

ORIGINAL

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Agency: Nuclear Regulatory Commission

Title: Investigative Interview of
Lee R. Lacey, II (CLOSED)

Docket No.

LOCATION: Gore, Oklahoma

DATE: Monday, March 4, 1991

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ANN RILEY & ASSOCIATES, LTD.

1612 K St. N.W., Suite 300
Washington, D.C. 20006
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1 BEFORE THE
 2 U. S. NUCLEAR REGULATORY COMMISSION
 3 In the Matter of:)
 4 INVESTIGATIVE INTERVIEW OF:)
 5 LEE R. LACEY, II)
 6 (CLOSED))

7

8 Conference Room
 9 Sequoyah Fuels
 10 Gore, Oklahoma

11

12 Monday, March 4, 1991

13

14 The above-entitled matter convened for
 15 INVESTIGATIVE INTERVIEW pursuant to notice at 2:34 p.m.

16

17 APPEARANCES:

18

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

20

21 LARRY CHAPMAN, Senior Investigator
 22 Office of Investigations
 23 U. S. Nuclear Regulatory Commission
 24 Suite 1000, 611 Ryan Plaza
 25 Arlington, Texas 76011

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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 Lee R. Lacey, II, 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 4, 1991 and the time is 2:35 p.m.

7 Present at this interview, in addition to Mr.
8 Lacey, 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.

13 Mr. Lacey, will you please stand and raise your
14 right hand?
15 Whereupon,

16 LEE R. LACEY, II

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

19 MR. CHAPMAN: Please be seated, sir.

EXAMINATION

20
21 BY MR. CHAPMAN:

22 Q Mr. Lacey, for the record, we've spoken earlier, on
23 September 13, 1990 and on September 21, 1990. One of those
24 conversations was a taped conversation and the other one was
25 before a court reporter, is that correct?

1 A That's correct.

2 Q Has there been others?

3 A We had another interview before those two.

4 Q September 7, is that right?

5 A That sounds right.

6 Q September 7 -- that's the wrong one, that won't
7 work -- it was September 6, not the 7th.

8 Mr. Lacey, for the record, would you please give me
9 your work background since you first came here to Sequoyah
10 Fuels, starting off with the date you came and then
11 progressing up to your current position?

12 A Okay. I was hired originally, I believe it was
13 March 13, 1986, approximately a couple of months after the
14 January '86 incident where a UF-6 cylinder was hydraulically
15 ruptured. I was hired as Manager, Health, Safety and
16 Environment and I continued in that capacity until the
17 acquisition -- shortly after the acquisition of Sequoyah
18 Fuels by General Atomics, I believe it was January of 1989,
19 that I moved laterally into the position of Manager, Nuclear
20 Licensing and Environmental Compliance. And that was
21 reflective of the fact that we had to take the licensing
22 responsibility that had been handled at Kerr-McGee corporate,
23 over down here at the plant. I continued in that position
24 until approximately April of 1990. At that time, my new
25 title was Manager, Regulatory Compliance and Quality

1 Assurance and I was in the process of taking over the quality
2 assurance function in addition to keeping my licensing
3 functions from Dave Swaney who had been the Manager of
4 Quality Assurance and was scheduled to retire in May, which
5 he did.

6 Then I continued in that capacity until late August
7 or early September of 1990, when I was made Vice President-
8 Regulatory Affairs.

9 Q Okay, sir. May I have your formal education,
10 please, sir?

11 A ([REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED])

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15 Q All right, sir. Now to speak specifically to one
16 area of interest to me, you mentioned on March 6, 1986 you
17 came to work at Sequoyah Fuels as the Manager of Health,
18 Safety and Environment.

19 A That's correct.

20 Q Can you give me a brief outline of what the duties
21 would have been as manager of that division at that time?

22 A The functional areas that were involved were health
23 physics, industrial safety and the environmental program,
24 basically -- environmental monitoring program.

25 Q All right, sir. Did you have people in charge of

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1 each one of these sort of subdivisions?

2 A Yes, I did.

3 Q Who was in charge of health physics?

4 A When I originally got to the plant it was Chuck
5 Grosclaude.

6 Q Uh-huh.

7 A That's with a silent "s", it's Grosclaude.

8 Q And you say when you first came -- did someone else
9 take over those duties while you were still Manager of --

10 A Yeah, I think in early 1987, sometime or another,
11 Chuck Grosclaude was moved to waste management and we hired
12 an individual who had been working with us as an emergency
13 planning consultant, George Sakelosky, and he held that
14 position for a time.

15 Q Okay, and was Mr. Sakelosky there when you left?

16 A No, he left the company, I believe it was about
17 mid-December of 1987 and we hired Mike Nichols I believe in
18 early February of 1988.

19 Q February of '88?

20 A That's correct, for that position.

21 Q All right, sir. And at that time, then Mr. Nichols
22 was working for you, you were still in the chain?

23 A That's correct.

24 Q And he would have continued to work for you until
25 you left probably in January of 1989?

1 A That's correct.

2 Q Who was in charge of the industrial safety division
3 or department while you were there?

4 A It didn't have department status, but it was a
5 fellow by the name of Charlie Gardner, who was a safety
6 engineer.

7 Q And did he remain in that position the whole time
8 you were there?

9 A Yes, he did.

10 Q And then in charge of the environmental --

11 A Carol Couch.

12 Q -- portion -- Carol Couch. And she stayed in that
13 division the entire time you were Manager of Health, Safety
14 and Environment?

15 A Yes, and then moved with me when I became Licensing
16 and Environmental, she moved with me for that period of time.

17 Q At the time you moved out of the position of
18 Health, Safety and Environment, did Mr. Nichols become
19 elevated to that position that you vacated?

20 A He became Manager, Health and Safety. Like I say,
21 environmental was split off at that time.

22 Q All right, sir, why was environmental split off and
23 gone with you? Why did it leave that other division?

24 A I really don't know the rationale. I was more
25 familiar with the -- I guess the overall environmental

1 monitoring program. I don't recall the specific rationale
2 other than it just seemed to be a good division, managerial
3 division, at the time.

4 Q If I understand what you're telling me, even though
5 you're not sure of the specific rationale, because you had a
6 fairly extensive knowledge of environmental issues, they felt
7 it should go with you, is that what you're telling me?

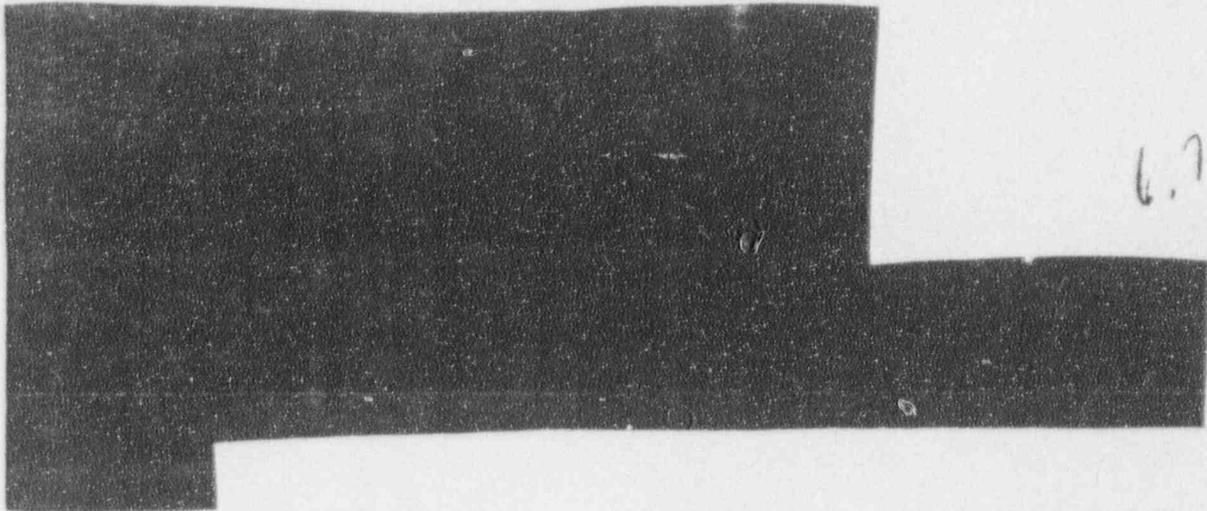
8 A I think I had a more extensive knowledge than Mr.
9 Nichols did. Mr. Nichols was fairly new with the company at
10 that time, still.

11 Q Okay. Also -- where were you prior to coming to
12 Sequoyah Fuels?

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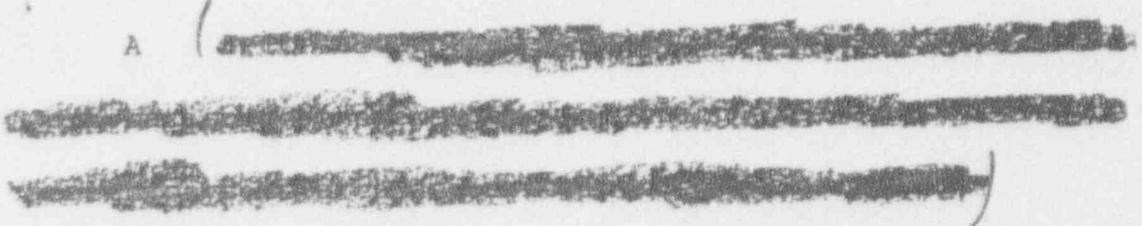
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A No, I did not.

Q Have you had formal training in -- when you were hired at Sequoyah Fuels in the health and safety area and especially in the environmental area?

A Not that I recall, just general employee training.

Q I guess I was trying to understand -- did you duties at your previous company give you experience to take over the position of Health, Safety and Environmental? I'm trying to understand your qualifications for the position you held when you first came to work.



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Q What I was trying to understand, Mr. Lacey, since you were considered somewhat an on-site specialist in environmental, what training areas gave you that sort of on-site knowledge, specialist knowledge?

A Tenure at the plant I suppose, general management

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1 level familiarity with the environmental monitoring program.

2 Q Okay, sir, and what I was also trying to understand
3 is have you not attended any formal EPA type sponsored
4 seminars or NRC, if they have such an animal, sponsored
5 environmental seminars?

6 A Not that I recall. I've been to a couple of fuel
7 cycle facility licensing type seminars or workshops I think
8 they call them. I've been to I think one EPA sponsored
9 workshop on bio-monitoring back a few years ago, dealt with a
10 specific program. But I'm not an environmental expert.

11 Q Are you familiar with the NRC's off-site release
12 limits as they are referenced in 10 CFR -- I believe it's --
13 is it Appendix B?

14 A 10 CFR 20, Appendix B.

15 Q Yes, sir. Are you familiar with those?

16 A I'm generally familiar with those, yes, sir.

17 Q Are you familiar with the fact that Sequoyah Fuels
18 through licensing requests and subsequently being agreed to
19 by the NRC, that they established an off-site action level of
20 225 micrograms per liter for uranium contamination in liquids
21 or water, groundwater?

