I'd like to ask what  
12 that's based upon, that it can be a factual statement.

13 A I'm sure Mr. Smith received worker training for  
14 Part 19, as you said, and he worked out here around uranium  
15 during those ten years in different positions. And part of  
16 that, he gets retraining every year on that.

17 Q Sir, do you have documentation to support that  
18 statement?

19 A I would have to check the training department.

20 Q All right, sir, you may do so. Now as a matter of  
21 information, Mr. Smith has indicated to me in my  
22 conversations he was in the Electrical Department and that he  
23 in no way had anything to do with the Operations Department  
24 out here. And consequently he was in Maintenance and he was  
25 dispatched to various areas. And true, he knows there is

1 uranium potential out here.

2 In light of the knowledge of the fact there is  
3 uranium potential, he inquired of Mr. Nichols' staff on  
4 several occasions is there any concerns at the site out here  
5 and was told no, there is no concerns as far as uranium  
6 contamination to be worried about.

7 A Did he say who he asked?

8 Q Your health and safety technicians and Mr.  
9 Simeroth. And also for the record, these contractors did not  
10 know your personnel by names or titles, they asked  
11 individuals standing at the top of the pit.

12 Now in light of that, sir, there's a statement -- a  
13 footnote down here -- well let me back up and preface it.  
14 "Under the circumstances, the responsibility for the  
15 equipment going off-site rests with the contractor, not with  
16 Sequoyah." It references a footnote. The footnote is "It is  
17 worth noting that after the excavational work started, Mr.  
18 Smith actually discussed with Mike Nichols what would happen  
19 if his boots became contaminated."

20 My question to you, sir, is during that discussion,  
21 did you inform Mr. Smith that there is a potential for  
22 contamination at the site of the excavation?

23 A We -- as a matter of fact, I did.

24 Q You did?

25 A We sat there and we talked and he said he wanted to

1 know what would happen if his boots become contaminated  
2 because of the rock and the gravel, walking around it all the  
3 time outside the excavation. I said yes, Jim, there's slight  
4 contamination levels around here and I said -- he wanted to  
5 know what would happen if his boots became contaminated. And  
6 I said well Jim, that can happen if your shoe cover comes off  
7 or something, walking around, and if it does happen, we'll  
8 clean your boots or we'll get you a new pair, it shouldn't be  
9 a problem.

10 Q Okay, Mr. Nichols, once you had heard -- once you  
11 discussed the fact that there is a potential for  
12 contamination and once you have heard that there is water out  
13 there in the early part of the excavation of low levels, did  
14 you go back to Mr. Smith and express to him a concern that  
15 since this water has some levels of contamination, there is  
16 now an immediate concern about the water?

17 A At the time I was talking to Mr. Smith, it was more  
18 from the standpoint of him walking up above.

19 Q I didn't ask you that, sir. I asked you once you  
20 heard about the water, did you go back and inform Mr. Smith  
21 that there is now -- you have heard now a potential of some  
22 uranium contamination in the water in the bottom of the pit?

23 A Are we talking about --

24 Q I'm talking about when you said you first heard  
25 these low levels in the first part of the month of August.



1 My question to you, sir, is once you heard the fact there is  
2 now water out there that contains some levels of uranium, did  
3 you return to Mr. Smith, even subsequent to this discussion  
4 of the topsoil, and say Jim, I've heard of levels of  
5 contamination in the water, please be attuned to that.

6 A No, I felt that I had discussed it with him during  
7 that time period, I really didn't see a need to. Jim had  
8 worked out here, he knew that the ground out there was  
9 contaminated to an extent, a small amount. And then the  
10 other small amount I saw wasn't anything unusual that would  
11 cause me to want to do that with him.

12 Q Now I ask you, sir, in light of that question and  
13 now that you have a known potential for contamination, were  
14 you in violation of Sequoyah Fuels procedures by not going  
15 back and informing Mr. Smith that you now know there is some  
16 levels, low or otherwise, of contaminated water in the pit?

17 A I do not believe so, sir, because Mr. Smith knew  
18 there was a potential for contamination out there. That's  
19 why we had anti-C clothing on, that's why we had shoe covers,  
20 boots, et cetera. He was well aware of that to start with.  
21 That's why we send them through training.

22 Q I'll start back over. Has Mr. Smith been given  
23 health and safety procedures so that he has knowledge of what  
24 is required of Health and Safety?

25 A Of Health and Safety or --

1 Q Yes, sir.

2 A -- or him?

3 Q No, Health and Safety. I mean, how does he know  
4 he's in violation of a Health and Safety procedure if he's  
5 not been shown those procedures? By the same token, you  
6 don't want me to hold you accountable for regulations, how  
7 can you hold a contractor that has been off this site for a  
8 number of years -- procedures change frequently, sometimes  
9 they slip through the cracks and don't get changed for a year  
10 and a half -- how can he be held accountable for knowing up  
11 to date Sequoyah Fuels procedures?

12 A Well he cannot be held accountable for knowing up  
13 to date Health and Safety procedures, but he receives  
14 training in which he's told what's to be expected of him.

15 Q Okay, sir.

16 A If anybody out there at that site knew about  
17 contamination and worked with it, it would have been Jim  
18 Smith, because of the ten years he worked here. Whether he  
19 be an electrician, whether he be in Maintenance or what, he  
20 had to work in areas, contaminated areas, areas where you  
21 have to change clothes, et cetera, during that ten years. I  
22 find it impossible to believe that he did not.

23 Q That he did not know that water contained  
24 contamination?

25 A No, that he did not know about contamination and

1 what to do.

2 Q No, sir. He freely admits that, sir, the same as  
3 you freely admit that everybody knew there was contamination  
4 on the ground. My question to you, sir, was once you knew  
5 there was water contamination, did any of your staff go and  
6 notify these contractors -- particularly you, or did you rely  
7 on Mr. Smith to come tell you that he's in the middle of  
8 water?

9 A No, I did not rely on Mr. Smith.

10 Q My question is did you --

11 A I did not go see Mr. Smith and tell him that.

12 Q Okay, sir.

13 A If that's the answer you want.

14 Q Well that's not the answer I want, the answer I  
15 want is what the facts are. And what you're telling me is,  
16 as the Health and Safety Manager, based on the fact that you  
17 had some indications of contamination in the water, you did  
18 not return and instruct the head contractor of the potential  
19 to be alert to the contamination in the water -- yes or no?

20 A No.

21 Q All right, sir.

22 MR. SHAPIRO: Just for the record, the questions  
23 that Mr. Chapman is asking and the reference he's making to  
24 levels of contamination in the water that Mr. Nichols was  
25 aware of, we're still talking about the .01, .02.

