

ORIGINAL

OFFICIAL TRANSCRIPT OF PROCEEDINGS

Agency: Nuclear Regulatory Commission

Title: Investigative Interview of Michael Nichols (CLOSED)

Docket No.

LOCATION: Gore, Oklahoma

DATE: Tuesday, March 5, 1991

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1 BEFORE THE
 2 U. S. NUCLEAR REGULATORY COMMISSION
 3 In the Matter of:)
 4 INVESTIGATIVE INTERVIEW OF:)
 5 MICHAEL NICHOLS)
 6 (CLOSED))

7

8

Conference Room

9

Sequoyah Fuels

10

Gore, Oklahoma

11

12

Tuesday, March 5, 1991

13

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The above-entitled matter convened for

15

INVESTIGATIVE INTERVIEW pursuant to notice at 2:30 p.m.

16

17

APPEARANCES:

18

19

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

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LARRY CHAPMAN, Senior Investigator

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Office of Investigations

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On behalf of Sequoyah Fuels:

IRA S. SHAPIRO, Attorney
Winthrop, Stimson, Putnam & Roberts
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Washington, D.C. 20036

P R O C E E D I N G S

1
2 MR. CHAPMAN: For the record, this is an interview
3 of Michael Nichols, who is employed by Sequoyah Fuels
4 Corporation, Gore, Oklahoma. The location of this interview
5 is the Sequoyah Fuels Facility, Gore, Oklahoma. The date is
6 March 5, 1991 and the time is 2:30 p.m.

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

13 Mr. Nichols, will you please stand and raise your
14 right hand?

15 Whereupon,

16 MICHAEL NICHOLS

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

19 MR. CHAPMAN: Be seated.

20 Mr. Nichols, I want to remind you, as we did a
21 little earlier, we've got a court reporter here, be sure and
22 speak up and as much as you can, direct your answers to where
23 he can be sure and hear you.

24 EXAMINATION

25 BY MR. CHAPMAN:

1 Q Mr. Nichols, I need to first start off with a
2 little formal education. Will you please give us your formal
3 education?

4 A ([REDACTED]
5 [REDACTED]
6 [REDACTED]

6.7C

7 Q [REDACTED]
8 [REDACTED]

9 A [REDACTED]

10 Q [REDACTED]) Can you give us some of
11 your work experience, starting currently with Sequoyah Fuels
12 now and work your way back for a period of ten years or so?

13 A I've been at Sequoyah Fuels since about February of
14 1988. I was Manager of Health Physics at the start and then
15 I was the Manager, Health and Safety and then I was the
16 Manager of Health, Safety and Environment and now I'm the
17 Manager of Health and Safety.

18 Q Prior to working here, sir?

19 A I worked at Wolf Creek Generating Station, I was
20 the Radiation Protection Manager there and the Superintendent
21 of Plant Support.

22 Q Superintendent of Plant Support?

23 A Superintendent of Plant Support, yes.

24 Q And I'm sorry, the time frames you worked at that
25 location?

6.7C problems

1 A When I was at Wolf Creek, it was from about '79
2 through the end of '87, first of '88.

3 Q Okay, sir. Mr. Nichols, as a matter of record,
4 we've had a couple of discussions, two or three with you, and
5 I'd like to go over some of that information that we
6 discussed to make sure that we have it down on the record
7 again correctly. And also as much as anything, afford you an
8 opportunity to add or delete any information if you wish to
9 do so.

10 First of all, during the period of time that we're
11 going to discuss, principally we're going to discuss January
12 1990 through August 22, 1990 and we'll concentrate to some
13 degree on the period of probably July 31, 1990 through August
14 22, the excavation of the area north and adjacent to the
15 solvent extraction building which is commonly referred to as
16 the SX pit or the excavation. The reason I've expanded it to
17 January, to some degree, is at one time Ms. Couch, Carolyn
18 Couch, worked for you I believe and then she -- I'm sorry,
19 she worked for Lee Lacey and then came to work for you and
20 then she went back to work for Lee Lacey during this time
21 frame.

22 A Not between January and August.

23 Q All right, would you correct the record and tell me

24 --

25 A She came to work for me, I want to say May or June

1 of 1990, and she went back to working for Lee, I'm not sure,
2 September-October, maybe November.

3 Q Of 1990?

4 A 1990.

5 Q So basically your contact with her was May through
6 October of 1990, as a direct supervisor of Ms. Couch's?

7 A Yes.

8 Q One of the areas I'd like to explore with you, sir,
9 is were you involved in any of the contacts with the State of
10 Oklahoma through the Oklahoma Corporation Commission and/or
11 the Oklahoma Water Resources Board in relationship to this
12 excavation that was to be done?

13 A To the best of my knowledge, no, sir.

14 Q All right, sir. Was Ms. Couch ever, while she was
15 under your supervision, involved in any meetings that you
16 know of with these individuals or agencies?

17 A I know she met with them on several occasions. She
18 deals with Oklahoma Water Resources Board on a quite frequent
19 basis, but as to whether the SX pit or other matters -- we're
20 building a dam out here and do a lot of other things -- I'm
21 sure she did talk to them at some time during that time
22 period.