22 A I'm familiar with that as an environmental action
23 level, not as an off-site release level.

24 Q How do you view those as different, an action level
25 and an off-site environmental release limit?

1 A Well the off-site environmental release limit is
2 stipulated in 10 CFR Part 20 as one MPC of natural uranium in
3 water, I believe that's the Appendix B, Table 2 value, and
4 that calculates out to be 45 milligrams per liter of natural
5 uranium. The -- my understanding of the environmental action
6 level is that that is the level typically that you would find
7 in a groundwater monitoring well.

8 Q Okay, I'm not trying to trip you up, I'm just
9 trying to understand what Sequoyah Fuels' reasoning -- since
10 you're the licensing expert on site, so to speak, what the
11 reasoning for the 225 micrograms per liter action level is,
12 as opposed to why Sequoyah Fuels felt they wanted a lower
13 limit than what the NRC had established.

14 A I cannot tell you what the -- how the 225 microgram
15 per liter level came about. I don't know if that was one
16 historically that SFC proposed or NRC proposed, nor do I know
17 what technical basis there may be for it.

18 Q All right, sir.

19 MR. SHAPIRO: That was in the license when you got
20 here?

21 THE WITNESS: That's correct.

22 BY MR. CHAPMAN:

23 Q All right, sir, in respect to that then, what, as
24 the Licensing Manager, since that's the only term I really
25 know you as -- what actions do you feel are required if

1 Sequoyah Fuels should reach the 225 micrograms per liter?

2 A By the license, we're supposed to investigate and
3 if any corrective action is indicated, corrective action
4 should be recommended and taken.

5 Q Do you know the type of corrective action, or is it
6 specified?

7 A It would be a case-by-case basis, depending on what
8 you found and where you found it.

9 Q Would you be notified of that, as the licensing
10 representative? Would you be routinely notified if they
11 found levels that required an action?

12 A Normally, yes, I am. It may not be right at the
13 time of the occurrence but --

14 Q Are you the representative on site by which
15 notification and inter-reaction with NRC is to flow through?

16 A That's correct.

17 Q Is that by Sequoyah Fuels procedures or is that
18 just a matter of practice?

19 A Both by practice and by the license.

20 Q Do you feel, sir, that personnel at Sequoyah Fuels
21 understand that primary notification and correspondence with
22 the exception of the President, obviously, should be
23 coordinated with you and through you to the NRC?

24 A I believe that's understood by the appropriate
25 people, yes, sir.

1 Q Do you think, sir, that that's spelled out in the
2 procedures at Sequoyah Fuels or do you feel that also is a
3 matter of well understood practice at the site?

4 A I think it's a matter of practice and it's also in
5 the license.

6 Q Are you familiar with the MPC levels for restricted
7 area -- and I use the term "release", it's the only word I
8 know to use as far as some value that triggers an action by
9 the party -- the facility itself. Are you familiar with that
10 value, as I understand it, of 1.5 grams per liter?

11 A That's correct, yes, I am.

12 Q And that is also found, if I'm correct, in 10 CFR
13 Part 20, Appendix B?

14 A That's correct.

15 Q So we don't have a disagreement that by regulation,
16 45,000 micrograms per liter and 1.5 grams per liter are the
17 restricted MPC release values for off-site and restricted
18 area releases?

19 A Yea, 45,000 for off-site release and 1.5 for
20 restricted area.

21 Q And then, sir, we've agreed that even though it's
22 not by regulation, the action level for Sequoyah Fuels by
23 license condition is 225 micrograms per liter?

24 A That's my understanding.

25 Q All right, sir. While you were occupying the

1 position of Health, Safety and Environment Manager, were you
2 aware of any sampling what was commonly known as sandwells?

3 A No, sir, I wasn't.

4 Q Who would --

5 A I don't recall any. I recall hearing of sandwells,
6 SX sandwells, but I don't recall any sampling. My impression
7 was that they had been discontinued wells.

8 Q Okay, sir. Well the reason I asked that is earlier
9 data discovered indicates that testing of these sandwells --
10 which for the record, as I understand, are pipes stuck in the
11 ground at certain locations next to fire station points. And
12 as a matter of record, for information, there's some fire
13 stations identified as number 2, number 3, number 4, number
14 5, which surround the SX building. Are you familiar with
15 those fire stations surrounding the SX building?

16 A Generally I am, yes, sir.

17 Q Were you aware of the fact that there were these
18 pipes in the ground at these fire stations?

19 A I was not aware they were at those locations, no.

20 Q And that includes the time you were Manager of
21 Health, Safety and Environment up until when? Or had you
22 become aware of them prior to this meeting?

23 A I had become aware of them prior to this meeting,
24 recently. Like I said, some time or other I had heard about
25 them before and then I believe in a late August memo, Don

1 Knoke had apprised me that this data was available on the SX
2 sandwells, that they might bear on the SX groundwater
3 investigation.

4 Q We're speaking late August 1990?

5 A Yes, I believe it was the 30th.

6 Q So I guess, Mr. Lacey, the values that are now
7 before you on a printout are on kind of a summary sheet here,
8 -- as far as you and I are conversing here, this is
9 principally the first time you've seen these and we've
10 discussed them, right?

11 A Yes, it is.

12 Q Had this data become available to you at the August
13 30 memo that you think you received from Mr. Knoke?

14 A No.

15 Q Did you take it upon yourself to go review this
16 data once it became known to you by Mr. Knoke?

17 A No, I did not.

18 Q Okay, sir, why not?

19 A I had a lot of irons in the fire at that time.

20 When I saw the memo, I noticed that it was addressed, I
21 believe -- there were a couple of other addressees I think,
22 Mr. Nichols and Mr. Mestepey, and I noticed that it wasn't
23 addressed to Carol Couch, who was heading up the SX
24 investigation, so I sent her a copy of the memo and I briefly
25 discussed the issue with Reau Graves.

1 MR. SHAPIRO: Sorry, for the record, I thought you
2 had gotten that in connection with the sandwell.

3 MR. CHAPMAN: No, sir.

4 BY MR. CHAPMAN:

5 Q Do you know if this memo has been given to any NRC
6 inspector personnel?

7 A Not to my knowledge -- I don't know.

8 MR. CHAPMAN: Do you know, Mr. Shapiro?

9 MR. SHAPIRO: No, I don't.

10 MR. CHAPMAN: Just for the record so that it'll be
11 recorded, this is an internal correspondence memo from Don
12 Knoke to Lee Lacey dated August 30, 1990, the subject is SX
13 investigation. And the gist of this memo from Mr. Knoke to
14 Mr. Lacey is that at one time there was a series of samples
15 that were routinely submitted for uranium analysis under the
16 name of SX fire stations and/or sandwells. This memo
17 reflects that certain data should be available in the Health,
18 Safety and Environment files. And copies are to J. Mestepey
19 and Mike Nichols.

20 BY MR. CHAPMAN:

21 Q Mr. Lacey, in light of this information we're
22 discussing on these sandwells or fire stations, SX fire
23 stations, who would have been recipient of this data while
24 you were in charge of that department, Health, Safety and
25 Environment?

1 A I'm not sure. I didn't know at the time,
2 apparently sampling was done originally at Chuck Grosclaude's
3 direction and he would have received it. And so I guess the
4 Manager, Health and Safety would received it or the manager -
5 - you know, Manager, Health Physics and Industrial Safety.

6 Q So that I'm sure the record is clear, Mr. Chuck --

7 A Grosclaude.

8 Q -- Grosclaude never became Manager of Health,
9 Safety and Environment or Health and Safety?

10 A He never did.

11 Q He always stayed, for lack of a better term, in the
12 lesser role of kind of a departmental or sub-manager level?

13 A He was the facility Radiation Safety Officer.

14 Q And to your knowledge, you don't recall him ever
15 bringing those issues up to you personally?

16 A No, I do not.

17 Q Nor do you recall ever seeing a memo or any other
18 type of internal correspondence in addition to these
19 compilation sheets?

20 A Other than the August 30 memo we've already
21 discussed, I do not.

22 Q Mr. Lacey, we discussed earlier in our
23 conversations the fact that the unearthing of these two tanks
24 out here were the result of EPA, Environmental Protection
25 Agency, regulations regarding underground storage, is that

1 correct?

2 A Those and as those regulations were also adopted by
3 the State of Oklahoma, yes.

4 Q Right, sir. These regulations were subsequently
5 enforced or put into place by the State of Oklahoma, and so
6 far as Sequoyah Fuels is concerned, your level of dealings
7 was with the State of Oklahoma, specifically the Oklahoma
8 Corporation Commission and the Oklahoma Water Resources
9 Board, correct?

10 A That's correct.

11 Q And I think we discussed earlier the fact that you
12 had attended some meetings with one of the Oklahoma agencies
13 in regard to these?

14 A I attended one meeting with the Corporation
15 Commission at their offices in Oklahoma City.

16 Q Did you attend that in connection with -- did
17 anyone go with you?

18 A Carol Couch, and I believe we met with a Mr.
19 Springer.

20 Q What did y'all discuss, do you recall?

21 A Generally -- you know, we've talked about this in
22 an earlier session, but I think it was pretty much about a
23 15-minute meeting, and we had an engineering drawing of what
24 we proposed to do and we went through the drawing and what we
25 were concerned with is did they have any problems with our

1 approach on that and would in fact what we proposed to do
2 remove them from the underground storage tank regulations.

3 Q And you don't recall any additional conversations
4 with Mr. Springer?

5 A Not specifically, no.

6 Q Did you have any conversations with the Oklahoma
7 Water Resources Board?

8 A I didn't.

9 Q Prior to excavation of those tanks?

10 A No.

11 Q Somewhere there was a -- in the response to the
12 NRC, there was some confusion over some of your previous
13 contacts with the State of Oklahoma, and there was a
14 reference on one of them to the fact you had had a July
15 meeting with the State of Oklahoma and you indicated that you
16 had never had a July meeting with those folks -- July of
17 1990, for the record -- and that is correct, that you did not
18 have any meeting with the State of Oklahoma, Oklahoma Water
19 Resources Board, in particular?

20 A I didn't personally.

21 Q Do you know of any such meeting in July by any
22 other Sequoyah Fuels personnel?

23 A Carol met with somebody, I think either at some
24 further meeting or telephone discussion, but my recollection
25 of that is not very good. I'm not the one to talk to about

1 that.

2 Q Well in connection with Ms. Couch's meetings or
3 anyone's meetings up there, was there ever a general
4 understanding or even a specific understanding with the State
5 of Oklahoma, and particularly the Oklahoma Water Resources
6 Board, of the fact of some delineation of jurisdiction over
7 the tanks? And I'll go on to tell you that the tank that
8 contained hexane being under the jurisdiction of Oklahoma
9 Water Resources Board and the solvent dump tank which had
10 traces of radioactivity or uranium, being under the
11 jurisdiction of the NRC.

12 A I don't know specifically how that was. I believe
13 I heard there was some discussion that they considered the
14 license material to be the purview of the NRC.

15 Q Do you recall if that was prior to the unearthing
16 or during the period of time that you and Ms. Couch and/or
17 Ms. Couch were doing the preliminary discussions with the
18 regulatory agencies?