1 MR. CHAPMAN: Yes, sir.

2 THE WITNESS: We're talking about whether they  
3 could be discharged off-site.

4 MR. SHAPIRO: Yes.

5 MR. CHAPMAN: But Mr. Nichols, you didn't know  
6 that, that these contractors knew that. You knew that, but  
7 my question to you is did you go tell the contractors that,  
8 and the answer is no, you did not inform them of your  
9 knowledge of the contamination in that water down there. Not  
10 to trip you up, but that's what you just told me.

11 THE WITNESS: I understand that, and I'm trying to  
12 go over -- I had several conversations with Mr. Smith on  
13 several different subjects and I'm trying to think. I do not  
14 believe I told him that, no.

15 MR. CHAPMAN: Okay, I don't care all the other  
16 conversations, Mike, that's all I'm seeking. I don't care  
17 all the other conversations, Mike, when or what -- just that.

18 (Brief pause.)

19 BY MR. CHAPMAN:

20 Q Okay, Mr. Nichols, I would like to discuss with you  
21 now an August 30 memo from Mr. Knoke that was addressed to  
22 Mr. Lee Lace. and basically discusses the subject of SX  
23 investigation.

24 A Sandwells?

25 Q No, it says SX investigation at the heading. I

1 want to make sure -- you question me occasionally on the  
2 exactness of documents -- it does say SX investigation.

3 A Okay, I'm sorry.

4 MR. SHAPIRO: He was just talking about the subject  
5 of it.

6 MR. CHAPMAN: I guess I need to get my copy here if  
7 I'm going to try to read upside down to you.

8 BY MR. CHAPMAN:

9 Q It mentions -- the memo mentions that at one time  
10 there was a series of samples that were routinely submitted  
11 for uranium analysis under the name of SX fire stations  
12 and/or sandwells. And a couple of little bits of information  
13 in there, but basically the last sentence says "This data  
14 should be in the Health, Safety and Environment files." And  
15 it's well established it was in the Health, Safety and  
16 Environment files.

17 A Uh-huh.

18 Q Copies to J. Mestepey, Mike Nichols. I assume M.  
19 Nichols is you.

20 A Uh-huh.

21 Q August 30, sir.

22 A Uh-huh.

23 Q The AIT inspection came out here the last week of  
24 August and were present at this site.

25 A Uh-huh.

1 Q And I wasn't here, so I can only go from what I  
2 have been told, but basically they were asking a lot of  
3 questions regarding the excavation and prior knowledge and so  
4 forth.

5 A Uh-huh.

6 Q I guess one of the questions I'd like to ask you,  
7 Mr. Nichols, is why did you not bring the subject of the SX  
8 sandwells up to the AIT team when they were seeking  
9 information regarding any potential past known hazards of  
10 water contamination around the SX area?

11 A Larry, like I said, I didn't relate those to the  
12 SX, I still really don't. Maybe I'm wrong. It never  
13 occurred to me, I'd forgotten all about those. There was  
14 information back at that time I didn't understand to start  
15 with, and I just didn't do it. I realize this memo is here  
16 and I'll be honest with you, I don't remember seeing this.  
17 This was brought to my attention the other day.

18 Q You don't recall ever seeing this memo?

19 A No, sir. I'm not saying I didn't, but I sure don't  
20 remember it.

21 Q Well Mr. Nichols, do you recall seeing an AIT  
22 action list that was sent out tasking you with  
23 responsibilities in reference to the AIT investigation?

24 A Yes, sir, you asked me about that yesterday.

25 Q Yes, sir. And an August 30 cover memo from Mr. Lee

1 Lacey to distribution and one of the distributions is M.  
2 Nichols.

3 A Uh-huh.

4 Q And it asked that you provide information reference  
5 to your specific tasks, I guess it would be called, of the  
6 AIT investigation.

7 A Yeah.

8 Q And you responded to that I'm sure, did you not,  
9 sir?

10 A Yes, sir.

11 Q Do you know if you responded -- I don't have  
12 benefit of the --

13 A I gave my comments to -- if I remember right, to  
14 Norma. I've been looking for it, trying to find any notes or  
15 anything I had on it. I mean you guys asked me for that and  
16 we've been looking the last day or two trying to find any of  
17 the notes. So far I haven't.

18 If I remember right, I think what I did was gave my  
19 disk or written notes or something to Norma Voss, which is  
20 Lee's secretary, and she worked them up. I think that's wh.  
21 we can't find anything.

22 Q You can't find your file at this point?

23 A No, sir, I have found one of these -- the  
24 assignment.

25 Q But not your response?

1 A No, sir.

2 Q Because you gave your computer disk and the whole  
3 works to --

4 A I think what happened is we gave it to Norma.

5 Q Okay, you gave away your data to someone?

6 A Yeah, let them massage it and put it whatever form  
7 they wanted to use to submit it.

8 THE REPORTER: I'm sorry, I didn't hear that last.

9 THE WITNESS: If they wanted to put it in a form to  
10 submit it.

11 BY MR. CHAPMAN:

12 Q And they didn't return it to you, to your  
13 knowledge?

14 A No, sir.

15 Q And to your knowledge, you have not seen your  
16 response or your data given back to you regarding this  
17 subject?

18 A Well we've been looking for it. Like I said, the  
19 only thing we've found so far is what you have here. Lee had  
20 put names for me to --

21 MR. DRISKILL: Who massaged it, put it together?

22 THE WITNESS: Lee Lacey.

23 MR. DRISKILL: He's the one that wrote the  
24 investigation report or whatever the response was?

25 THE WITNESS: Uh-huh, everything goes through his



1 group.

2 MR. DRISKILL: You know that, did he talk to you  
3 about it or --

4 THE WITNESS: That's typically the way it's always  
5 done, everything -- all of our responses go back through Mr.  
6 Lacey.

7 BY MR. CHAPMAN:

8 Q Would it be a surprise to you that Mr. Lacey  
9 indicated one of your staff members was responsible for  
10 conducting this investigation and putting the report  
11 together; namely, Carolyn Couch?

12 A I wouldn't doubt that a bit.

13 Q Did you have knowledge that Mr. Lacey gave these  
14 duties to Ms. Couch?

15 MR. SHAPIRO: Larry, can you clarify for the record  
16 -- was Carolyn in charge of coordinating the whole thing or  
17 for the health and safety aspects of it?

18 MR. CHAPMAN: According to Mr. Lacey's testimony  
19 yesterday when I asked him about the report that was written,  
20 his memos goes out and the SX investigation, Mr. Lacey told  
21 me that Carolyn Couch was in charge of the SX investigation.