23 MR. SHAPIRO: Speak up.

24 THE WITNESS: I'm sorry. She did talk to them
25 sometime during that time period.

1 THE REPORTER: Excuse me. You said something about
2 building a dam?

3 THE WITNESS: We're working on several projects
4 around here, which would include the Oklahoma Water Resources
5 Board, that's building a lake and a dam outside the facility,
6 those kind of things. I'm sure she talked to them on those
7 subjects quite frequently, her and Mr. Graves.

8 BY MR. CHAPMAN:

9 Q Mr. Nichols, during the time frame that Ms. Couch
10 worked for you from May of 1990 to a given date of sometime
11 around October-November -- we won't quibble on the date --of
12 1990, I asked you if she reported to you, you had supervision
13 over her, and you answered yes. Of interest to me is during
14 this period of time did you interact with Ms. Couch often
15 about matters concerning her department? And I'll clarify
16 the record that she is the Manager of Environment.

17 A Of course -- yes, I was her supervisor.

18 Q So you feel like you had a fairly good indication
19 of what her responsibilities were and that she was carrying
20 out her responsibilities during the time she was under your
21 jurisdiction?

22 A Yes, sir.

23 Q Well in light of that, do you feel that -- scratch
24 it. In light of that, do you -- did you have conversations
25 with Ms. Couch relative to the SX area prior to it being

1 unearthed, to its pending excavation and her
2 responsibilities, and did you follow up on those
3 responsibilities? Let me make sure you understand my
4 question. It's lengthy, I understand.

5 First of all I'll ask you this question, did you
6 discuss with her, prior to the unearthing of these tanks, her
7 responsibilities?

8 A As far as her responsibilities, Carol is the expert
9 in the area. It was more of her telling me what had to be
10 done, what needed to be done. It was not a matter of me
11 telling her what to do. Carol is manager of a department --
12 that I was new to. We discussed the fact that the tanks had
13 to be unearthed, I know at one time we talked about -- and
14 this may have been before, I can't remember the exact time
15 frame, before she worked for me or after -- we discussed that
16 the tanks, they had two options with the tanks. One was to,
17 I think, leave them in place and put some kind of monitoring
18 system in. I think the other one was to do what they did,
19 dig them out and put a concrete bunker type thing in.

20 MR. CHAPMAN: Do you want to be over here?

21 THE REPORTER: No --

22 THE WITNESS: I'll be honest with you, it's very
23 hard for me to go back and forth.

24 THE REPORTER: Could you just speak louder?

25 THE WITNESS: I'll try -- I'll try.

1 MR. CHAPMAN: Well if you need to move, let me know
2 and I'll move you over here where you can be in line with his
3 voice path.

4 THE REPORTER: Okay. If I have trouble where I
5 can't handle it, I'll let you know. Just boom it out if you
6 would, that's all.

7 THE WITNESS: That's just not my mannerism.

8 THE REPORTER: Plus we've got all this background
9 noise around here.

10 BY MR. CHAPMAN:

11 Q Mr. Nichols, my question to you was about her --
12 responsibilities, and basically if I got the gist of what
13 you've told me in the somewhat lengthy dissertation is she
14 knew her responsibilities and you left her to take care of
15 her duties.

16 A I tried to ensure that she had the support to do
17 her duties, yes. She was the subject matter expert, so to
18 speak.

19 Q Did you oversee her? I'm trying to establish your
20 relationship with Ms. Couch.

21 A Did I have the expertise to --

22 Q No, sir, I didn't ask you if you had the expertise,
23 I asked you did you oversee her duties and ensure that she
24 was performing those duties.

25 A To the best of my ability, yes.

1 MR. SHAPIRO: Well if I could just interject. I
2 think Mr. Chapman is raising an important line of questions.
3 Whatever the organizational chart was, did you treat Ms.
4 Couch as someone you supervised or was she treated more as a
5 co-equal, in her area?

6 THE WITNESS: To be honest with you, it was
7 probably more as a co-equal, if we want to be honest about
8 it.

9 MR. CHAPMAN: We certainly want to be honest, Mike.

10 THE WITNESS: Yes, sir, I mean I'm just trying --
11 that's just how it was. →

12 MR. SHAPIRO: I've had jobs in the past where I was
13 the supervisor, when we divided things up in a certain way
14 and I don't think I did that much supervising.

15 THE WITNESS: That's typically --

16 BY MR. CHAPMAN:

17 Q Well Mike, let me explain to you the reason I want
18 to know this, is because during some of our previous
19 conversations, on more than one occasion you've indicated to
20 me, through either testimony or discussions, that you really
21 weren't aware of what Carolyn Couch was doing out there. And
22 I'm trying to understand if you're the manager for her -- and
23 maybe Mr. Shapiro has raised a question here for me to some
24 degree -- as her supervisor, what were you doing to ensure
25 that she was doing her -- performing her duties?

1 Q You've brought up an interesting comment for me
2 here, Mr. Nichols. She's in the environmental area, which is
3 normally considered outside the restricted area. Why is she
4 inside the restricted area all of a sudden doing
5 environmental duties?