19 A I believe it was prior to the unearthing, but I
20 don't believe it was in the time frame that I was directly
21 involved.

22 Q And your direct involvement ended -- when was it?

23 A In April of 1990.

24 Q April of 1990. Did Ms. Couch relay this
25 information to you or do you recall how you came to know the

1 delineation of jurisdictions?

2 A I recall I believe -- I don't recall a specific
3 conversation, but based on my recollection, I believe she
4 probably told me that at some time they considered license
5 material to be NRC's purview.

6 Q With that in mind and before the tanks were
7 unearthed, did you feel that this was a matter that the NRC
8 should become involved in the unearthing of these tanks since
9 they now had a jurisdictional point on these tanks,
10 jurisdictional purview?

11 A It didn't occur to me because what we were doing
12 was trying to meet the underground storage tank regulations
13 to remove the tanks from the underground storage tank
14 regulatory program. It occurred to me just that -- I guess
15 my reaction to that was that the state regulators just didn't
16 want to have anything to do with the licensed material
17 aspects of it.

18 Q In light of that, if I'm correct in what you've
19 told me, Mr. Lacey, is that you had this general knowledge of
20 the difference prior to the unearthing. As the Regulatory
21 Manager or the person on this site with responsibility to be
22 in direct contact with the NRC, you did not feel that because
23 this was a licensed material and the ground was to be
24 disturbed, that it was necessary to contact the NRC, to let
25 them know of the impending work that was planned?

1 A I would have to say that it did not occur to me at
2 the time.

3 Q In light of the fact that earlier in the year of
4 1990, I believe you attended an enforcement conference in
5 Arlington -- did you not attend that?

6 A No, I did not.

7 Q You did not attend. Did you receive the results of
8 that enforcement conference via the President or someone
9 else?

10 A I believe I got the gist of it.

11 Q And did you understand the gist of it was that
12 Sequoyah Fuels and NRC somewhat committed to the fact they
13 felt Sequoyah Fuels should take a very conservative approach
14 to keeping the NRC informed of events that occur out here at
15 this facility?

16 A That was my understanding.

17 Q And then I again ask you, sir, in light of that,
18 you didn't feel that a major project on this facility which
19 would involve licensed material by your own admission
20 earlier, that is the radioactivity traces in the uranium dump
21 tank, represented a need to let the NRC know of the impending
22 action?

23 A It did not occur to me.

24 Q In light of that, were you involved in any pre-
25 planning meetings prior to the excavation at which

1 discussions were held that there would be knowledge that the
2 soil around these tanks would be contaminated with uranium
3 products?

4 A I recall being in at least one pre-planning
5 meeting, but I don't specifically recall what was discussed
6 at the meeting.

7 Q Well then let me phrase it in this question, was it
8 understood by you prior to the unearthing of these tanks that
9 there would probably be contaminated soil around there?

10 A Yes.

11 Q And what did you base your belief on, sir?

12 A Just prior knowledge of contaminated soil in that
13 area.

14 Q But what, I mean what events would lead you to
15 think there would be contaminated -- now so you understand,
16 I'm not trying to put you in a box, I know there had been
17 some overflows out there.

18 A There had been spills in the past and there was, I
19 believe in the 1988 time frame, Region IV following up on
20 some type of allegation, had taken some soil samples during
21 an inspection of the area.

22 Q And you were, by virtue of being the -- I guess at
23 that time Manager of Health, Safety and Environment -- in the
24 '88 time frame, were you directly involved in the sampling as
25 far as, maybe not taking them, but assisting the NRC in these

1 samples and very much aware of samples being taken?

2 A I was aware that samples were taken.

3 Q Did you receive the results of this or do you
4 recall receiving the results of this?

5 A I recall -- I don't recall specifically receiving
6 the results, I believe we at least got some verbal indication
7 that there was a positive result, but I don't recall for sure
8 if we received them or not.

9 Q As a matter of information for you here, I have in
10 front of me a couple of laboratory analyses that were
11 received by the NRC from the Oak Ridge National Laboratory
12 which shows the background sample is identified as SX-3 --
13 and these are soil samples by the way -- and then it shows
14 two other samples identified as SX-1 and SX-2, and they show
15 some elevated levels of uranium in the soil. And I just want
16 to ask you if you recall ever seeing those. That's the
17 results of the 1988 sampling.

18 (A document was proffered to the witness.)

19 A I may have seen them, I don't specifically recall
20 seeing them.

21 Q In any of these pre-planning meetings that you
22 attended, Mr. Lacey, did you bring up yourself any concerns
23 to any of the Operations personnel or any of the Sequoyah
24 Fuels staff of the possibility of contamination in the soil
25 out there? Again we're talking prior to excavation.

1 A I don't recall.

2 Q Just don't recall if you ever mentioned it to
3 anyone?

4 A No, I don't recall.

5 Q Wouldn't that be kind of in your jurisdiction if
6 you were the NRC representative to make sure that as this
7 pre-planning stage went along, that the NRC regulations were
8 adhered to?

9 A Yes, it would have been.

10 Q I guess I don't understand a little bit why you
11 wouldn't really school these people to be concerned for the
12 NRC, particularly in light of the fact that we do now know
13 that there was some jurisdictional differences as far as the
14 two tanks were involved.

15 A I think that our focus at the time was on the
16 underground storage tank regulations. We probably were
17 taking a myopic view of it at the time. Like I say, I don't
18 recall if those issues were discussed or not. They may have
19 been or they may not have been. You know, what we talk about
20 a pre-planning meeting, I don't know that I was in any
21 project pre-planning meetings. What I recall is a meeting
22 very early on in the 1989 time frame where we discussed what
23 options were available to us about dealing with these
24 underground storage tanks. In other words, the options were
25 to excavate and get them out of the underground storage tank

1 program, or to leave them in place and to do the kind of
2 thinks we would have to do, which as I recall were things
3 like monitoring and corrosion protection for the tanks, that
4 were required by the underground storage tank regulations. I
5 don't believe -- I don't recall being in any project pre-
6 planning meetings. I recall being in that particular meeting
7 where we discussed what options were open to the company and
8 what -- I think the conclusion was excavation was the most
9 reasonable option.

10 Q Well of course you can see from my viewpoint in the
11 course of being acutely aware of underground storage
12 regulations and such, there should have been some concern of
13 the NRC's regulations. And I haven't heard you express to me
14 that during this pre-planning or any meetings, that anyone
15 took a view that the NRC would have regulations that have a
16 bearing on this unearthing of these tanks.

17 A I didn't know of any regulations that would bear on
18 the NRC's interest in these tanks. We weren't disturbing the
19 process, there was no plan to move the tanks or anything like
20 that having to do with the uranium process through the
21 containment system. On reflection, I freely admit that we
22 should have coordinated things in advance with the NRC.

23 MR. SHAPIRO: To clarify, I suppose there could be
24 an NRC jurisdictional interest without specific regulations
25 dealing with this kind of situation. I mean I gather we

1 would agree that there was a jurisdictional interest there.

2 MR. CHAPMAN: Well of specific concern to me and I
3 think perhaps the NRC is that knowing there is contaminated
4 soil, there are all kinds of radiological protection
5 regulations that kick in and there should have been some work
6 towards ensuring that radiological protection is -- I'm not
7 an expert in NRC regulations, but probably Part 19 and Part
8 20 were applicable here, certainly applicable to some broad
9 degree. Notification to the workers that were going to be
10 working there. That kind of gets ahead of myself here, but
11 being the Manager of Regulatory Affairs, I would think you
12 would be the on-site individual who would have said in light
13 of the fact that you are going to disturb soil that has
14 contamination and you also have an area that has some NRC
15 jurisdictional responsibility, we have to look at certain
16 regulations and make sure they apply. And that's why I was
17 curious why, Mr. Lacey, after I finish this long
18 dissertation, you didn't express in these pre-planning
19 meetings, selected or certain NRC regulations they should be
20 particularly attuned to.

21 THE WITNESS: As I said, I don't believe I was -- I
22 don't recall being at any project pre-planning meetings. I
23 recall being in the meeting where we discussed the options
24 available to the company. As far as dealing with the
25 contamination on a project basis, that falls under the

1 purview of health physics.

2 BY MR. CHAPMAN:

3 Q So you feel that would have been their
4 responsibility to --

5 A To ensure that any contamination encountered would
6 have been properly handled and the workers would have been
7 properly protected, yes.

8 Q Well in light of that same question I guess, would
9 you have felt it was Health Physics' responsibility to notify
10 you of the fact they believed there was contamination out
11 there and to coordinate with you if there are any NRC
12 regulations that could be applicable or should be addressed?

13 A I would have expected to hear of any problems from
14 them. Like I said, we knew of contaminated soil out there,
15 we had historically thought of the contaminated soil issue as
16 a problem that would have to be taken care of at
17 decommissioning.

18 Q Okay, of course the converse of my thinking is
19 being the man in charge of the regulation aspect here and
20 being the most knowledgeable individual on site of NRC
21 regulations, I felt like you should take the initiative to
22 step forward and say from a regulatory aspect you need to
23 make sure you let me know and you need to be aware of these
24 regulations -- that was my concern and comments to you about
25 taking some positive steps in these pre-planning meetings or

1 in -- at least these options to the NRC discussing -- I'm
2 sorry, Sequoyah Fuels discussing in these meetings. Do you
3 follow what I'm saying, sir?

4 A Yes.

5 Q And I'm not sure if you agree with me or disagree
6 with me. I can't quite grasp what your -- you keep going
7 back to the fact that you weren't in any pre-planning project
8 meetings, yet you were in meetings when the facility was
9 exploring its options. And I've not heard you yet say that
10 in these meetings of exploring its options, I, as the man on
11 site, as the representative between the site and NRC, put
12 forth your concerns of any NRC regulations or any NRC
13 concerns.

14 A I don't have any recollection of doing so, but that
15 was not the subject of the meeting at that time. Like I
16 said, the meeting was basically an analysis of the economics
17 versus the regulatory impact of the underground storage tank
18 program, and which made the most sense -- which option made
19 the most sense for the company to pursue.

20 Q Right, sir. Not to quibble with your response, but
21 I'm having trouble understanding why you shouldn't step
22 forward and say as a concern to be included in these
23 discussions, you need to give attention to NRC concerns.
24 That's what I haven't heard you said and I guess what you're
25 telling me is you didn't bring it up.

1 A I didn't bring it up. Obviously in retrospect
2 looking back over the issues, there are a number of things I
3 wish I'd done differently.

4 Q Okay, sir. Since we've pretty well discussed the
5 fact that it was known there was contamination around here,
6 do you recall being present during an August 7, 1990 senior
7 staff meeting?

8 A Yes, I do.

9 Q And do you recall who the attendees at that meeting
10 were?

11 A Not in any comprehensive fashion, I don't.

12 Q Can you recall anyone at all being there?

13 A I believe so. I believe I was there, Ron Adkisson
14 was there, Mike Nichols, Don Knoke. I don't believe Carol
15 Couch was in attendance at that meeting. The others, I'd be
16 guessing, maybe Richard Parker.