22 THE WITNESS: I think she reported directly to him  
23 on that. I took my part, she took her part and put it in,  
24 she didn't go through me.

25 BY MR. CHAPMAN:

1 Q In August, she reported to Lee Lacey, is that  
2 right?

3 A No, she reported to me.

4 Q Well this memo is August 30.

5 A I understand that.

6 MR. SHAPIRO: I'm evincing some confusion. I was  
7 here when Lee testified and I'm confused as to whether you're  
8 saying that she was responsible for certain areas, the  
9 sandwells and other environmental questions, or was she  
10 responsible for the overall product?

11 MR. CHAPMAN: No, sir, Mr. Lacey's statement was  
12 that she was responsible for the SX investigation in its  
13 entirety.

14 THE WITNESS: She put that together.

15 MR. CHAPMAN: I have it, if you need for me to read  
16 it in the record, if you'll give me a minute to find it, I  
17 can give you Mr. Lacey's --

18 MR. DRISKILL: You look for it and I'll ask a  
19 couple of questions.

20 MR. CHAPMAN: Then he made comments later on -- he  
21 even mentioned this August 30 memo to Mr. Graves, which you  
22 and I went into some discussions about, does Mr. Graves know  
23 about it. It was in the same sense and Mr. Lacey said he had  
24 no response to this, had no files, because Ms. Couch was  
25 responsible for the SX investigation.

1 MR. SHAPIRO: Well I guess what I was getting at --  
2 I'm not questioning that this memo -- I remember him saying  
3 there were two things that happened on the 30th; the AIT list  
4 of tasks and questions to respond to and this memo. And I  
5 remember him saying that the memo he got from Knoke, he  
6 referred to Couch because that was her area of  
7 responsibility. What I wasn't sure of was whether he said or  
8 whether he meant to say that she had the overall coordinating  
9 responsibility.

10 MR. CHAPMAN: Certainly I don't know what he meant  
11 to say, but I can certainly put here for you what he did say.

12 MR. DRISKILL: As described to me by Mr. Chapman,  
13 Lacey put out the memo requesting various people investigate  
14 various things and submit the data to him. A part of that  
15 was this memo from Mr. Knoke. Larry asked him, "give me all  
16 that data that you got back from all those people in response  
17 to the memo you put out making assignments for these people."  
18 He said "I don't have any of that, I gave that all -- Carolyn  
19 Couch took all that stuff because she's the one that wrote  
20 the final report." In other words, the putting together of  
21 all these things.

22 MR. SHAPIRO: I see.

23 MR. DRISKILL: Which prompted two or three things  
24 in our mind. Number one --

25 MR. SHAPIRO: In other words, the information --

1 MR. DRISKILL: He doesn't have anything, he gave it  
2 all to Couch.

3 MR. SHAPIRO: -- came in to him and then he gave it  
4 to Couch.

5 MR. CHAPMAN: No, sir, he didn't indicate he even  
6 ever had it, he indicated that Carolyn Couch did it.

7 MR. SHAPIRO: I'm sorry, Don's summary --

8 MR. DRISKILL: In some way, maybe it all came to  
9 Norma and Norma gave it, I don't know. We were just looking  
10 for -- the guy that was obviously given the responsibility or  
11 apparently given the responsibility to put this thing  
12 together and all of a sudden you ask him for his notes and  
13 papers --

14 THE WITNESS: We had our girls go a search to see  
15 if we had anything that I had -- on the things that I was  
16 assigned, that I worked up.

17 MR. DRISKILL: I recognize that you may not be  
18 aware, but I was asking you did you know that Couch -- or we  
19 were asking you did you know that Couch was the one who was  
20 given the responsibility for preparing the response.

21 THE WITNESS: I just know that I wasn't.

22 MR. DRISKILL: You weren't aware.

23 THE WITNESS: I wasn't responsible for doing all  
24 that. Carol was doing all the environmental stuff.

25 MR. SHAPIRO: Well I guess -- I haven't disputed

1 and don't dispute any interest you have in what as given to  
2 the AIT or even -- and certainly where this memo fits in.  
3 This is a -- it has always been, it seems to me, quite a  
4 relevant document. Are you questioning though -- I mean the  
5 AIT was given a horde of material.

6 MR. DRISKILL: I think where our real concern comes  
7 in here is that this document was a part of a number of  
8 documents that were given to Mr. Lacey in response to the  
9 assignment he made in that August 30 memo.

10 MR. SHAPIRO: Yes.

11 MR. DRISKILL: To clarify for the record now, the  
12 memo was a memo that Mr. Lacey prepared assigning various  
13 people in the organization responsibilities for various areas  
14 which had been brought to Sequoyah's attention as concerns by  
15 the AIT. And so he was essentially assigning various people  
16 the responsibilities for putting together data or conducting  
17 an investigation into these various areas and giving him all  
18 this data back, so that they could respond to the NRC based  
19 on up to date, informed information.

20 I knew about this back in September, I'd seen this  
21 memo that he sent out, and we talked to Reggie Cook and  
22 various other people about certain things that they had done  
23 in their preparation of their response to Mr. Lacey on this  
24 thing. I can't quite recollect at this point in time how all  
25 this stuff was compiled and submitted back to the NRC, maybe

1 it was in the response to the demand for information, I don't  
2 remember. But here we are --

3 MR. SHAPIRO: No question that it was --

4 MR. DRISKILL: -- months later, we find that there  
5 was this document prepared or memo prepared by Mr. Knoke  
6 which references all these tests that had been done for ten  
7 years which is all news to us. So now we're interested well  
8 how much information did the guy get that we never heard of  
9 yet. So we asked -- Lacey said he didn't have it he gave it  
10 all to Couch, which prompted I guess Larry's asking you, Mr.  
11 Shapiro, to see if you could gather up all this information,  
12 since it doesn't appear to be available any more. And so  
13 that we could just review it and see if perhaps there are  
14 other things that the NRC should have been made aware of  
15 aside from Mr. Knoke's --

16 THE WITNESS: You're concerned that maybe we put  
17 stuff in that didn't get to your, or that we didn't put stuff  
18 in --

19 MR. DRISKILL: That perhaps things were submitted  
20 by these various people who were assigned these  
21 responsibilities which would have been interest to the NRC if  
22 they had known about them, but were not made aware of them,  
23 in whatever product that was finally submitted to the NRC.  
24 That's all.

25 And of course, consistent with that we asked Mr.

1 Lacey, he says he doesn't know what happened -- he doesn't  
2 know where all this stuff is because he didn't get it, it was  
3 given to Ms. Couch. We were aware of the fact that Ms. Couch  
4 worked for you and we were just curious.