6 A Where -- I guess your term "normally outside the
7 restricted area" I question.

8 Q Well she herself has indicated to me that her
9 normal duties involve monitoring environmental and
10 specifically groundwater levels to ensure that there's been
11 no off-site removal --

12 A But if you're going historically up to this point,
13 you're right.

14 Q Well sir, remember I prefaced the fact that the
15 time frame we're discussing here now -- you know, that we
16 were discussing January 1990 through about August 1990, and
17 everything we discuss is prefaced in that time frame. And at
18 that time frame, my understanding was that was her major
19 duties, that was her area of expertise, as you have so
20 indicated to me. And all of a sudden, she is brought
21 internally inside the facility to be responsible for
22 conducting certain duties involving a restricted area action.

23 A I did not make that decision to have her do that,
24 that was prior to her coming to work for me that she started
25 working underground storage tank regulations.

1 Q Did you condone them or approve them or agree with
2 them?

3 A I don't disagree with them, she had a project she
4 was working on that makes sense.

5 Q All right, sir. Then my question kind of back to
6 you is she was doing this with your full knowledge and she
7 was advising you of what she was doing in this area, and you
8 kind of indicated weekly to me.

9 A Yes, sir.

10 Q I believe I asked you what she was doing and you
11 mentioned taking hexane samples and one thing and another.

12 A Yes, this was from our prior discussion we talked
13 about this.

14 Q Right. Now knowing that you have been receiving
15 some sort of perhaps weekly, and I realize probably not every
16 week, maybe twice a week, I'm not trying to pin you down that
17 everything was done on a weekly basis. But at least your
18 indications are that some time on a weekly basis you were
19 cognizant of her duties and cognizant of her actions that was
20 going on in reference to this SX excavation area.

21 Did she indicate to you, prior to these tanks being
22 unearthed, that she had had contact with the Oklahoma Water
23 Resources Board and in particular the Oklahoma Water
24 Resources Board had informed her that there was a delineation
25 of jurisdiction between NRC and the Oklahoma Water Resources

1 Board in relationship to these two tanks?

2 A I'm trying to think back, Larry. There were some
3 discussions back last summer about the OWRB and things they
4 wanted to see as far as the soil testing for hexane and
5 everything, to make sure it hadn't leaked. And all I can
6 tell you is that she had told me that we were going to have
7 to test the soil for hexane, the Oklahoma Water Resources
8 Board was concerned about that. And to me that was the
9 emphasis for us doing the tank work, et cetera, that and what
10 they call the underground storage tank regulations.

11 Q Okay, Mike, my question to you was did she tell you
12 there was a difference of jurisdiction regarding the two
13 tanks; one being under the jurisdiction of the NRC --

14 A No.

15 Q -- and one being under the jurisdiction of Oklahoma
16 Water Resources Board.

17 A No, I don't remember that.

18 Q So as far as you understood from Carolyn Couch, the
19 entire excavation was under the jurisdiction of the OWRB.

20 A I'm not even sure you can say that, Larry. I know
21 the OWRB had certain requirements.

22 Q Mike, I'm talking about the NRC and the OWRB.

23 A I understand, but you're asking me something that
24 I'm not sure I can give you an answer to because to say that
25 I knew for a fact that the OWRB had the only jurisdiction;

1 no, because I don't consider that to ever be the fact, the
2 NRC has inside the restricted area always jurisdiction over
3 what we're doing.

4 Q Okay, I understand, Mike. I'm going to
5 characterize your answer as this then, you're telling me you
6 didn't know the NRC had any jurisdiction concerning these two
7 tanks prior to excavation. That's my specific question to
8 you by asking you your knowledge.

9 MR. SHAPIRO: Well other than the fact that the NRC
10 always has jurisdiction over everything in the restricted
11 area --

12 THE WITNESS: That's my feeling, they always do.

13 MR. SHAPIRO: -- I think is what he's saying --

14 MR. CHAPMAN: I don't argue that with you and I
15 don't argue with Mr. Shapiro. I mean, that's a given that
16 this is a facility that's under the NRC's jurisdiction. But
17 during our previous discussions, not one time have you ever
18 said the NRC should be notified on this matter because it
19 never occurred to anyone.

20 BY MR. CHAPMAN:

21 Q And my question is now you're telling me you know
22 the NRC has some jurisdiction, I'm trying to establish, Mike,
23 what our specific knowledge and relationship to these tanks
24 were and if you were specifically told that the OWRB had
25 informed Carolyn Couch that one tank belonged under the NRC's

1 --

2 A No, I did not know that.

3 Q And then my question to follow up on that was did
4 Carolyn not tell you this?

5 A No.

6 Q Okay, that was what I was trying to establish, what
7 Carolyn had done as far as any of these weekly briefings or
8 such.

9 Now as we all know, and it's well documented and
10 you alluded to it a few moments ago, the whole project on
11 unearthing the tanks was as a result of underground storage
12 regulations of the Environmental Protection Agency which in
13 turn were delegated down, as far as the hexane side of this
14 matter, to the OWRB for on-site enforcement, we'll say. In
15 other words, their people were the ones to be on site to
16 ensure that certain testing and certain visual inspections
17 were done.

18 Now did Ms. Couch ever indicate to you that she
19 felt the NRC should come out and see this excavation as it's
20 being done, at the time it's being done?