17 Q Okay, sir. The reason I have to ask is of course
18 there's no list of attendees at this meeting, so I'm trying
19 to establish who was present. Do you recall at this meeting,
20 some sort of a discussion towards the end of the meeting
21 perhaps of the fact that they had discovered some water in
22 the SX area?

23 A Generally, I recall a discussion of that, yes.

24 Q Particularly the water discussed was being water
25 that was located down in the excavation that was ongoing,

1 which is commonly referred to as the SX pit or the SX hole.

2 A Yes.

3 Q Do you recall a discussion that this water was off-
4 colored water, perhaps yellow in color?

5 A I don't recall that.

6 Q Was the discussion centered around the
7 understanding that there was some contamination in that water
8 and perhaps they were trying to decide and get a grasp of the
9 unit values of the contamination?

10 A I recall that, yes.

11 Q Do you recall who brought up the subject of the
12 water itself in the pit?

13 A No, I don't.

14 Q Were you present when Mr. Knoke, by his previous
15 testimony has stated that he went to his laboratory and
16 picked up some data which reflected that the water in the SX
17 pit was around three grams per liter, and brought it back to
18 the room -- do you recall being present in the room?

19 A No, I wasn't.

20 Q Mr. Knoke in previous testimony has also stated
21 that armed with this data of three grams per liter, and was
22 concerned about the values, stopped by your office, stuck his
23 head in the door and announced to you that the water being
24 discussed in the SX excavation is three grams per liter. Do
25 you remember that?

1 A I do not recall that conversation and I really
2 don't believe it happened, but it could have. If it did, I
3 misunderstood him because I don't --

4 Q I'm sure you're not trying to say Mr. Knoke is
5 telling me a story when you say you don't believe it
6 happened.

7 A He may be mistaken.

8 Q Very adamant about it on more than one occasion.

9 A I'm very adamant about not recalling any
10 conversation like that.

11 Q All right, sir.

12 A Furthermore, I didn't take any actions as a result
13 of this supposed information that was allegedly given to me
14 on August 7, which is -- when I did receive information on
15 gram per liter levels in that excavation on August 17, I
16 became very concerned about it, and we've already discussed
17 what occurred at that time. It doesn't make sense to me if
18 I'd heard of three grams per liter on August 7 why I would do
19 nothing and yet when I hear of one to eight grams per liter,
20 which is right in the same ball park, on the 17th, I became
21 concerned about it.

22 Q Do you recall the visit of this same week, the week
23 of the 6th, a visit by two inspectors, one Blair Spitzberg
24 and one Mike Vazquez?

25 A Yes, I do.

1 Q Were you present during the entrance meeting, what
2 is called I guess an entrance meeting, when these two
3 inspectors came on site?

4 A I believe I was, I'm not for sure about that.

5 Q Were you aware during this -- you say you're not
6 sure if you were at the entrance meeting?

7 A I'm not sure.

8 Q Did you accompany either one of these two
9 individuals when they took a tour of the SX excavation?

10 A No, I did not.

11 Q Ms. Couch has indicated in her testimony that Mr.
12 Blair Spitzberg made sort of an off-hand remark or a comment
13 "does anyone know what's in the water down there" and of
14 course he was not answered by any one of the personnel. Ms.
15 Couch has indicated in her testimony that she came back by
16 your office and made a comment to you that Blair had inquired
17 about what's in the water and that you made some sort of
18 return comment to the context to keep this in mind because
19 Blair will probably ask it again. Do you remember any kind
20 of conversations in that regard?

21 A I may have said that.

22 Q I guess what I'm having a little trouble
23 understanding here, Mr. Lacey, is knowing that soil
24 contamination exists, knowing that water has been discovered
25 out there of an off-color nature, and knowing that a

1 discussion has taken place in a senior level management
2 meeting when they're discussing unknown values of
3 contaminated water --

4 A The value I recall being discussed in that August 7
5 meeting I believe was 20 milligrams per liter. That's the
6 value that I came out with in my head. I had heard something
7 of contaminated water probably the previous day. I don't
8 recall, you know, where I heard it or who I heard it from and
9 I believe probably on August 6, somebody communicated to me
10 this value of 20 milligrams per liter. And that was the
11 figure that was in my mind.

12 Q Twenty milligrams per liter.

13 MR. SHAPIRO: Wasn't there an earlier test,
14 something around August 1, that was a low number?

15 MR. CHAPMAN: If that equates out to .02 grams per
16 liter, then I guess we're talking the same number.

17 MR. SHAPIRO: That's the one.

18 THE WITNESS: That's the same thing.

19 BY MR. CHAPMAN:

20 Q Did you see that laboratory report?

21 A No.

22 Q I'm getting a little bit ahead of myself, but I
23 think you've testified previously that you saw no laboratory
24 reports up until I guess August 17 and the conversation with
25 Mr. Chilton.

1 A I didn't even see any then, I got Mr. Chilton's
2 verbal report on that. But no, I think the 20 milligrams per
3 liter was communicated to me verbally, but exactly when or by
4 who I don't know.

5 Q I guess that's one of my questions I was going to
6 ask you, is why would anyone bother to call you with that
7 information if you're not involved in, as you discussed, the
8 chain of concern about the excavation?

9 A I don't know that they did call me. It may have
10 been somebody mentioned it to me in passing or -- you know, I
11 don't know exactly how I came by that information, whether it
12 was a direct contact or a casual one.

13 Q And of course at this time, Ms. Couch was not
14 working for you at this period of time.

15 A That's correct.

16 MR. SHAPIRO: Could we just go back one second on
17 the organization chart? At one time she was working for you
18 and then did the environmental function go back to HS&E?

19 THE WITNESS: Yes, the environmental -- when the
20 labs were split sometime, oh, I don't know, I believe it was
21 early in 1990, the environmental lab was given to Mike
22 Nichols and then in April of 1990, it was decided to move the
23 environmental function over to Mike Nichols and have Carol
24 report to Mike and have the environmental lab report to
25 Carol.

1 BY MR. CHAPMAN:

2 Q Okay, sir, I believe one of the bits of information
3 you did become I think directly involved in, if not physical
4 labor, was being told by Ms. Couch early in the excavation
5 that they had found yellow rocks. Do you remember where
6 these yellow rocks were found?

7 A In the are proximal to the SX excavation.

8 Q Proximal might could cover a wide variety, I mean,
9 around the tanks, out around the perimeter? Where were these
10 rocks located?

11 A I think they were located in materials that were
12 excavated from the tank excavation.

13 Q Soil that had been actually dug up from there?

14 A I'm not sure about that, but that's my
15 recollection.

16 Q Did you go out and physically look at the area?

17 A Yes, I did.

18 Q In relationship to the tank being dug, where was
19 the rocks that you saw -- where were they located at?

20 A They were, as best I recall, around the northeast
21 perimeter of the excavation.

22 Q Northeast perimeter. Was it gravel that had been
23 scraped back, was it dirt, exactly -- was it just solid
24 yellow rocks, what was the condition of the rocks?

25 A As I recall them, they were kind of yellow stained

1 rocks.

2 Q So we're not talking solid chunks of yellow cake?
3 Are we talking about rocks that have some sort of uranium
4 contamination on them?

5 A My recollection is that it was rocks th yellow
6 material on them.

7 Q Kind of gravelly material, not thick chunks or
8 boulders or anything, gravelly material?

9 A Yes.

10 Q What did you do when you noticed this, when it was
11 brought to your attention?

12 A Carol Couch and I went in and discussed the matter
13 with Ron Adkisson, who had had some people -- he had the
14 Waste Department at the time -- and discussed the need to
15 collect those rocks, that material, and drum it, because it
16 was just exposed, apparently contaminated rocks laying on the
17 ground. And Ron took action to do that, as I recall.

18 Q Why didn't you go to the Health Physics Department?

19 A I don't specifically recall. We may have contacted
20 them too.

21 Q I mean, that's their jurisdiction, isn't it, Mr.
22 Lacey?

23 A Yes.

24 Q Now you've taken it upon yourself to be the Health
25 Physics Manager in a way because now you've gone to the

1 Manager of Business Affairs I believe is his title, and
2 discussed the situation of contamination with someone other
3 than the department that's -- has direct operational
4 jurisdiction over it. I'm mystified as to why you wouldn't
5 take it up with Mr. Nichols.

6 A Well Health Physics was -- I may have called Mr.
7 Nichols, I don't recall. But you know, Mr. Nichols' people
8 are health physics technicians, they were out there
9 monitoring the excavation. I don't remember if they were at
10 that particular time, but they were at various phases, and my
11 thought was to take corrective action on a problem at that
12 time and Mr. Adkisson had the people available to go out and
13 do that.

14 Q Well how did you know Health Physics didn't have
15 the people? You just told me they were standing around out
16 there.

17 A No --

18 Q They were on site all the time.

19 A They were on site. Their job is typically to
20 monitor and not to dig things up, not to collect contaminated
21 material necessarily. What they normally do is, when they
22 find these issues, point them out and have the responsible
23 people take corrective action.

24 Q Did you bring this up to the Operations Department?

25 A Not that I recall.

1 Q Project engineer.

2 A Not that I recall.

3 Q Contractors?

4 A No.

5 Q How does any of these personnel know that there's
6 been contaminated rocks discovered out there, if you didn't
7 take it up with any of the participants of the excavation?

8 A I was just reacting to a problem that was brought
9 to be problematically, and we were trying to take some
10 corrective action to get the material -- the material was
11 out, uncontained, shouldn't have been uncontained, to get it
12 drummed up and at some point or other Mike Nichols did get
13 the word. I do not recall if I called him or if Carol
14 informed him, I don't know how he got that word, but in
15 subsequent conversations he says I notified him. I don't
16 specifically recall that, but it may have happened.

17 Q Who physically picked the rocks up?

18 A I don't know.

19 Q Did you just leave it in the charge of Mr.
20 Adkisson?

21 A Mr. Adkisson I believe directed some of his people
22 to go out and pick those rocks up. I did check back by later
23 that day or the next day and they had been picked up.

24 Q Did anyone bother to test any degree of contaminant
25 in those rocks?

1 A Not to my knowledge.

2 Q Did you request any type of test be done?

3 A Not to my recollection.

4 Q Why would these rocks concern you -- well let me
5 back up. Do we know when these rocks were first discovered?

6 A The only -- I don't know. All I know is when Carol
7 brought the issue to me.

8 Q Do you think it was prior or after the senior staff
9 meeting?

10 A I don't know that.

11 Q I guess of interest to me here a little bit, Mr.
12 Lacey, is you've taken a large interest in the contaminated
13 rock on the surface but you've taken no interest in
14 contaminated water. By the same token, you don't know the
15 degree of contamination of these rocks, so you have no way of
16 know if they represent any more of a health hazard for anyone
17 than the contaminated water would represent a health hazard
18 in the excavation.

19 A We have a standard that whenever you see visible
20 uranium, which this apparently was, that we -- we pick it up.
21 That's a standard practice around this plant.