5 MR. SHAPIRO: This clarification is helpful.

6 MR. CHAPMAN: All right, we'll just stipulate --

7 THE WITNESS: On these assignments, what happened  
8 was Lee came and he says Nichols, do this one, this one and  
9 this one; Carol, do this one, this one and this one. Then we  
10 reported independently to these. Okay?

11 BY MR. DRISKILL:

12 Q Well as far as my question is concerned, as far as  
13 you knew, Lacey was the one who prepared whatever was  
14 prepared with all this stuff.

15 A Yes, sir.

16 Q You were not aware that Couch prepared any of it  
17 except her response to him that she was assigned.

18 A I was aware that Carol worked up the information  
19 and got with Lee for the response.

20 Q She worked up the information that she was required  
21 to prepare based on his request?

22 A Yes.

23 Q But you were not aware that she was massaging  
24 everybody's responses?

25 A No.

1 Q Into one document, if that's what it --

2 MR. CHAPMAN: Of course we haven't had a chance to  
3 ask Ms. Couch and we don't know --

4 MR. SHAPIRO: If that's what happened, he's not  
5 aware of it.

6 MR. CHAPMAN: Okay.

7 MR. SHAPIRO: And the other thing, Mike, you did  
8 say you had certain areas you were asked to respond on, you  
9 did respond by giving either material or a disk to Lee's  
10 secretary, you didn't -- you haven't gotten that back or  
11 can't find it, but it went in.

12 THE WITNESS: We're still looking, sir. We've gone  
13 through every disk, every notebook, everything we can come up  
14 with.

15 MR. SHAPIRO: And with respect to this memo --  
16 okay.

17 MR. CHAPMAN: It was my understanding --

18 MR. SHAPIRO: I didn't mean to send you on a chase,  
19 Larry, because I --

20 MR. CHAPMAN: It's my understanding that Mr. Lacey  
21 told us when we requested this information, that Ms. Couch  
22 was responsible for the investigation. And it's well  
23 established what you did, and that's fine.

24 (Discussion off the record.)

25 MR. CHAPMAN: We're back on the record now at seven



1 minutes after 11.

2 For the record, there was some discussion of some  
3 information Mr. Lacey provided to Larry Chapman in reference  
4 to an investigation that was supposed to have been conducted  
5 in the SX area. And it's understood by me that Mr. Lacey  
6 indicated that Carolyn Couch was responsible for putting the  
7 final work product together on this. And the reason we're  
8 making mention of this is we didn't want the record to  
9 reflect that Mr. Lacey had told us during direct testimony  
10 that information, that it may become available to us as we  
11 were seeking to find the file which Mr. Lacey did not have in  
12 his possession.

13 Is that agreeable, Mr. Shapiro? Have I covered it  
14 sufficiently or would you like to add to it?

15 MR. SHAPIRO: Only that I raised, Mr. Chapman, the  
16 question because I knew that Ms. Couch had responsibilities  
17 to provide part of the information, as others did. I was  
18 unaware that she had a coordinating role and Mr. Chapman said  
19 that he had been told by Mr. Lacey or indirectly gotten the  
20 information from Mr. Lacey that Ms. Couch had had that  
21 coordinating role. And he was just clarifying that we don't  
22 know that that was in direct testimony.

23 MR. CHAPMAN: Correct. Okay, sir.

24 BY MR. CHAPMAN:

25 Q All right, Mr. Nichols, pressing on here, I believe

1 you told me that you do not recall seeing this August 30 memo  
2 during the AIT inspection visit or while they were present on  
3 site?

4 A No.

5 Q Do you have a recollection of when you first recall  
6 being made aware of this August 30 memo? And I'll let you  
7 use as wide latitude as you want, using Christmas, New Years,  
8 any time frame --

9 A This year. Somebody mentioned sandwells, I guess  
10 you had talked to somebody about sandwells and I think Ira  
11 first showed me the memo.

12 Q So to your recollection --

13 MR. SHAPIRO: This was in a time period when Mr.  
14 Chapman was back here and I was here? Just in the last  
15 couple of weeks?

16 BY MR. CHAPMAN:

17 Q Within the last couple of weeks, to your  
18 recollection, is the first time you've ever seen this memo?

19 A Yeah. What very well could have happened if Carol  
20 was handling this is it could have come to me and I could  
21 have just turned around and handed it to her and not thought  
22 any more about it because she was doing the --

23 Q Okay, sir, so I guess it would be a fair assumption  
24 that since you agreed you'd seen the list of action items,  
25 AIT action items, that you made no -- this memo had no

1 bearing on your information that you gave in response to that  
2 list?

3 A I assume not, no, I think Carol Couch was handling  
4 that part of it.

5 Q Okay. Could you tell me why, having knowledge of  
6 these SX sandwells, even the values you felt unimportant,  
7 that you did not bring the existence of this information to  
8 the NRC's attention during the AIT and subsequently up until  
9 the first time that I mentioned it to you?

10 A Well one, like I said back then -- I'm talking  
11 about back in '88-'89 -- I didn't understand the data, et  
12 cetera; two, I was working on another part of it and Carol  
13 Couch was coordinating all that and I had my hands full doing  
14 other things. I never really -- there was no intent to hide  
15 it. I assure you we were just working on different projects.  
16 She was doing her thing, I was doing my thing. For all I  
17 knew, you had them. I mean, I didn't know you did not have  
18 them.

19 MR. SHAPIRO: Well I would encourage you not to  
20 speculate about it, Mike.

21 THE WITNESS: Okay, I don't mean to speculate.

22 MR. SHAPIRO: I mean, simply, did you think about  
23 the sandwell data as something that the NRC should have or --  
24 I mean did it ever cross your mind?

25 THE WITNESS: No, sir.

1 BY MR. CHAPMAN:

2 Q Since you mentioned Ms. Couch, I'll ask you one  
3 question on that. Did Ms. Couch ever discuss with you the  
4 need to bring this information to the NRC's attention or ask  
5 you if she should bring this information to the NRC's  
6 attention?

7 A About several weeks ago, month ago, something like  
8 that, something was brought up about the sandwells with her  
9 in a conversation.

10 Q Yes, sir?

11 A I'm trying to think of what was said -- I'm not  
12 sure if it was brought up that it should be brought up tot he  
13 NRC or what -- I really can't explain the context of it, it  
14 was just a passing conversation, something about the  
15 sandwells. And that's why when I talked to you that time, I  
16 was able to bring them up to you to say hey, I've looked at  
17 them, because I had forgotten about them. This was months  
18 after the SX thing, this could have been November or  
19 December, somewhere in there.