21 A Did she indicate to me --

22 Q She felt like there was a need to notify the NRC of
23 the unearthing.

24 A Did she tell me? No, I think it was discussed in
25 the meeting or something, whether she -- did she specifically

1 come up and tell me this. No. It wasn't any big deal, the
2 NRC I would think would know about it. They come out for
3 inspections and -- we weren't trying to hide anything.

4 Q Well, sir, I don't disagree that the NRC shows up,
5 but in this particular instance, I want to know if Carolyn --
6 and you've indicated there was some sort of a meeting. Now
7 I want you to nail that down for me, is that a staff meeting,
8 a departmental meeting?

9 A You're asking me to think six-eight months back, I
10 can't remember as far as -- I know we had a discussion or
11 something about it being unearthed, et cetera. →

12 Q I'm sorry, sir?

13 A We had a discussion as far as the tanks being
14 unearthed or the project going on, et cetera. As far as
15 bringing it to an inspector, I cannot sit there and say I
16 told it to a certain inspector at a certain time. But I had
17 a general knowledge that they're aware of it.

18 Q Let's back up and go over this one more time, Mike.

19 A Okay.

20 Q My question basically was did Carolyn ever indicate
21 to you -- Carolyn Couch -- that -- did she express to you
22 personally -- and then we'll ask about the meeting -- the
23 fact that she felt the NRC should be notified of the
24 unearthing of these tanks?

25 A I can't remember.

1 Q All right, sir. Then you indicated that you may
2 have heard it in some meeting. Now my question to you was do
3 you recall if it was a departmental meeting within the
4 Health, Safety and Environment, as it was known as that time,
5 or did you hear that at some general meeting?

6 A I can't tell you, Larry, if there was two people or
7 ten people there. I just remember we were talking about it
8 and the things we were going to have to do, et cetera.

9 Q Can you even establish in your mind if it occurred
10 prior to the excavation or if it was while it was going on?
11 And let me preface one other thing for you, Mike -- →

12 A It had to be prior to, because the NRC was aware of
13 it when we first started, they were here that first week.

14 Q How do you make a statement they were aware of it
15 when you first started because they were here, because they
16 didn't show up until the 6th and the unearthing started on
17 the first.

18 A Well I say within the first week, it was shortly
19 afterwards that they were here.

20 Q That's undisputable, we all know the NRC showed up.
21 But that doesn't indicate the NRC showed up simply because
22 they knew that the tank -- in fact, I believe, Mike, you've
23 indicated to me that there was some surprise to Mr. Blair
24 Spitzberg and Mr. Mike Vazquez, the inspectors, when they
25 first learned of this in an entrance meeting on the 6th. So

1 if you're going to make some statements that the NRC knew
2 ahead of time, you're going to put me in a position of having
3 to find out exactly why you make those statements.

4 A I'm not sure they knew ahead of time.

5 MR. SHAPIRO: I'm not sure he said they knew ahead
6 of time.

7 MR. CHAPMAN: Yeah, he did. That's what he said,
8 they knew ahead of time, they showed up for an inspection,
9 and that's not the case.

10 THE WITNESS: No, and that's not what I meant,
11 Larry. I think what I was trying to say -- I'm not sure if I
12 said it -- was I remember thinking about, talking about the
13 NRC is going to be looking at this and we're going to have to
14 do some other things -- now it may have been two people, it
15 may have been 15, it may have been me and one of my
16 supervisors, but you're asking me -- that's seven-eight
17 months ago, Larry, and I just can't come up with exact dates
18 and details and --

19 MR. SHAPIRO: Let me interject one question, if I
20 may. We've talked in some of our other discussions about
21 pre-planning meetings and a group of people that met to
22 discuss this project. Were you in that group, do you
23 remember, Mike?

24 THE WITNESS: I don't remember. I remember -- and
25 that may have been that it was brought up in something like

1 that sometime.

2 THE REPORTER: Excuse me, I didn't understand you -
3 - that may have been --

4 THE WITNESS: It may have been mentioned or
5 something at some time or other.

6 BY MR. CHAPMAN:

7 Q Now if I understand Mr. Shapiro's question a few
8 minutes ago -- a few seconds ago -- he asked you about pre-
9 planning meetings. I think he asked you did you attend any
10 of these meetings. Is that correct?

11 MR. SHAPIRO: Well my impression was that there ~~was~~
12 a group of people which included people from Engineering and
13 Carol -- you know, I'm just trying to ascertain --

14 MR. CHAPMAN: I agree with you.

15 THE WITNESS: It may have been one of those that I
16 was at, I just don't remember, Larry. I mean this was back
17 last summer, and that could very well have been what I'm
18 talking about as far as pre-planning. It could have been
19 that it was brought up at one of the meetings and that's what
20 I'm trying to think of.

21 BY MR. CHAPMAN:

22 Q Your understanding of the NRC's jurisdiction might
23 have been brought up at one of these meetings, that they had
24 a jurisdictional matter with specific relationship to these
25 tanks? I don't want you to lose sight of what the question

1 was.