22 Q I think I asked you last time when you found this,
23 if you completed the Sequoyah form -- reporting form on
24 visible contamination and you answered, "No. I am familiar
25 with the form but did not --"

1 A That form -- after talking with you about it and
2 going back and reviewing that procedure, that form is written
3 specifically for health physics technicians who -- I believe
4 the procedure requires routine visual survey. You know,
5 basically going around the plant and looking and seeing in
6 their rounds if there's any visible uranium contamination and
7 reporting by them on that form if they discover any.

8 Q I understand it's a routine form, sir, but the fact
9 that it's a routine form, would that preclude you from using
10 it to note the discovery of contaminated material?

11 A It would not preclude me from using it but the
12 procedure was not written by me. It was a Health and Safety
13 procedure written to Health and Safety personnel. I had a --
14 I would say a general knowledge of the procedure but not --
15 not a working knowledge of it.

16 Q I would agree with you, Mr. Lacey, except in this
17 instance, you've taken on the Health and Physics Department's
18 jurisdiction in getting out there and seeing that the rocks
19 were picked up. So why wouldn't you take it upon yourself to
20 see that all the paperwork was completed?

21 A It didn't occur to me. I wasn't that familiar with
22 that procedure.

23 Q Aren't you the Manager of Regulatory Affairs -- I'm
24 sorry, of Regulatory Compliance and Quality Assurance?

25 A I was at the time.

1 Q Aren't you kind of the focal responsibility
2 individual for this facility for making sure of regulations
3 and adequacy of certain regulations issued around here?

4 A Yes.

5 Q Wouldn't it occur to you that protection of
6 personnel around here is foremost; consequently, you
7 certainly would want to make sure that was recorded some
8 where for future use, particularly the decommissioning file?

9 A I guess the issue didn't occur to me at the time.

10 Q Did you request that that information be issued --
11 be entered in the decommissioning file?

12 A No, I did not.

13 Q Again, sir, I have to ask you why not?

14 A We picked up the contamination. The requirement
15 was for -- for the decommissioning files is for residual
16 contamination and we picked up all the visible contamination
17 -- or it was picked up.

18 Q What were you going to do with it? I'm not going
19 to get into quibbling with you over what the word residual
20 means. Once you pick it up, doesn't that have to be disposed
21 of? Isn't there something that has -- if it's not taken to
22 an authorized site, doesn't it have to be issued --

23 A Well --

24 Q I'm sorry. Entered for future reference?

25 A No.

1 Q It doesn't?

2 A Once it's drummed and identified as waste, what --

3 Q You didn't tell me it was identified as waste, Mr.
4 Lacey.

5 A Well, it was -- I don't know if it was -- it was
6 drummed and contained and I assume placed in a waste storage
7 area. By residual, you're talking about residual
8 contamination levels in soil or in process piping or things
9 like that. What the decommission rules, as I understand it,
10 requires is that if you have residual contamination that you
11 are not able to clean up, that that information needs to go
12 into the decommissioning files.

13 Q I'm not an expert on decommissioning files, but I
14 thought the decommissioning files were to record any type of
15 contamination that might be of interest. If you were later
16 getting ready to clean up the facility, you would want to
17 know where it's located, where it came from and the degree of
18 contamination. Now, I'm certainly not an expert in that area
19 and I don't claim to be.

20 A I wouldn't interpret that to be drummed material
21 that's known to be contaminated. In the first place, I don't
22 think we had a view -- we don't have a view of drums full of
23 waste material. Our view of that is that that's something
24 that has to be taken care of on a more routine basis as
25 material that needs to be reprocessed or needs to be sent to

1 a low level waste site and not something that you would wait
2 for facility decommissioning to deal with.

3 Q Do you know if this drummed material that you asked
4 to be picked up is the same material that was later used
5 around the French drain?

6 A No, I don't know that. I would certainly hope that
7 wasn't the case. My understanding was that the drummed
8 material that was used for that purpose was some very low
9 level contaminated material that was removed sometime past
10 from under the tank farm. Basically, they were putting fresh
11 limestone gravel on the tank farm. That was supposed to
12 serve neutralization of an acid spill, if one should occur by
13 accident and that the -- I don't know. The material was
14 replaced some years ago. For what reasons, I'm not exactly
15 sure, other than maybe it had been settled so much that it
16 was felt that it would not longer serve its purpose. But it
17 was contaminated with low levels of uranium, probably
18 predominately from the 1986 accident, and to the best of my
19 knowledge, that was the material that was used in the French
20 drain.

21 Q Okay, sir. Just for the record, so that it's
22 clear, I know we've pretty well identified -- we've talked
23 yellow rocks. There has been some confusion, I think, over
24 the terms yellow rocks versus solid contaminates they found
25 out there. That's a different issue and you were not

1 involved in the location of any solid chunks of yellow cake
2 being discovered upon the removal of the concrete pad around
3 the hexane --

4 A That's --

5 Q -- is that correct?

6 A That's correct.

7 Q You were not involved in that?

8 A (Shaking head negatively.)

9 Q Okay, sir, you mentioned to me earlier in the
10 conversation that you're basic first awareness that there
11 were any types of elevated levels of uranium regarding the SX
12 pit occurred when you received information from Mike Chilton?

13 A (Nodding head affirmatively.)

14 Q And you've also expressed -- you're nodding your
15 head. You agree with me that the first time you learned
16 about it was when you learned it from Mike Chilton?

17 A That's correct. I had heard earlier in the day --
18 we've discussed this at length previously -- something that
19 keyed my interest and concern to get the data. I had heard
20 somewhere of elevated levels beyond the 20 milligrams per
21 liter that I thought was in the excavation water and I
22 started looking around for confirmation, you know, to see if
23 the higher levels that I was hearing about -- to see if I
24 could confirm them. I started looking for that confirmation
25 and wound up talking with Mike Chilton and he confirmed the

1 one date gram per liter samples -- sample results.

2 Q Okay. Just so the record is clear, you had some
3 indication prior to your contact with Chilton?

4 A (Nodding head affirmatively.)

5 Q And this is the period of time, prior to you
6 contacting Chilton, that you contacted Mike Nichols and
7 expressed a concern over the elevated levels in the one to
8 eight gram --

9 A No, I don't believe I had any numbers at that time.
10 I had expressed a concern with Mike Nichols -- Carol Couch
11 was off at the time. She would have been who normally I
12 would have gone to, since she was following the project from
13 an environmental point of view. And when I heard that we may
14 have much higher levels -- and I don't recall how I heard
15 that -- I went -- I asked Mike if he knew anything about it
16 and we started trying to track them down. And somewhere in
17 the process, we talked with Mike Chilton and he confirmed
18 that, yes, he knew of these levels and we got into a
19 discussion about them.

20 Q And I think we've also discussed the fact that you
21 went over to Carol's office, you and Mike -- you went to
22 Mike's office, and after you expressed your concerns, then
23 you and Mike both -- Mike Nichols -- began a search of
24 Carolyn Couch's desk or in-box?

25 A I think we looked in the in-basket to see if there

1 might be any lab results that might confirm that in there.

2 Q And you do not recall ever seeing any lab results
3 in the in-box?

4 A Not of the levels we're talking about, no. And
5 Mike did call the environmental lab and he spoke with Sonny
6 Eidson, I believe, and Sonny had some data that was lower
7 levels that was more consistent with what I thought was in
8 there, like, I think, 14 milligrams per liter, 10 milligrams
9 per liter level, something to that effect.

10 Q I think also in our previous discussions, I asked
11 you why you would call the Environmental Lab and not the
12 Process Lab.

13 A I was looking for some samples that Carol may have
14 submitted and she probably would have submitted them to the
15 Environmental Lab. It was Mike's idea, as I recall -- I
16 don't recall for sure, but I think it was Mike's idea to call
17 Sonny and see if he had any lab results.

18 Q And I also think, Mr. Lacey, that in our previous
19 conversations you stated that you did not -- prior to August
20 22nd, you did not go over to the Process Lab and look at any
21 of their results, is that right?

22 A Prior...

23 Q Prior to your calling the NRC on the 22nd, or do
24 you think you had those laboratory results?

25 A To the best of my knowledge, I didn't see any

1 laboratory results before that time -- to the best of my
2 recollection.

3 Q Now, we've been over a couple of times also -- and
4 not to belabor the point; in a subsequent conversation with
5 Mike Chilton was the first time that you were given some sort
6 of values associated with contamination in the water known in
7 the SX pit, am I correct?

8 A No. I -- like I said, I was under the impression
9 that the values were in the 20 milligram per liter level.
10 That was the value I had in my head. You know, that was the
11 range I was thinking in, based on some result I was given,
12 probably verbally earlier -- a week or 10 days earlier. That
13 was the first indication that I had heard that we had
14 contamination in the gram per liter level.

15 Q Okay. Maybe what I meant to say was elevated
16 levels then.

17 A Yes.

18 Q Chilton's conversation was your first indication of
19 elevated levels -- and the word elevated is somewhat nebulous
20 and never has been defined with --

21 A Well --

22 Q -- a specific value.

23 A With a specific value -- that was the first. I had
24 heard earlier in the day from some source that we may have
25 elevated levels and my conversation with Mr. Chilton was the

1 first time I heard one to eight grams per liter.

2 Q One of the areas I can't seem to nail down is what
3 the term elevated means to everyone around here. I guess
4 just for the simple reason I need to have something in
5 someone's mind as to what elevated levels are, why would one
6 gram to eight grams all of a sudden be considered elevated to
7 you?

8 A Well, based on what my frame of references, I
9 guess, would be probably 45 milligrams per liter as being the
10 amount that -- under whatever conditions -- you would be
11 allowed to release off-site. You know, at least
12 theoretically in the Part 20, that's the MPC for off-site for
13 unrestricted -- for natural uranium. And relating 20
14 milligrams per liter is less than half that value.

15 Q Okay. How about the restricted value of 1.5 grams
16 per liter, did that ever come into play in your mind?

17 A I don't know that I thought of that specifically at
18 that time.

19 Q The reason I ask that, Mr. Lacey, is because -- I'm
20 getting a little bit ahead of myself here. We discussed one
21 of the reasons why you didn't consider this as reportable was
22 because it was not an off-site release. It was contained --
23 and we'll get into that later. And I was just wondering if
24 the 1.5 grams per liter also kind of play into your thinking?

25 A I don't think -- like I say, the number we were

1 familiar with at the time was the 34 milligrams per liter. I
2 don't -- I'm not sure I even knew a value for the -- for the
3 restricted area MPC at that time. See the Part 20 has it in,
4 I think, microcuries per milliliter or something like that.
5 So you have to go through -- our lab data is typically
6 reported out in grams per liter or milligrams per liter. So
7 there has to be a conversion from microcuries per milliliter
8 to grams or milligrams of uranium per liter. Although
9 everybody was pretty familiar, I think, at least over on the
10 Environmental and Health and Physics side of the house with
11 the 45 milligrams per liter because that related to the
12 combination stream effluent and what not. But I don't think
13 until this thing came about that the 1.5 gram per liter as
14 being the restricted area MPC was common knowledge. I don't
15 -- I don't recall knowing that myself.