20 Q Well of course, if you felt it relevant to bring it  
21 up to me, did you feel it relevant to bring it up to the NRC  
22 inspectors?

23 A I haven't seen an NRC inspector since I talked to  
24 you.

25 Q Not to disagree with you, but Mr. Garcia was here

1 last week.

2 A Oh, I'm sorry.

3 Q And you mentioned this -- I don't remember specific  
4 dates, but I think that was in January that I was here.

5 A Pete was here working in Operations, no, I didn't  
6 think to bring it up to him either.

7 Q Okay. And just so I understand, Mr. Nichols, in  
8 your passing conversations with Ms. Couch some weeks or  
9 months ago, you did not instruct Ms. Couch to bring this  
10 information up to the NRC regarding these SX sandwells, after  
11 y'all's discussion.

12 A No, I did not.

13 Q Okay.

14 MR. DRISKILL: But you said a few moments ago that  
15 you believed, as best you can recall, you had a discussion  
16 with her some weeks or months ago as to whether this  
17 information should be addressed with the NRC.

18 THE WITNESS: Whether it was useful or not or told  
19 us anything, and in my conversations as little as last week  
20 with Carol, she indicated to me that this information was  
21 still of no use to anybody.

22 MR. DRISKILL: You were still talking to her last  
23 week about this?

24 THE WITNESS: Well last week when you asked for the  
25 file or something. I said Carol, am I wrong? I said the SX

1 wells to me -- sandwells, don't tell me anything. She says -  
2 - I said that's the way I remember it. And she agreed with  
3 me that yeah, they weren't really wells, they were just a  
4 pipe in the ground. That's how I viewed it, I said --

5 MR. CHAPMAN: I think you and I had better plan on  
6 a telephone conference somewhere next week with Carol.

7 MR. SHAPIRO: I'm willing to try it that way if you  
8 get what you need doing it that way.

9 MR. CHAPMAN: Well let's try it and see what  
10 happens.

11 I want to get into a couple of areas on the  
12 response to the NRC that I asked Mr. Graves and he indicated  
13 Mr. Nichols could respond to, but before I do that I want to  
14 give you a chance if there's anything you want to ask him.  
15 If not, I'm going to try to close with this information.

16 BY MR. DRISKILL:

17 Q Were you aware, prior to last week when Larry or  
18 whoever asked for this data on the sandwells, that the NRC  
19 was not aware of them, of their existence?

20 A You know, we've passed so much data back and forth,  
21 et cetera, I couldn't tell you what you'd seen and what you  
22 hadn't seen. I mean you're asking me --

23 Q Well I'm just asking based on what you said a  
24 minute ago you discussed with Carol some months ago whether  
25 this should be brought to the attention of the NRC, which

1 gives me the impression that perhaps you were aware, she was  
2 aware, somebody was aware that we didn't know about it. And  
3 apparently your conclusion at that point in time was these  
4 wells weren't of any value to you -- I don't know, I'm just  
5 supposing.

6 A I'm supposing too, I mean on that conversation  
7 several months ago. I just know last week I refreshed myself  
8 with it, I said Carol, -- I remember when I stopped sampling,  
9 I asked -- I didn't understand the data, the information was  
10 useless and she agreed with me last week, said yeah, that's  
11 right. I said well I just wanted to make sure that my  
12 recollection was correct.

13 MR. SHAPIRO: Since there are so many people  
14 involved in this over a period of months and then prior to  
15 that, years. Assuming, as it appears to be, that this  
16 information was not provided by Sequoyah in the relevant time  
17 frame, do we know if the NRC has any historical knowledge?

18 MR. CHAPMAN: Let me address that, and I'll ask you  
19 this and then we can go to that.

20 A fellow who first brought it to Sequoyah Fuels'  
21 attention and my attention was Mr. Bill Beach, who is present  
22 on site. I think we can certainly -- if we need to, we can  
23 get him in here to talk about it. And the reason I preface  
24 that is for a question -- my understanding from Mr. Beach is  
25 that it was one of his inspectors going through some past

1 data that he had discussed with these people --

2 MR. SHAPIRO: Ms. Couch.

3 MR. CHAPMAN: I don't know who.

4 MR. SHAPIRO: Okay.

5 MR. CHAPMAN: -- that the SX sandwells did exist.

6 Now I do not know to what degree the NRC knew this.

7 MR. SHAPIRO: Okay.

8 MR. CHAPMAN: But clearly Mr. Beach did know.

9 MR. SHAPIRO: All right, that's just for my  
10 information.

11 MR. DRISKILL: One of the things that bothered me  
12 about all this, the existence of those things, was -- I don't  
13 believe anybody will argue with me -- but I asked a whole  
14 hell of a lot of questions during the first couple of weeks  
15 of September of you, of Mr. Lacey and a variety of other  
16 people about water down in that area and where it came from,  
17 because I don't believe anybody had established for sure  
18 where that water that was migrating into that pit had come  
19 from. I was asking a whole lot of questions and then it  
20 wasn't but a couple of weeks later that they had the problem  
21 with the pipe coming through the floor of the process  
22 building. And I was back again and I was asking more  
23 questions about where this water comes from, does it migrate  
24 -- is it migrating from under the process building down to  
25 the excavation or could that have contributed to it.



1 Well it turns out one of these wells is right in  
2 the middle between those two buildings.

3 MR. SHAPIRO: Well it's not -- not to get into the  
4 argument of how valuable those wells were and the things  
5 we've discussed already, I think it's relevant information.

6 MR. DRISKILL: Well my personal opinion was that I  
7 asked so many questions about that that it's just  
8 inconceivable that someone would not have mentioned their  
9 existence and the fact that there was some accumulation of  
10 liquids in those pipes. I don't care how deep they were or  
11 even where someone might have supposed that liquid came from.

12 MR. SHAPIRO: I understand.

13 MR. DRISKILL: Rain or -- up or down or where. And  
14 I believe that the transcripts of my previous interviews will  
15 bear out the fact that there were lots and lots and lots of  
16 questions asked of lots of people about that and then now all  
17 of a sudden as investigators, I don't care about the staff,  
18 we are just now finding out that these things existed and  
19 that there was a procedure requiring that they be sampled and  
20 that apparently some verbal instructions had been given to  
21 discontinue this sampling and that the procedure was not  
22 changed until sometime after we had asked all these  
23 questions, and we still weren't informed even with the time  
24 and effort that it took to sit down and thought that had to  
25 obviously go into the preparation of a document canceling a

1 procedure -- and still we weren't notified relative to the  
2 fact that these things ever even existed.