2 A I understand -- we're talking about jurisdiction
3 and it's completely out in left field to me. I mean, I never
4 understood that the NRC -- to me, what you're saying is very
5 foreign, the NRC, as far as I'm concerned, has jurisdiction
6 over anything in the restricted area. And I don't ever
7 remember discussing anything with anybody that this tank
8 belongs to OWRB and this tank belongs to NRC.

9 Q Okay, that was my question.

10 A Okay.

11 Q Now Mr. Nichols, we discussed this also previously
12 -- to the best of your recollection, once the excavation
13 began, and I understand that Engineering had the lead for
14 doing the physical work necessary to unearth them, do you
15 recall anyone from Engineering, specifically Bob Kiehn and/or
16 Sam Fryer, or anyone from Operations such as Jim Mestepey,
17 coming to you and discussing the possibility of finding any
18 type of contamination, either in soil and/or any other form
19 prior to the unearthing of these tanks?

20 THE WITNESS: Could I speak to you for a moment?

21 MR. SHAPIRO: Sure.

22 MR. CHAPMAN: We'd like to go off the record so
23 that Mr. Nichols can speak to his attorney.

24 (A short recess was taken.)

25 THE WITNESS: Your question was prior to -- you

1 said after the excavation began but prior to the tanks being
2 unearthed.

3 MR. CHAPMAN: I'll correct my question.

4 THE WITNESS: That's what threw me.

5 MR. CHAPMAN: Okay, sir. The question is going to
6 be a two-parter, and I'll break it for you if you need me to.

7 BY MR. CHAPMAN:

8 Q Prior to the excavation of these tanks, do you know
9 of any one of these three gentlemen I mentioned previously,
10 coming to you and expressing a knowledge or discussing with
11 you the possibility of discovery of contamination in this
12 area. And if you need me to give you specifics; soil, water,
13 that's an all-encompassing question.

14 A It is pretty broad. As far as contamination, it
15 was no secret that that's a restricted area and there was
16 contamination out there. As far as somebody coming to me and
17 saying we're going to find large amounts down there or we did
18 find -- no.

19 Q Okay, Mike, you qualified your statement by saying
20 large amounts. I didn't ask you large amounts. I asked you
21 if it was going to be a known that there could be the
22 possibility of contamination.

23 A Of course, that's the restricted area, there's a
24 possibility there's always contamination somewhere.

25 Q Did either of these three gentlemen come and

1 discuss it with you?

2 A I do not remember that, no. I'm not saying that --
3 I just don't remember.

4 Q After the excavation began, did any one of these
5 three gentlemen come and discuss with you the fact that they
6 were finding contamination in that area, early in the
7 excavation but prior to the NRC's visit of August 6?

8 A No, sir.

9 Q None of the three?

10 A I'm trying to think back, as far as contamination.
11 (Pause.) That would have to be between the 1st and the 6th,
12 is what you're saying.

13 Q Well Mike, I limited it to that because I wanted to
14 find out how early on that you knew about the -- you said
15 it's a known there's contamination. Now I'm trying to
16 determine if you held discussions with any of the project
17 people or the operations people.

18 MR. SHAPIRO: Well instead of -- possibly instead
19 of asking it that way, maybe you could ask how he first found
20 out about contamination. You know, whether it was from his
21 staff, whether it was from Carol.

22 MR. CHAPMAN: Of course, it'd be much easier, Mike,
23 if you know anything about the subject, if you'd just bring
24 it up, rather than us having to do this.

25 THE WITNESS: The first I heard of any

1 contamination was -- and it's in my earlier report -- was
2 when we peeled back the rock. And we discussed that at
3 length in my earlier thing. Carol had said something to me
4 about finding some on top and we had gone out there and we
5 had picked that up and put it in a bucket.

6 BY MR. CHAPMAN:

7 Q When was that, Mike?

8 A I'd have to refer to that, I don't have the exact
9 date.

10 Q Do you recall if it was prior to NRC's visit? And
11 I'll go on record to say I'm not trying to in you down to a
12 specific date.

13 A Yes, it was, it was prior to the NRC visit.

14 Q The NRC visit by Mr. Spitzberg and Mr. Vazquez?

15 A Yes.

16 Q So sometime between the 1st and the 6th is when
17 this contaminated rock was discovered.

18 A Yes.

19 Q Now I think there's even been some misunderstanding
20 of what contaminated rock meant. You're speaking of a gravel
21 that had some sort of contamination adhered to it, rather
22 than chunks of solid uranium being discovered.

23 A No, I'm speaking of -- and I think it's in my other
24 report -- that Carol came to me and said that they had found
25 -- as they peeled the rock back, the gravel coating, they had

1 found some chunks of it.

2 Q Chunks of yellow cake?

3 A It was probably -- it was rock that had yellow cake
4 absorbed to it, those kind of things, or -- it was not the
5 gravel, contaminated gravel, it was actually larger pieces
6 because I went out there and inspected them myself. It was
7 not a solid piece of yellow cake, but it was a rock or
8 something that had a coating on it.