16 Q So one gram per liter would be enough to -- in your
17 mind to trigger some actions?

18 A That is certainly quite a bit higher than 20
19 milligrams per liter, yes.

20 Q And, of course, I assume that it's higher than
21 45,000 micrograms, too? So one gram would be a level that's
22 above --

23 MR. SHAPIRO: Its magnitude is different.

24 MR. CHAPMAN: Yeah -- I mean, known to you.

25 BY MR. CHAPMAN:

1 Q Now, once you received specific values of one to
2 eight grams per liter, what action did you -- from Mr.
3 Chilton, what was your action and what was your anticipation
4 in trying to assimilate this information? Why were you
5 worried about the information?

6 A Well, it was considerably higher than I would have
7 expected it to be in that excavation and Mike Chilton and I
8 discussed it. I told Mike that this was at a level that we
9 should call NRC and let them know that it was -- based on --
10 it was considerably elevated from what we would have
11 expected. There was apparently some source of that -- of
12 those levels that we hadn't anticipated.

13 Q Did Mike indicate to you that this was his first
14 knowledge of these elevated levels?

15 A I don't recall. I don't recall how long he said he
16 had known about them or anything. I think he had known about
17 them for some time before that but I don't know how long.

18 Q That was my -- the reason why I asked you that was,
19 did he act surprised or did he -- you know, I'm sure if you
20 came over with values like that and he didn't know, he would
21 have given you some sort of -- some sort of surprised look on
22 his face.

23 A He's the one that had --

24 MS. SHAPIRO: Chilton or Nichols?

25 MR. CHAPMAN: Nichols.

1 MR. SHAPIRO: Okay, I think he was talking about
2 the conversation with Chilton.

3 MR. CHAPMAN: No, no, no. I'm sorry.

4 BY MR. CHAPMAN:

5 Q Just for the record, when you learned the values
6 from Chilton and you went to Mike Nichols and expressed a
7 concern for these and, you know, were looking for these
8 documents; my question was, did Mike Nichols express surprise
9 over the values here?

10 A No, no, wait a minute. We've gone awry somewhere.

11 MR. SHAPIRO: I think the question sounded like
12 whether Chilton expressed surprise and whether he had known
13 before. I think we just may have used the wrong name.

14 MR. CHAPMAN: Okay, I'm sorry. Maybe I did. Let's
15 back up here then and get it correct.

16 BY MR. CHAPMAN:

17 Q You told me that -- as I understand -- that after
18 you had gotten some indications of elevated levels of
19 uranium, values still unknown, that later in the day, you
20 learned from Mike Chilton the exact values?

21 A That's correct.

22 Q I think where I got off track here a little bit,
23 you're telling me that you went to see Mike Nichols before
24 you learned the values from Chilton?

25 A That's correct.

1 Q Okay, that's where I had some confusion.

2 So when you went to see Mike Nichols, you had no
3 values to tell him, just that you had heard of elevated
4 levels of uranium and you were looking for some sort of --

5 A Confirmation.

6 Q -- confirmation or documentation?

7 A (Nodding head affirmatively.)

8 Q So during your discussions with Mr. Nichols, you
9 had no values to ever associate with that?

10 A I don't believe I did.

11 Q Okay, sir. Now, let me get my train of thought
12 here. You later learned from Mr. Chilton the exact readings
13 of one to eight grams. Did you go back and talk to Mr.
14 Nichols or did you go back and try to ascertain exactly what
15 the laboratory -- now that you had some values, what
16 documents to look for?

17 A Mike Chilton came down to my office and informed me
18 of these levels, the one to eight grams per liter, and we had
19 a discussion. And at some point in that discussion, Mike
20 Nichols was present. Now, he wasn't present for all the
21 discussion, and there were some other matters discussed in
22 that discussion. But I can't say -- I thought Mike Nichols
23 was present during the portion of the discussion where we
24 talked about the elevated levels of uranium, but I just can't
25 -- I can't tell you that for sure. Mike says that he wasn't.

1 That he had left the meeting before we talked about that. I
2 say meeting, an informal discussion. I know that he was only
3 present during part of the discussion and that's possible.
4 But I thought he was present and I thought he knew about it.

5 Q Now, as I understand, you and Mr. Chilton then --
6 because what you're telling me, Mr. Nichols was no longer a
7 party to your conversation, if he says he left on the values.
8 You and Mr. Chilton then discussed perhaps somewhat in depth
9 these readings and what the importance was to the facility
10 and even, in your mind, to the NRC?

11 A We were concerned about those levels. Like I said,
12 I told Mike Chilton that this was information that the NRC
13 would be interested in and concerned about and this was
14 something that we would need to inform them of.

15 Q Of course, my question to you is, why didn't y'all
16 right then give us a courtesy call?

17 A At the time, Mr. Graves and Jim Mestepey were not
18 at the facility, as I recall, and what I did was look at the
19 regulation to see what the reportability issues were, to see
20 if it was reportable under Part 20.403. I made a judgement
21 at the time that it wasn't reportable under 20.403 and at the
22 time, I felt that I could wait for Mr. Graves return to
23 discuss the issue with him and to possibly look at some
24 further investigative action prior to letting NRC know what
25 we had.

1 Q I believe also, Mr. Lacey, that you -- sort of to
2 get a confirmation or in the same concert to make a decision,
3 you discussed it with Ron Adkisson?

4 A Yes.

5 Q And he concurred with your belief and your decision
6 --

7 A I think --

8 Q -- not to report it, that it wasn't reportable
9 according to the regulations?

10 A I believe he concurred with my rationale.

11 Q Now --

12 A But as I've told you before, it was my call. It
13 wasn't his call.

14 Q Right.

15 Just for some housekeeping information here, the
16 17th is a Friday?

17 A Yes.

18 Q And you were off the 18th with Saturday and the
19 19th is a Sunday. Were you present at the site on Monday the
20 20th?

21 A No, I wasn't.

22 Q You were off that day?

23 A Yes.

24 Q And you returned to the site on the 21st, is that
25 correct?

1 A That's correct.

2 Q And, of course, there had been the return of Mr.
3 Mestepey on the 20th, the day you were off that afternoon.
4 Did you have conversations with Mr. Mestepey between your
5 knowledge by Mr. Chilton, your discussions with Mr. Adkisson
6 and Mr. Mestepey's return on the 21st? Did you have a
7 conversation with him during that time frame, the 18th
8 through the 20th?

9 A I don't believe so. I don't recall any
10 conversation.

11 Q Did you have any conversations with Mr. Chilton or
12 anyone else to where they could relate any facts that they
13 had spoken to Mr. Mestepey or was your knowledge that he was
14 even cognizant of this -- these values and this reportability
15 issue on your return on the 21st?

16 A My -- my recollection of the matter is not -- not
17 very good, but I believe that that was communicated to Mr.
18 Mestepey by Mr. Chilton sometime over the weekend.

19 Q All right, sir. The reason I asked that is, it's
20 my understanding that Mr. Chilton was the person talking to
21 Mr. Mestepey during the weekend period of time?

22 A That's my best recollection and as based on
23 hearsay.

24 Q The reason I asked this question is, did you convey
25 to Mr. Chilton your firm belief that it was not reportable,

1 so that -- for his basis of talking with Mr. Mestepey?

2 A I don't -- I don't recall that for sure. I may
3 have.

4 Q Well, I'm sure that Mr. Chilton wouldn't make a
5 call on his own out there if it wasn't reportable. That's
6 why I was trying to understand if he was acting on your -- on
7 your beliefs about the reportability.

8 A I believe he was.

9 Q And, of course, I think you've indicated to me also
10 earlier that once you made the decision that it was not
11 reportable, you no longer felt you had any time restraints to
12 be concerned with. In other words, you didn't a 24 hour
13 reporting period of time --

14 A That's right.

15 Q -- or any other NRC imposed time tables?

16 A (Nodding head affirmatively.)

17 Q Thus, you felt -- is that correct?

18 A That's correct.

19 Q Thus, you felt that you had the time to wait until
20 you returned back to the site on the 21st to bring this issue
21 up with Mr. Mestepey and subsequently Mr. Graves upon his
22 return, I believe, the 21st or the 22nd?

23 A That's correct.

24 Q Mr. Lacey, what is a facility administration
25 procedure? Are you familiar with that?

1 A Yes.

2 Q What is its function and what does it do?

3 A It's generally -- my understanding is it's a
4 procedure of more general nature than say a standard
5 operating procedure in which you might promulgate the general
6 type requirements not necessarily related to any regulatory
7 requirements or anything like that, although they may be.

8 Q In your position when you were first hired on March
9 6, 1986 as Manager of Health, Safety and Environment, were
10 you familiar with the fact that they had had difficulty with
11 the solvent extraction floor as far as allowing liquids to
12 permeate down in the ground?

13 A I became familiar with that at some time.

14 Q The reason I asked that is, I had a discussion with
15 Mr. Scott Knight. Mr. Knight indicated to me that he was
16 aware of the solvent extraction floor allowing liquids to
17 permeate into the ground and that Mr. Knight -- although he
18 felt that no immediate action was needed, he had requested or
19 instructed -- I don't know if he was your supervisor or
20 superior at that time -- that you make sure that the site
21 decommissioning files crossed referenced with the facility
22 administration procedures that there was leakage at the site
23 in the solvent extraction building. Do you recall him ever
24 asking you to do that?

25 A No, I don't recall that.

1 Q The reason I asked that is because I looked at the
2 site decommissioning files when I first got here and I
3 couldn't find a reference to that.

4 A I was not responsible for the decommissioning
5 files. I would have thought he would have told Mr. Nichols
6 that who is responsible for the decommissioning files. Mr.
7 Nichols also reported to Mr. Knight.

8 Q Well would not Mr. Nichols at that time report to
9 you up to Mr. Knight, since you Manager of Health, Safety and
10 Environment?

11 A The decommissioning files weren't established
12 until, I think, late 1989.

13 Q By regulation -- NRC regulations?

14 A Yeah.

15 Q So, in other words, what you're telling me is, when
16 you were -- or when these regulations come into effect, Mr.
17 Knight would not have been even your superior or supervisor?

18 A Mr. Knight was my superior and Mr. Nichols'
19 superior and Mr. Nichols had the responsibility for the
20 decommissioning files under the facility administrative
21 procedure.

22 Q But as the person on site with the NRC oversight
23 responsibility, you didn't feel that it was appropriate or
24 that he never even mentioned this to you?

25 A I don't -- I don't recall him mentioning that to

1 me. I believe that if he had mentioned it to someone, he
2 would have mentioned it to Mr. Nichols.

3 Q Okay. I forgot to mention one other thing while we
4 were discussing the issue of reportability. I failed to
5 mention the fact that you also expressed to Mr. Graves your
6 firm belief that this incident was not reportable to the NRC
7 -- the excavation area was not reportable to the NRC?

8 A I believe that's correct.

9 MR. SHAPIRO: One other thing which wasn't
10 mentioned; you also discussed the reportability with Keith
11 Asmussen?

12 THE WITNESS: That's correct.

13 BY MR. CHAPMAN:

14 Q Did that occur after the NRC had been notified?

15 A I believe it occurred just before NRC was notified.

16 Q He also agreed with you that it was not.

17 A Yes.

18 Q I know that we discussed this a little earlier, but
19 can you put it in a couple of sentences the rationale why
20 neither you, or Mr. Adkisson, or Mr. Asmussen felt that it
21 was a reportable matter to the NRC?