3 BY MR. CHAPMAN:

4 Q Okay, sir, Mr. Nichols, I have some areas in the  
5 response that I need to discuss with you. One of them occurs  
6 on page 17 in the upper portion of this page. It references  
7 the fact that the concrete forms used for the vault wall were  
8 carefully surveyed. Some forms were found to be contaminated  
9 with uranium. These were decontaminated by hydroblasting and  
10 then resurveyed again before release to the contractor, is  
11 that correct?

12 A Yes, sir.

13 Q Do you, sir, know since -- let me preface that my  
14 comments with Mr. Graves was that you were the provider of  
15 this information.

16 A Yes, sir.

17 Q And you would be the person to give me the direct  
18 responses to these.

19 A Yes, sir.

20 Q Do you know, sir, the date that these forms were  
21 surveyed?

22 A I've got a copy of the HP log that shows the  
23 different dates on it. I can get that for you, be glad to.  
24 It shows the entries by the HP technicians, that they were  
25 surveyed, some of them were sent for decon and resurveyed.

1 Q Have you read those?

2 A Yes, sir.

3 Q Have you read those prior to making this statement  
4 or providing this information?

5 A Yes, sir.

6 Q Since you've extensively done that, do you know the  
7 dates that this survey occurred, of these forms?

8 A I've got the HP log, the technician signed it and  
9 says that he did it. That's the --

10 Q I don't argue you've got the log. From your  
11 recollection, sir, do you remember that date that they  
12 surveys took place?

13 A From reading the log, I have the date, yes, sir.

14 Q Do you wish to go get the log because the dates are  
15 very critical?

16 A I can do that.

17 Q It's up to you. I'll ask you the questions and  
18 then if you think you need the log to answer them, I'll let  
19 you have that opportunity.

20 A Yeah, I can go get it.

21 Q Or if you want to take my word for it and not argue  
22 with me over it, okay.

23 A Okay.

24 Q My understanding, sir, is the walls were poured on  
25 the 17th of August.

1           A     Okay.

2           Q     And according to what I know, the forms were taken  
3     down that day.

4           A     Okay.

5           Q     The walls were poured in that time frame and taken  
6     down. Of course, I can dig out the chronology if you figure  
7     it's critical. But my question here, Mr. Nichols, is that's a  
8     Friday and Mr. Taylor -- these were Calvin Taylor, the  
9     concrete contractor -- indicated he returned on the 18th and  
10    was told that he couldn't take his forms out because they  
11    were too contaminated to be removed. And of specific  
12    knowledge to me, sir, is that there was three sets of forms,  
13    the lower section was some eight feet and two sections of  
14    four feet apiece.

15          A     Okay.

16          Q     And that the lower section of the eight feet were  
17    too contaminated to be removed. And of course, appropriately  
18    your staff stopped them, surveyed them and held them up.

19          A     Uh-huh.

20          Q     Were you aware on the 17th, the 18th, the 19th, on  
21    your return the 20th or any of those times, that your staff  
22    had stopped these forms and refused to let them be released  
23    off-site?

24          A     The word I got by telephone was that Mr. Taylor was  
25    raising hell because we at first told him we could not survey

1 his forms because he had used diesel on them.

2 Q Uh-huh. He used diesel before he left the site?

3 A Yes, sir, on the forms. I'm just telling you what  
4 I was told.

5 Q By whom, sir?

6 A I believe Mr. Simeroth -- could be Mr. Callahan,  
7 but anyway -- I received a phone call that he was upset  
8 because we couldn't survey it as long as they had this  
9 material on there, because like you said, it interferes with  
10 the survey. We had held him up and he was raising h-e-l-l  
11 about it, he was upset.

12 And then I came in -- I said well that's just the  
13 way it has to be, and I'm not sure if I got the phone call  
14 while it was going on or afterwards, I just know that we held  
15 him up. And Jim Smith told me later that he had to pay Mr.  
16 Taylor extra money because we did hold him up to survey them.  
17 I went through the HP log book and I think there's three or  
18 four entries on there that shows that we did hold him up, I  
19 believe that Saturday, to get them cleaned. And we did find  
20 a couple that were contaminated and sent over to decon and  
21 brought back and resurveyed.

22 Q Okay, Mr. Nichols, you're wandering on me on time  
23 frames again, so I want to concise it so we don't have a  
24 disagreement on time frames. I don't want to know what you  
25 found subsequent to any of this, I want to know what you knew

1 on the 17th, the 18th, the 19th, the 20th, 21st, that five  
2 day period of time. The forms were held up on the 17th.

3 A Uh-huh, I was told that we had held him up to clean  
4 them.

5 Q Because of why?

6 A Because of contamination and the fact that they had  
7 diesel on them and they couldn't survey them.

8 Q Because of contamination and they had diesel. This  
9 is a matter of information because this is news to me that  
10 they had diesel on them. No one has told me that including  
11 the techs that I interviewed about that. Where would the  
12 diesel have come from or would he be out there trying to  
13 decontaminate himself?

14 A No. As I understood, it was part of making sure  
15 the concrete didn't stick to the forms or something, they  
16 used it.

17 Q That's certainly news to me because Mr. Taylor  
18 indicated to me these were brand new forms. But anyway,  
19 that's immaterial. My question to you, sir, is you knew that  
20 the forms were held from the 17th to the 18th --

21 A Uh-huh.

22 Q You got it at home I assume over the weekend or  
23 that night or something?

24 A I remember a phone call from somebody saying -- I  
25 asked how things were going that day and they said that's

1 what they were doing there.

2 Q Okay, sir, in light that you now have indications  
3 from your staff out there on the 17th or 18th that there's  
4 contamination, did you, sir, immediately notify your staff to  
5 tell the workers down in that pit that there is now evidence  
6 of contamination and we need to be particularly --

7 A Sir --

8 Q Let me finish -- particularly attuned to the fact  
9 that we now have contaminated forms. Did you, sir, relay  
10 this information to your staff to relay to Mr. Smith or  
11 anyone else?

12 A No, sir.

13 Q Why not, Mr. Nichols?

14 A Because we knew that's a restricted area, we knew  
15 there was some contamination there and the workers had been  
16 trained and had been told that there are chemicals and  
17 contamination. This is a restricted area and this is fairly  
18 common for tools or anything that's used anywhere in there.  
19 Whether you set it on the ground, whether it be shoe covers  
20 or what. There was a little contamination and we would clean  
21 it off.

22 Q Okay, sir, so what you're telling me, sir, is you  
23 totally relied on those contractors to be cognizant of the  
24 fact that there is now contamination on those forms because  
25 you did not call them nor did you relay to anyone there your

1 knowledge, personal knowledge now, of contamination on these  
2 concrete forms.