9 Q Okay.

10 A That's when I first -- Mr. Kiehn nor Mr. Fryer nor
11 Mr. Mestepey told me about that.

12 Q Ms. Couch told you about it?

13 A Ms. Couch told me about that.

14 Q What was your action upon discovering this
15 contaminated rock?

16 A I think it's in here --

17 Q Well if you need to refer to this, you certainly
18 may, but I'm trying to understand also in light of all the
19 activities taking place, Mr. Nichols, a chance to get any of
20 the information as up to date as we can.

21 A Without referring to my notes, I think what we did
22 is we called Tommy Johns, got ahold of Tommy Johns and asked
23 him to clean it up.

24 Q Okay, I'm not so much concerned with who you asked
25 to clean it up, but the fact that you took action to see that

1 it was cleaned up.

2 A Yes, sir, picked up and put in a bucket.

3 Q In a bucket, so there may have been -- what size
4 bucket, small volume?

5 A Couple gallon bucket.

6 Q Couple gallon, a gallon, two gallons, somewhere in
7 that vicinity?

8 A Somewhere in that vicinity.

9 Q Now Mr. Nichols, did you at any time after you took
10 action on this discovery of contaminated rock, find any other
11 solid contaminants out there that you took some action on--
12 was brought to your attention and you required action?

13 A Solids? I think there was one other time I walked
14 out there and found a few more pieces and talked to the
15 workers out there and had them pick them up. I did another
16 inspection.

17 Q Were the tanks already in the process of being
18 unearthed at this time?

19 A Yes, sir.

20 Q Now Mr. Nichols, when was the first time that you
21 recall observing water in the bottom of the excavation or
22 water in the excavation?

23 A I think it's when we busted the sewer line.

24 Q Busted the sewer line. Do you know the date when
25 you busted the sewer line? When you say you, I assume --

1 A I did not bust the sewer line, no, sir. The line
2 was broke.

3 Q The line was broke by the contract personnel.

4 A Yeah, and there was water that went down into the
5 pit.

6 Q Do you remember the date of that?

7 A No, but it's in here I'm sure. I'd say it was very
8 early on.

9 Q Would you agree the 4th of August?

10 A I'd say about the 4th. Was Saturday the 4th?

11 MR. SHAPIRO: Can we agree to that? Because it ~~was~~
12 the 4th.

13 MR. CHAPMAN: Yeah, it was the 4th of August.

14 BY MR. CHAPMAN:

15 Q That's the first time you recall ever seeing any
16 water in the excavation itself?

17 A Yes, sir.

18 Q Did you make any inquiries upon observing that as
19 to it's -- you said it come from the sewer line -- did you
20 make any inquiries as to if that was all the water or if the
21 water in the pit was all from the sewer line?

22 A It was -- to me it was obvious that it was because
23 you could see where it had run down on the north side, come
24 out of the line and run down there.

25 Q Since the excavation at the time the sewer line was

1 broke, I think it's pretty much also a given that they had
2 reached the lower limits of their excavation of some 17 feet
3 or so.

4 A It had ran down there.

5 Q Did you happen to notice that the walls of this
6 excavation had yellow streaks in the walls?

7 A No, sir, I did not. I've heard that several times.

8 Q How often were you out by this excavation area?

9 A The first week not a whole lot, I had a brand new
10 inspector in -- I had an inspector that it was his last trip
11 and I spent most of --

12 Q An NRC inspector?

13 A NRC inspectors. I spent my whole week going over a
14 DUF-4 incident that happened on the 3rd and trying to bring
15 this inspector up to speed what's expected of him.

16 Q Trying to bring up to speed what's expected of the
17 inspector?

18 A Sir, I say what's expected of him, maybe that's the
19 wrong choice of words -- I was trying to bring him up to
20 speed, give him a tour of the DU-4 facility, teach him
21 calculations, he had never worked them before because it's a
22 different animal, he had no experience at this facility. We
23 spent days in my office and we did take a couple of trips out
24 to the SX pit, Mr. Vazquez and I both did.

25 Q That would be the week of the 6th through the 10th

1 you're referencing here?

2 A Yes, sir.

3 Q I'm sorry, I missed what the calculations were
4 y'all were doing.

5 A These are -- on the incident that happened on the
6 3rd in DU-4 facility, you have to calculate the airborne
7 releases and everything and calculate the amounts that have
8 gone out. Mr. Vazquez was an inexperienced inspector when it
9 came to this type facility, and I was showing him our
10 procedures, what we did, et cetera, et cetera, et cetera.

11 Q As the Manager of Health, Safety and Environment,
12 how did you satisfy yourself or ensure yourself that proper
13 health and safety measures were being conducted out there at
14 the excavation area in relationship to a prior admission that
15 you knew there were contaminants out there, that there were
16 radiological protections being taken?

17 A Well we had -- I had put my only supervisor out
18 there to watch it quite a bit. I had put my HP supervisor
19 out there to watch it.

20 Q Who is?

21 A Mr. Ken Simeroth. And we had placed a technician
22 out there, not full time, but a large part of the time to be
23 there, just to survey things coming in and out of the hole
24 and to watch.