22 A We believed that number one, it was not an event
23 but a discovery of a condition that had existed for probably
24 some period of time. At that time, we were focused on the
25 probable source being the lack of integrity in the solvent

1 extraction building floor in the early -- I guess in the
2 early 1970s and the early 1980s. So we believed that -- I'm
3 sorry, what was the question?

4 Q Why did you not -- what was the main reason why
5 neither one of the three of y'all, after consultations and
6 discussions, felt it was even remotely reportable to the NRC?
7 You started out by saying you didn't feel it was an event.

8 A I didn't feel it was an event. The regulations
9 specifically addresses events and/or incidents. What I
10 thought we had was a discovery. And in looking at the four
11 criteria under 10 CFR 20.403B, which is the criteria that
12 calls for 24 hour notification, I didn't believe -- I thought
13 that the one that it most closely met was the -- or the
14 condition that was most closely applicable was the release
15 and the release levels are much, much higher than what we
16 had. We had a stable situation. We had the liquid that was
17 in -- was contained within this pit. It was -- our
18 experience with transporting liquids through the soil at this
19 site has been that it's pretty darned impermeable and that
20 the uranium basically doesn't -- doesn't travel very well at
21 all through the clay soil. It forms loose ionic bonds with
22 the soil. While the water may go through, the uranium, for
23 the most part, gets held up.

24 Q Just for the record because I don't know, what is
25 the NRC's definition of "event" as far as it applies to 10

1 CFR 20.403?

2 A I do not know that, quite obviously.

3 Q I guess I was trying to --

4 MR. SHAPIRO: I don't think anyone knows that. We
5 tried to research it at one point, there isn't a lot of law
6 on it.

7 MR. CHAPMAN: I believe also somebody told me they
8 looked up the dictionary definition of "event" and I don't
9 know if that has a bearing here or not, if that was one of
10 the indicators as to whether this met the event criteria or
11 not. Do you know?

12 THE WITNESS: No, I think that was looked up at
13 some later time, I don't believe it was at the time the
14 decision was made.

15 BY MR. CHAPMAN:

16 Q Is there a Reg Guide, Regulatory Guide, that has
17 some bearing on this event or 20.403, to your knowledge?

18 A Not to my knowledge.

19 Q So, as Mr. Shapiro has kind of indicated, there's
20 no concrete definition or concrete instructions issued by the
21 NRC either in Regulatory Guides or informationals,
22 publications, or is event defined in the regulation itself?

23 A Not to the best of my knowledge.

24 Q Well since everyone hinges heavily on "event" being
25 the criteria for not reporting it, I obviously was trying to

1 understand upon what expertise everyone was drawing the
2 feeling that an event had not occurred.

3 A Well I think event was one of the criteria, but as
4 I said, I -- we looked at it as a discovery and not a dynamic
5 situation. I mean the stuff wasn't going anywhere, so we
6 thought at the time. It was contained within the restricted
7 area.

8 (Brief pause.)

9 Q Well this would probably be as good a time as any
10 since we're discussing this, there was a couple of things --
11 information -- mention in a response to the NRC that has
12 keyed some question on my part and I might as well take this
13 opportunity to discuss them, because they somewhat interact
14 here.

15 Well I'm not positive, now that I've made that
16 statement, that you're the responsible party for indicating
17 that in here, of reportability on events. So I'm going to
18 stand correct and for the record I'll not -- I'm going to get
19 it on the record that we're not going to discuss that with
20 you because I think that's not your responsibility.

21 One last little bit of information on this
22 reportability issue. Prior to your call to Mr. Vazquez down
23 at NRC on the 22nd, I'm sure that your call was placed at the
24 request of Mr. Graves?

25 A It was placed with his knowledge and approval. I

1 had known to him with the recommendation that we contact NRC
2 on this matter, and he agreed.

3 Q And I'm assuming so did Mr. Asmussen out at General
4 Atomics also felt that it was quite the prudent thing to do,
5 to call the NRC?

6 A I'm sure he did. At the time I talked to him, I
7 told him we were on the point of NRC, so that issue didn't
8 really get aired, but I'm sure he thought it was the right
9 thing to do.

10 Q Another concern to us somewhat inter-reacting to
11 the fact of reportability issues, as we have somewhat
12 discussed, is the pipe in the main process building, that was
13 brought to your attention by I believe Mr. Marler. I think
14 his first name is James, James Marler. We've been over this
15 also to some degree, Mr. Lacey, and I'll explain it and if
16 you agree, stipulate to it, and if not, let me know where I'm
17 in error. During a casual meeting with Mr. Marler in
18 Muskogee, Oklahoma at a cafeteria I believe or an eating
19 establishment, a discussion ensued between the two of y'all,
20 on a social, friendly basis, which evolved around the
21 Sequoyah Fuels facility out here and during the discussions
22 Mr. Marler brought up to your attention the fact that there
23 was a pipe when penetrated the floor of the main process
24 building, which had been used on occasions to collect liquid,
25 which I understand is a water, and pump back up into some

1 sort of reprocessing method in the plant, and there was some
2 indications to you at that time, if I'm correct, that this
3 water that had been recovered also contained some
4 contamination through uranium. Is that correct or incorrect?

5 A That's correct. That's not the whole story but --

6 Q Please let me have the rest of the story, so to
7 speak.

8 A I think it's already well recorded, but if you want
9 me to go over it again, I will.

10 Q Yes, sir, I do need for you to.

11 A On I think a Friday in late August of 1990, I met
12 Mr. Marler in Luby's Cafeteria. I was dining there with my
13 wife and he with his wife, and as he was leaving the
14 cafeteria he stopped by and said hi, and he had been hearing
15 of our problems with the SX building and the underground
16 storage tank situation, and he indicated to me somewhere in
17 that conversation that there was also -- we may have a
18 similar situation in the main process building because there
19 was this well or sump, I forget how he characterized it, in
20 the main process building floor in the boil down area that
21 had been installed there years and years ago to recover some
22 liquids that apparently had been spilled and were under that
23 floor.

24 Q And you say this was sometime in the latter part of
25 August you believe?

1 A I believe it was probably the last Friday in
2 August, sometime around then.

3 Q One of the reasons I think your information is
4 somewhat correct is he seems to indicate that you had just
5 been notified of your promotion to Vice President. Does that
6 fall within the same general --

7 A Within the same general time frame, yeah. I'd have
8 to look it up, but --

9 Q Of course one of the concerns to the NRC is this is
10 an area that they felt you should have brought up to them as
11 they had their many inspectors on site. And I'm also
12 wondering why, in light of your recent goings on with the
13 excavation area and the concern the NRC expressed and the
14 furor that they sort of caused over this failure of your
15 department, as they saw it, to not report an issue -- why
16 when you learned something else of possible interest to them,
17 you didn't take conservative, prudent approach and tell
18 someone on site.

19 A I think there were several factors involved in
20 that, and in retrospect once again, it should have occurred
21 to me and I should have told somebody about that in that time
22 frame. But that happened on a Friday afternoon late, I was
23 aware that I believe on -- probably around August 24, Reau
24 Graves told me he had a conversation with Bill Beach on this
25 whole matter of the SX issue, and that during that

1 conversation, Bill Beach asked Reau if he knew of any areas
2 in the plant that may have similar problems, and Reau said
3 yes, that there were indications that we had in at least a
4 couple of areas, probably the boil down and digestion areas,
5 that we had had floor problems in the past. And during that
6 conversation, Reau told me, as I recall, that he committed to
7 Bill Beach to investigate these areas, you know, as soon as
8 we got to the point where we could, in the SX investigation -
9 - where we could switch some resources over to that.

10 So when I heard of the well or sump in the main
11 process building, I thought of it as kind of a piece of
12 historical confirmatory data that confirmed that we had some
13 work to do over there too, in the main process building.

14 Q If I'm following you correctly here, Mr. Lacey,
15 you're saying that when you heard of the pipe in the ground
16 from Mr. Marler, you think Mr. Graves already had brought the
17 issue up to Beach?

18 A Mr. Graves had already discussed the issue of
19 potentially the same type of problems -- not this pipe
20 specifically, but potentially the same type of floor problems
21 in the boil down and digestion areas that we had over in SX.

22 Q Is this pipe, for the record, is it in either the
23 boil down or digestion areas you're --

24 A It's actually in the denitration area immediately
25 adjacent to the boil down area.

1 MR. SHAPIRO: Are the boil down and digestion areas
2 in the main process building?

3 THE WITNESS: That's correct.

4 MR. SHAPIRO: So they are the same --

5 BY MR. CHAPMAN:

6 Q We're talking sub-compartments basically within a
7 main building?

8 A Yeah, basically process areas that are in some
9 cases, have -- they're kind of imaginary lines, if you will,
10 but in the case of the boil down, there is a containment in
11 the boil down area that separates it from denitration. The
12 sump that's in denitration is just like a couple of feet, I
13 would guess, south of the boil down area.

14 Q Of course, you can't enter Mr. Graves' mind, but
15 when you received this information from Mr. Marler, was it
16 your belief that Mr. Graves already knew about this pipe or
17 he had already addressed that issue?

18 A No, that he had already addressed the issue
19 generically with Bill Beach in the form of a verbal
20 commitment that we would look at those areas.

21 Now like I say, the fact that this happened on a
22 Friday, I just didn't think about it over the weekend. It
23 reoccurred to me at sometime the next week, and I briefly
24 discussed the matter with Jim Mestepey, and I believe it was
25 in terms of like a hallway conversation or something.

1 Q Did he give you any indication of what he wanted
2 done -- Mr. Mestepey?

3 A The only thing I recall, he confirmed that this
4 condition did exist, that he did know of a well or sump in
5 this area and I think I said something like well that's one
6 thing we're going to have to -- another thing we're going to
7 have to look into when we switch over to the main process
8 building investigation.

9 Q Do you recall bringing this issue to Mr. Graves'
10 attention any time prior to -- for your information,
11 September --

12 A 14th.

13 Q -- 14th, was when the NRC was told about it?

14 A That's correct -- no, I didn't relay that
15 information to Mr. Graves until the morning of the 14th.

16 Q And of course the NRC had some sort of an exit
17 briefing the day before, on the 13th.

18 A That's correct.

19 Q And you've indicated that that started the gears
20 turning in your mind that this might be an area that needs to
21 be brought to NRC's attention?

22 A Not at the time of the exit, but at sometime I
23 believe during the exit, I believe it was Mr. Beach or
24 somebody got up and said look guys, we can't have these
25 issues keep popping up, you know, three months from now, six

1 months from now, we can't -- you know, this is hurting all of
2 us, we need to get these environmental issues, any other --
3 you know, skeletons in the closet, I don't know that he used
4 that terminology -- but if you know of any other issues out
5 there, let's bring them to the forefront and let everybody
6 know about them now. Right after that exit meeting, I had a
7 session with you and Mr. Driscoll that lasted several hours.
8 And when I got home, reflecting on the events of the day and
9 the well or sump issue popped back into my head. And at that
10 time, I identified it as the kind of issue that belonged in
11 this category of things that needed to be brought to the
12 forefront.