3 A The technician was telling them at the time that  
4 they were being cleaned and being sent to decon because there  
5 was contamination on the forms.

6 Q Why didn't you change your hazardous work permits,  
7 Mr. Nichols, to reflect knowledge now of your staff that  
8 there is contamination in the pit? And, sir, I'll give you  
9 an opportunity to review them. You reviewed them the other  
10 day, none of these address contamination up until the time  
11 the project was completed. Why did you not make alterations  
12 to these hazardous work permits?

13 A This is probably not the best answer, but that is a  
14 restricted area and those people were taught to frisk and  
15 they knew they were dealing with contamination. Every day  
16 they came out there, they wore coveralls. We expected to see  
17 some contamination, it's just an every day affair out there,  
18 I mean minor amounts. It's not a hazard to you, it's not of  
19 significant levels to cause health concerns, et cetera. And  
20 the form -- they were finishing up the job and my concern  
21 then was to make sure that nothing was taken out that had  
22 contamination on it.

23 Q Well sir, if I use your analysis here, by your  
24 reasoning, Mr. Smith nor any one of these individuals down in  
25 the pit had the benefit of review of internal Sequoyah Fuels



1 laboratory analysis or knowledge known to you or Mr. Lacey on  
2 the 17th, particularly in light of Mr. Chilton and Mr. Lacey  
3 now having values of one to eight grams.

4 A The 17th, I still was not aware, sir.

5 Q No, I understand you're not aware of it, but  
6 according to your procedures, sir -- according to your  
7 procedures, Mike, any time the potential for hazard to  
8 workers comes to light, by procedures they should make  
9 notification.

10 A Okay.

11 Q The 17th, you now have a clear indication there is  
12 some contamination in excess -- unknown at this time -- of  
13 allowing it to be released off-site, so it must be in excess  
14 of some release limits at this point.

15 A Not necessarily so.

16 Q Why would you hold them up?

17 A Because we try to clean it, whether it's above SFC  
18 limits or not. We teach this to the technician, we preach it  
19 to them, the idea is to keep -- for example, Mr. Taylor's  
20 boot that was taken away from him --

21 Q Now don't discuss Mr. Taylor's boot, let's stick  
22 with the forms first.

23 A The idea is to get the contamination off --

24 MR. SHAPIRO: Please, not Mr. Taylor's boot.

25 A -- whether it be above SFC limits or not, we don't

1 like to let it out of here. It's just a good practice.

2 Q I don't argue, Mike.

3 A And I don't see -- in my opinion, I didn't see  
4 anything that would warrant changing the HWP, it was just  
5 something that was out there, normal low levels of  
6 contamination, people were dressed for it, they were surveyed  
7 when they came out. Everybody, as far as I knew, was aware  
8 of the low levels, and it did not possess any hazard.

9 Q Okay, no problem, I will talk to either Mr.  
10 Callahan or Mr. Simeroth since you think that's who, to see  
11 what information they feel they relayed to you, if they gave  
12 you specifics. And then we'll let the record stand as that.

13 But what you're telling me is that even though  
14 called you, you still have nothing to indicate that there was  
15 a health hazard to the workers out there.

16 A No, sir.

17 MR. CHAPMAN: Okay, no problem.

18 BY MR. CHAPMAN:

19 Q And of course you saw no documents on that day, you  
20 relied strictly on a phone call when you were getting this  
21 information.

22 A Yes.

23 (Discussion off the record.)

24 MR. CHAPMAN: We're back on the record here at 25  
25 minutes to 12.

1 BY MR. CHAPMAN:

2 Q Mike, absolutely the last question. On page 32 of  
3 the response to the NRC, it makes a comment that  
4 approximately 120 bioassay samples were collected from 43  
5 Sequoyah and contract personnel who had worked in and around  
6 the SX excavation site. These analysis results of samples  
7 taken from Sequoyah Fuels personnel August 1, 1990 to  
8 September 15, 1990 were less than minimal detectables and the  
9 only elevated urine samples were from personnel who were  
10 handling huge yellow cake drums and the contaminated fill  
11 aggregate.

12 And I believe that we have discussed in previous  
13 conversations that there was no Sequoyah Fuels procedure  
14 regarding contract personnel that required bioassay samples  
15 be collected on a routine or specified time frame.

16 A Yes, sir.

17 Q Therefore, you were allowed, at Health and Safety's  
18 discretion, to determine when bioassays would be collected.

19 A Yes, sir.

20 MR. CHAPMAN: All right, sir, I have no other  
21 questions to ask.

22 MR. DRISKILL: I have no further questions.

23 MR. CHAPMAN: Okay, sir. Mr. Shapiro, anything you  
24 wish to add?

25 MR. SHAPIRO: No, thanks.

1 MR. CHAPMAN: Mr. Nichols, have I or any other NRC  
2 representative here threatened you in any manner or offered  
3 you any rewards in return for this statement?

4 THE WITNESS: No, sir.

5 MR. CHAPMAN: Have you given this statement freely  
6 and voluntarily?

7 THE WITNESS: Yes, sir.

8 MR. CHAPMAN: Is there anything further you care to  
9 add for the record?

10 THE WITNESS: No, sir.

11 MR. CHAPMAN: The time is now 11:38 p.m. (sic) and  
12 the interview is closed. Thank you.

13 (Whereupon, the interview was closed at 11:38  
14 a.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 Michael Nichols

Docket Number:

Place: Sequoyah Fuels Corporation, Gore, Oklahoma

Date: March 7, 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

REPORT OF REINTERVIEW  
WITH  
CAROLYN L. COUCH

On March 19, 1991, COUCH, Manager, Environment, Sequoyah Fuels Corporation (SFC), was telephonically interviewed by Nuclear Regulatory Commission Investigator Larry Chapman. Also present during the telephone conversation, on a conference call basis, was Ira SHAPIRO, SFC's Attorney with Winthrop, Stimson, Putnam, and Roberts, Washington, D.C. 20036, and Michael VASQUEZ, Health Physicist, NRC.

COUCH was asked about Lee LACEY's (Manager, Regulatory Compliance and Quality Assurance, SFC) March 1, 1990, comment that she was in charge of the "SX investigation." COUCH recalled receiving LACEY's August 30, 1990, memorandum (which was after the NRC's Augmented Inspection Team (AIT) visit during the week of August 27, 1990) which assigned selected SFC personnel with certain job tasks and acknowledged she had been assigned to review the SX excavation for environmental concerns. COUCH said she was only responsible for developing data/facts regarding the environmental impacts in the SX area and was not in charge of the collection and assembling of all facts sought by SFC as a result of the AIT visit. She stated she investigated only the specific subjects assigned to her by LACEY's August 30, 1990, memorandum.