25 Q Did you give Mr. Simeroth any instructions as to in

1 light of the known contaminants, to be acutely aware of the
2 possibility of --

3 A We had talked about taking air samples and
4 surveying things in and out, normal health physics
5 precautions.

6 Q Air samples and surveying things -- surveying
7 things encompasses what, Mr. Nichols?

8 A People that are coming out, forms, checking to make
9 sure that you're following not just health physics rules but
10 industrial safety rules. As you remember, we had a hell of a
11 hexane problem at the time out there. That was a situation
12 that was very touch and go, and we were checking the dirt as
13 it was coming out. And I'll have to admit, seeing this dirt
14 coming out, I saw no yellow streaks as you point out.

15 Q No yellow streaks in the dirt as it come out? No,
16 my question to you was yellow streaks in the walls that were
17 remaining after the excavation, while you were out there.

18 A No. In fact, we still had two sides uncovered when
19 your NRC people came in and there were no yellow streaks. We
20 found one spot under the SX building about two-three feet
21 long, up underneath, that Mr. Vazquez pointed out.

22 Q Found what?

23 A Looked like yellow cake. Besides that, as far as I
24 know, that's all we found in the two remaining walls.

25 Q That you and Mr. Vazquez found that day.

1 A Yes. And if there had been any, that would be the
2 place I would think it would be if it were leaking from the
3 building, because this was the wall that was directly
4 underneath the building and the wall to the west of it, and
5 there were no yellow streaks in it. We found the one
6 underneath it and I was surprised to see rocks and, Larry, it
7 could have been there three or four days, it may not have
8 been. It was at a place where the dirt was caving in at the
9 time. But we had Mr. Vazquez in and we had several other
10 people in there. There were no yellow streaks at that time
11 on either one of those walls. I've heard this several times
12 and when you did your inspection, whenever we brought in
13 several other inspectors, there were none there.

14 Q Some of these pictures that Mr. Mestepey provided
15 me when I came in showing these yellow streaks, they don't
16 exist?

17 A What pictures are we talking about, Larry?

18 Q The ones that were in the conference room.

19 A Are you sure those are yellow cake or clay, or
20 what?

21 Q They were represented to me by Mr. Mestepey as
22 pictures of the excavation area, which I took them to be face
23 value, I didn't go out and rephotograph anything. And I
24 guess my question to you, Mr. Nichols, is you're telling me
25 you never saw the streaks and yet now the Senior Vice

1 President hands me photographs.

2 A Larry, I looked at those photographs myself and it
3 may be yellow cake, but I didn't see it as that.

4 Q I didn't ask you if it was yellow cake, Mike, I
5 asked you if you saw yellow streaks out there.

6 A Yellow streaks could be clay.

7 Q Mike, I didn't ask you what it could be. My
8 question to you is did you see yellow streaks.

9 A No.

10 Q No. Good. Now stick with my question, Mike, don't
11 go off to me on the left side there and try to give me what
12 your analysis of what dirt can be. Listen to my questions
13 and answer them.

14 A Our surveys didn't show that either.

15 Q Your surveys didn't show there were yellow streaks?

16 A We found one spot in the corner that read about 6
17 MR. Besides that, no.

18 Q What did your survey show, what are you referencing
19 here?

20 A We took a survey meter down there at the insistence
21 of Mr. Vazquez, and surveyed the two walls that were left.

22 Q What type of survey meter?

23 A An alpha survey meter, which will pick up uranium.

24 Q An Alpha survey meter. Did you take the alpha
25 meter at Mr. Vazquez' request or did you take the alpha meter

1 at your own request?

2 A We took it at his request.

3 Q He specifically requested you take an alpha meter?

4 A He requested that we take a meter. We took an
5 alpha meter and we took an ion chamber, both.

6 Q Okay. Now let me back up and make sure I
7 understand you. We've gone from the fact you never saw
8 yellow streaks to now you're down in the pit with Mr. Vazquez
9 and you're taking sampling or radiation sampling or surveys
10 of yellow streaks?

11 A No, sir, that's not what I said.

12 Q Okay, get the record clear for me.

13 MR. SHAPIRO: Well it hasn't been that unclear. I
14 mean, you said you were going to -- at Mr. Vazquez'
15 suggestion or request, you were going to do a survey of the
16 walls of the pit.

17 THE WITNESS: Yes, sir.

18 BY MR. CHAPMAN:

19 Q I guess the question I have for you is why are you
20 going down there to survey the walls? There must be some
21 reason for Mr. Vazquez to make this request? What prompted
22 his curiosity?

23 A I suggest you ask him that. I cannot -- you're
24 asking me to ask him -- we went down and did another survey,
25 we found one spot in the corner that read about 6 MR contact.

1 MR. SHAPIRO: Well that's a possible answer. His
2 interest in the walls came after you had seen the spot with
3 him?

4 THE WITNESS: Uh-huh.

5 MR. SHAPIRO: So he might have been responding to
6 that?

7 THE WITNESS: Uh-huh. He requested that we take
8 one, so we did.

9 BY MR. CHAPMAN:

10 Q Well we've lost sync here somewhere, Mike.

11 A I don't mean to. Let's back up --

12 Q Let's back up here -- you know, my lead question
13 was did you ever see yellow streaks in the walls and your
14 answer is no.

15 A No, sir, I did not.

16 Q Never did. And then you said sometime, if I
17 understand, you and Mr. Vazquez were down in the pit, I
18 assume, itself, and you looked up underneath the wall that's
19 the SX building and you saw solid yellow cake.