13 At that time, I became concerned about it and at
14 that time I probably thought that I probably should have
15 mentioned it before now. But it didn't occur to me to
16 mention it before then. We were responding to your
17 investigation, the augmented inspection team report and we
18 were in pretty much of a response mode and didn't have time
19 to do a heck of a lot of thinking there for some period of
20 time. And then when I came in the next morning, I discussed
21 the matter with Mestepey first thing in the morning. He said
22 he would go out and sample whatever material was in that well
23 and find out whatever information he could about when it was
24 installed or what the purpose was or where it was, and get
25 that information to me pretty quickly so that we could inform

1 NRC and give them some meaningful data about the thing.

2 Q Of course, the NRC staff concern, as expressed in
3 this I guess November 20, 1990 AIT response back to y'all was
4 that they felt that they had been on site for approximately
5 two weeks and that you had this knowledge concerning what is
6 sometimes referred to as a subfloor process monitor, which
7 basically is the pipe stuck in the ground in the main
8 building, and that you didn't bring it up to them. And if I
9 understand you correctly, your reason for not bringing that
10 up was you felt it was an issue already discussed in
11 generality between Reau Graves and Bill Beach.

12 A And that it didn't occur to me to bring it up.

13 Q Just did not occur to you to bring it up. Of
14 course, in hearing you talk about the fact that it didn't
15 occur to you, I'm also curious about this internal
16 correspondence letter dated August 30 where you get a written
17 notification from a laboratory individual that there are some
18 samples regarding uranium analysis that most especially
19 addresses the subject on SX investigation, and I don't recall
20 you ever mentioning this internal correspondence or ever
21 bringing this up to me, Mr. Driscoll, or anyone.

22 Why would you not, in light of the conservative
23 attitude, let us have all the information right up front?

24 A As I said, I noted that the --

25 Q I'm talking totality here, Mr. Lacey.

1 A I understand.

2 Q Totality of giving us information as a regulatory
3 manager on site.

4 A You know, my reaction to that memo was that it was
5 germane to the SX investigation and that Carol Couch wasn't
6 on distribution for it, and so I got her -- I sent her a copy
7 of it to inform her.

8 Q Why would you think Mr. Knoke -- and I haven't had
9 a chance to ask him this because I just got this a few
10 moments ago myself -- why do you think Mr. Knoke would send
11 this to you and not to the President of the company or not to
12 Carolyn Couch -- why would he address it to you and then --
13 not to ask two questions in one breath, but you seem to
14 indicate your only concern was Ms. Couch didn't get a copy.

15 I'm trying to understand what did you do to take
16 some sort of action to see that the NRC is provided all the
17 information?

18 A We were conducting an investigation of the SX area
19 at NRC's -- you know, we were committed to conducting an
20 investigation of that area with the NRC, and I thought that
21 would be folded into the investigation. I didn't make any
22 conscious decision not to inform NRC, I forwarded it to --
23 you know, like I said, looking at who was on distribution, I
24 thought Carol Couch was missing on distribution, so I gave
25 her that information and I went in and made Mr. Graves aware

1 of the situation, but it didn't occur to me to --

2 Q For the record, Mr. Lacey, my knowledge of the
3 sandwells data came as a result of the NRC looking through
4 some past information that it had, which in turn was brought
5 to the attention of Mr. Beach and Mr. Beach asked if I had
6 any problem with bringing it up to the facility here to Mr.
7 Graves, and it filtered on down I believe to Keith Simeroth,
8 and once that discussion came to light, then I was apprised
9 of these past test samplings.

10 At no time did you ever bring it up to me, to the
11 inspectors, to any of the AIT personnel, that you had
12 knowledge that there was an SX investigation ongoing within
13 the facility and that there was data that could have a
14 bearing or at least some sort of an impact on my
15 understanding of past history. And I guess I'm trying to
16 understand again, Mr. Lacey, in the spirit of Sequoyah Fuels
17 wanting to be most cooperative, most informative, why you
18 would simply take an avenue of being concerned that Ms. Couch
19 wasn't on the distribution list, instead of as the regulatory
20 manager and the focal point between NRC and Sequoyah Fuels,
21 come forth with this data.

22 A The only thing I can tell you is that this happened
23 in the same time frame as the sump or well in the boil down
24 area or in the denitration area and I guess at that point in
25 time I was not yet sufficiently sensitive to the kind of

1 issues that you guys were interested in, and that I erred in
2 not bringing it to your attention.

3 Q Well how about after you were sensitive to our
4 knowledge?

5 A I -- you know, when I passed that to Carol and
6 discussed it with Mr. Graves, I didn't think about it any
7 more after that. I had a dozen other irons in the fire at
8 that time.

9 Q Did you discuss this matter with Mr. Nichols at the
10 time that the investigation was going on?

11 A No.

12 Q How about Mr. Mestepey?

13 A No.

14 Q Do you recall, not only the memo but discussing
15 either with Mr. Mestepey or Nichols, since our investigation
16 has been going on and particularly in light of our first
17 initial visits, Mr. Driscoll's and mine, of this information
18 being available, your recollection?

19 A No.

20 Q I may have already asked this question and it's one
21 of the problems of not having notes in front of me -- I think
22 you answered earlier to your recollection you never discussed
23 these with either -- with anyone over in the Health Physics
24 Department, particularly Mr. Nichols and particularly Carolyn
25 Couch.

1 A No.

2 Q Isn't that correct? And I think I also asked you,
3 but in case I didn't, I want to get it on the record, you
4 never discussed this data with any of the project engineers
5 or operations personnel either?

6 A No, I didn't have any knowledge of this.

7 Q Okay. All right, sir, I just want to cover one
8 little area that I do want to get a response and I think that
9 will probably cover what we needed to discuss.

10 On page 12 and 13 of the response, there are some
11 discussions the NRC's express concern about the time lapse
12 which occurred between the tests that have been taken on the
13 SX excavation, namely the lab tests of Carolyn Couch around
14 the 4th, 6th and 7th, and even some earlier tests that were
15 conducted by the operations personnel and the project
16 engineers, and the comment is made in this response that the
17 AIT statement that no actions were taken to address the
18 contamination concerns after August 7 is not accurate. And
19 it goes on and talks about as noted Sequoyah personnel
20 drummed the water pumped from the excavation and modified the
21 french drain. And while these measures may not have proven
22 to recover all the water, even the AIT recognized these were
23 steps that would recover relatively large amount.

24 Then it goes on to kind of tie this together by
25 saying Messrs Lacey and Chilton immediately followed up on

1 the elevated levels of uranium shown in the test results and
2 determined that while a report was not required under 10 CFR
3 20.403, the NRC should be informed of the situation.

4 And what I'm trying to understand is "immediately
5 followed up on the elevated levels". We've been over this a
6 couple of times, but for the purpose of this response, I need
7 for the record what you immediately followed up on, on the
8 elevated levels and how that assured us that -- NRC -- that
9 there was no concern to the workers out there.

10 A Could I see that?

11 Q Absolutely.

12 (A document was proffered to the witness.)

13 MR. CHAPMAN: And as a matter of record, I asked
14 who could answer that and Mr. Graves gave you as the man to
15 respond to that, so hence, you're the one that's being asked
16 that.

17 A What the phrase I guess has reference to is the
18 fact that when I became aware of elevated levels on the 17th,
19 that we did discuss the issue and we looked -- I at least
20 looked at the reportability issue and made my judgment and
21 made the decision and discussed it with Mr. Chilton that the
22 NRC should be informed. I don't think there was any
23 representations made about worker safety or anything like
24 that in that statement.

25 Q Okay, so you immediately followed up -- I can't

1 remember the words myself, looking at it upside down -- but
2 this immediately followed upon the elevated levels was merely
3 your discussion with Chilton and your decision that it was
4 not reportable as far as NRC.

5 A Yes.

6 Q All right, sir. I don't know of anything else to
7 talk to you about that we haven't discussed numerous times.
8 Is there anything you want to add to this statement? Is
9 there any information you feel is germane that I have not
10 covered that you wish to express?

11 A None that I can think of at this time, but my track
12 record of deciding what's germane to you folks hasn't been
13 very good, so --

14 Q Well I'll even tell you that you can have the
15 opportunity should you decide something needs to be brought
16 to my attention, you're certainly welcome to do so.

17 MR. SHAPIRO: Well since we've gone over things
18 that have been in the record before and this may be in the
19 record before as well, but could you describe what your main
20 responsibilities were in this August time period?

21 (Brief pause.)

22 MR. SHAPIRO: Before we were interrupted, I just
23 wanted Mr. Lacey to review the areas that were principal
24 responsibilities of his in August of 1990.

25 THE WITNESS: Well I was the licensing guy, and as

1 you I think are aware, that in the -- by the end of August
2 our license renewal application was due, and I was
3 considerably distracted by that effort. I mean I'm the
4 author of most of the documents that go into that license
5 renewal package and it includes a complete revision of the
6 license, it includes a detailed environmental report, an
7 occupational exposure analysis and a decommissioning funding
8 plan. And I was working under considerable time frame
9 constraint at that time to get that amount of work done by
10 the end of that month, and that undoubtedly distracted me and
11 made me less alert to things that were going on than I would
12 normally have been. I was also handling the quality
13 assurance role on a collateral basis that had been performed
14 by Dave Swaney on a full time basis prior to his retirement
15 in May. So I was being pulled in quite a few different ways
16 at once, and the company has looked at the situation in
17 hindsight now and now we have hired or moved a full time
18 quality assurance engineer into the position to fulfill the
19 quality assurance function and that's working much better now
20 and we've just recently hired a nuclear licensing engineer to
21 help with the licensing work, which in and of itself can be a
22 full time job. And so we've made those personnel upgrades
23 and I think that's going to take care of that problem.

24 MR. SHAPIRO: Given your responsibilities for the
25 license which was -- license renewal application which was

1 due at the end of August, given those responsibilities, were
2 you a major participant in this SX excavation?

3 THE WITNESS: No, I was not.

4 MR. SHAPIRO: That's not to say, as you've already
5 said, that there were things that you shouldn't have paid
6 more attention to, but to simply put it in some context.

7 THE WITNESS: That's correct.

8 MR. CHAPMAN: Does anyone have anything else they
9 wish to say for the record?

10 (No response.)

11 MR. CHAPMAN: Mr. Lacey, have I or any other NRC
12 representative threatened you in any manner or offered you
13 any reward in return for this statement?

14 THE WITNESS: No.

15 MR. CHAPMAN: Have you given this statement freely
16 and voluntarily?

17 THE WITNESS: Yes.

18 MR. CHAPMAN: The time is now 4:40 and the
19 interview is now closed. Thank you.

20 (Whereupon, the interview was closed at
21 4:40 p.m.)

22

23

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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: Investigative interview of Lee R. Lacey, II

Docket Number:

Place: Gore, Oklahoma

Date: March 4, 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

William L. Warren
Official Reporter

Ann Riley & Associates