COUCH stated she didn't recall a 1989 meeting with Michael NICHOLS, Manager, Health, Safety and Environment Department (HSE), SFC, concerning SX sandwells. COUCH stated that she had held a discussion in 1988 with NICHOLS concerning SX sandwell data that was being collected by HSE. She stated that their discussion centered around the need to expend manpower to collect these samples and whether the collected data was of value to the HSE department. NICHOLS was expressing to her that he felt it was a waste of manpower to collect these samples.

She stated she saw that laboratory analysis disclosed the presence of uranium in the SX sandwells, but she and NICHOLS' discussion did not center on the meaning of the uranium analysis, only if the use of manpower to take these samples was justified. She questioned NICHOLS as to the use of this data and told him that if the data was not useful, why expend the time to do the sampling. However, she stated she deferred to NICHOLS the final decision to stop the sampling.

COUCH stated that she recalled receiving Donald KNOKE's (Manager, Facility Laboratory, SFC) August 30, 1990, memorandum addressed to LACEY and took no action, but instead simply filed the memorandum in her files. She stated that she felt no action was necessary, because at that time, she had undertaken a project in response to the AIT concerns and was in the process of determining possible migration paths of contaminated water in the SX area; collecting soil samples in the SX area; and developing a past history concerning the SX water contamination.

COUCH then stated that even though she held the 1988 discussion with NICHOLS, and had received a copy of the August 30, 1990, memorandum from KNOKE to LACEY (on or about August 31), it never "rang a bell" with her that AIT personnel present on site would be interested in the SX sandwell information or that it

had any significance to the then recent discovery of uranium contaminated water in the SX excavation. COUCH stated that even during the continuous inspection efforts by NRC:RIV and the ongoing OI investigation, she never considered this information as relevant to these matters and it never crossed her mind to mention this data to any investigative bodies onsite. COUCH stated that even though she had knowledge of the SX sandwell analysis and access to the data in her files, she "missed" bringing this to the NRC's attention until it surfaced during recent OI interviews.

COUCH was questioned about an August 7, 1990, laboratory report submitted by Gary BARRETT, Safety Engineer, SFC. COUCH stated that on August 7, 1990, she was at the excavation, saw a dark liquid on the surface of the water inside the excavation and of her own volition and concern for the worker's safety, she ordered the workers out of the excavation until the black liquid could be sampled. COUCH subsequently instructed BARRETT to obtain a sample and submit it to the laboratory for analysis. COUCH stated that since the liquid was an anomaly, she decided it should be analyzed. She subsequently called Tommy JOHNS, UO3 Area Manager, SFC, and requested the liquid be barreled since she knew "greasy" liquids cannot be discharged to any effluent areas.

COUCH stated that she did not give permission for workers to return to the pit and assumes that the Health and Safety technician working at the excavation site, or someone else, gave permission for them to return. COUCH stated that even though she ordered the sample be taken, she never followed up or inquired about these sampled laboratory results. COUCH did acknowledge that she received and saw a copy of these results on either August 7 or 8, 1990. However, she stated the results, including uranium, were expressed in a percentage factors and claimed that because the uranium was expressed in percentages it had no meaning to her. COUCH did admit that this laboratory result did alert her that there was a presence of uranium in the liquid sample. However, she stated she never took any initiative to seek out any SFC personnel, including BARRETT and/or the laboratory personnel, to explain or interpret the meaning as to what the 1 percent reading of uranium equated to in grams per liter.

COUCH stated that she is certain James MESTEPEY, Senior Vice President, SFC, received and saw the August 7, 1990, (BARRETT) laboratory report because on August 8, 1990, she discussed it with MESTEPEY. However, she doesn't recall if they ever discussed the uranium levels, but recalls the discussion was concentrated on the fact there was the presence of TBP. Also, she had given MESTEPEY a roll of film to develop of pictures she had taken of the excavation on August 7, 1990, and as she recalls, she and MESTEPEY's August 8, 1990, discussion also included the fact that these pictures showed that there were small amounts of water in the excavation. COUCH stated that no SFC personnel subsequently questioned her concerning the August 7, 1990, laboratory results or of her actions to order the contractors out of the excavation.

COUCH was questioned as to why, after receiving this laboratory analysis on August 8, 1990, which clearly indicates the presence of uranium in that SX excavation sample, she didn't inform the two NRC inspectors who were then on site of this recent laboratory result. In particular, she was asked, in view of Blair SPITZBERG's (Emergency Preparedness Analyst, Division of Radiation, Safety and Safeguards, NRC) recent question on August 6, 1990, about the water contents, and with LACEY telling her to remember SPITZBERG's question in case

he (SPITZBERG) later asks the question, why she did not inform the NRC investigators of this sample result. COUCH answered that she felt SPITZBERG's question was informal, so she just didn't think to mention this laboratory information to SPITZBERG's attention.


COUCH claimed that she never mentioned this particular laboratory analysis to OI investigators because they never specifically questioned her about its existence.

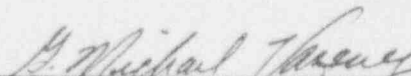
INVESTIGATOR'S NOTE: During the early course of the investigation, OI requested all laboratory results regarding the SX excavation and purportedly received all laboratory analysis regarding the SX area, but as now developed, this laboratory report was not provided to OI until very late in the investigation. COUCH stated she had brought this particular laboratory report with her to the March 10, 1991, OI interview, but forgot to mention it during this OI interview. She then claimed that even though she had prior knowledge of this laboratory report, and had a copy in her possession during the OI March 1, 1991, interview, she had forgotten to bring it to the OI investigator's attention until she later heard that the OI investigator was preparing to interview BARRETT, and that only then did she think to mention the laboratory report to the SFC attorney.

COUCH claimed her lack of memory was because she had been busy with other duties at SFC and even though there had been a continuous NRC investigator and inspector presence since September 1990 (including an AIT inspection), it simply "slipped her mind" to mention her knowledge of this laboratory reports' existence.

INVESTIGATOR'S NOTE: COUCH never brought this laboratory report to the NRC's attention; it was BARRETT who first told the NRC OI investigators on March 1, 1991, after COUCH's interview.

COUCH claimed that the information shown on this August 7, 1990, (BARRETT) laboratory analysis was provided to Linda KASNER with RIV.

 FOD OI: RIV  
50: Larry D. Chapman, Investigator  
Office of Investigations Field Office, Region IV

  
Michael Vasquez, Health Physicist  
NRC, Region IV