20 A Yes, sir.

21 Q How far up the wall? I mean is the pit dug by now?

22 A This was directly underneath the building.

23 Q Can you touch it -- I'm trying to get an idea how
24 deep you are in the pit?

25 A It would be very hard to reach up and touch it, so

1 to speak, it was a little higher than that. To get to it, it
2 would take a ladder, for example, to get up there to do that.
3 We saw that when he was down there with us inspecting it.

4 Q Okay. As a result of that, are you saying that you
5 and Mr. Vazquez took a meter to survey that area? I'm a
6 little lost here as to when you and Mr. Vazquez showed up,
7 what you were surveying and what prompted you to be there.

8 A We were surveying it --

9 Q Surveying what, Mike?

10 A The pit, surveying the it and the walls, to see if
11 there were any yellow cake, et cetera, in the soil. Okay?--

12 Q Do you feel as a result of your observation of this
13 up here, that this is why you were both in the excavation
14 making surveys? Knowing that you don't want to let Mr.
15 Vazquez lead you by the nose out there to take surveys, he
16 would probably have explained and you would have inquired,
17 Mike, they had the survey -- Mike Vazquez -- whatever you
18 wish to survey.

19 A That's exactly what happened.

20 Q What do you want to survey and what do you need out
21 of it.

22 A And that's what he told us, told us to survey the
23 walls, and we did that.

24 Q And he was looking for what?

25 A Looking to see if there was any contamination on

1 the walls that you could read with the meter. If there was
2 yellow cake, streaks, et cetera, you would have been able to
3 find that with the meter.

4 Q And you're telling me that you reached a maximum of
5 6 --

6 A There was one spot in the corner that Rick found
7 that read about 6 MR per hour.

8 Q Who found?

9 A Rick Callahan.

10 Q Rick Callahan, so now we have Rick Callahan. How
11 many people was down in the pit, Mr. Nichols, making surveys
12 with Mr. Vazquez, and were you present during the surveys?

13 A No, I was not.

14 Q So you weren't present during the surveys. Okay.
15 Now let's get things settled down here. You're giving me
16 data and information that you supposedly knew and yet now
17 you're telling me you're not present.

18 A That's true.

19 Q Who was present in the pit, who did the surveys,
20 how do you know the results?

21 A Mike and I went down there and looked around, Mike
22 came in and asked us to survey the pit.

23 Q Mike Vazquez?

24 A Mike Vazquez. So then I had technicians go and do
25 a survey of the walls, to see what was there.

1 Q Yes, sir, and you were not present at that survey?

2 A No, sir.

3 Q And now you gave me a value. How do you know
4 that's the value and how do you know where it was surveyed?

5 A I saw the survey form.

6 Q Saw the survey form.

7 A And Mr. Vazquez saw the same survey form. We did
8 it just to show that there was not a problem down there.

9 Q So now did that survey form identify the specific
10 area of the survey?

11 A Yes, sir. In fact I even questioned Rick about ~~the~~
12 survey.

13 Q All right, and not belaboring an issue here,
14 believe me, are you -- do you feel that they surveyed only
15 one area at Mr. Vazquez' request or -- I guess I'm trying to
16 understand now, Mike, the broad answers you're giving me
17 about I didn't see this, we didn't have any indication of
18 this. I'm not sure that you're qualified to answer this
19 question because you can't really tell me what was surveyed
20 and where it was surveyed. I want you to answer me what you
21 know personally.

22 A Okay, what I know -- what I know personally is that
23 Mike and I went down there and we were down there with -- I
24 think Mr. Knowinski was with us at the same time, four or
25 five people went down there. We were down there and Mike

1 noticed a spot under the building.

2 Q Mike Vazquez.

3 A Vazquez.

4 Q Yes, sir, I think we've established that.

5 A Okay, and then Mike asked that we get a survey of
6 it, so that's what we did, we went down and surveyed the two
7 walls that were left.

8 Q Two walls being left being where?

9 A Open. The wall that was under the north wall of
10 the SX building, the pit wall is what I'm talking about.

11 Q Well in relationship to north, south, east and west
12 of the excavation, see if you can identify the walls.

13 A It would have been the north wall of the SX
14 building. Okay? It would have been the south wall of the
15 excavation pit.

16 Q All right, sir.

17 A We surveyed the wall, the west all of the
18 excavation pit.

19 Q Right. Now do you know when that occurred, since
20 you saw a survey?

21 A I don't have an exact date, no, I can't remember
22 that.

23 Q Obviously it had to be during the week of the 6th
24 to the 10th, that's when Mr. Vazquez was present?

25 A Right.

1 Q Now in your dealings down in the pit with Mr.
2 Vazquez, did you observe any water in the bottom of the
3 excavation?

4 A When Mr. Vazquez was down in the water with me, no.

5 Q Wait a minute, Mike. I asked you did you observe
6 water and you can't say when he was down in the water with
7 me, you didn't see any.

8 A The day that Mr. Knowinski, Mr. Vazquez and
9 everybody else was down there, there was not any water in the
10 pit that day because we walked around down in there quite
11 extensively.

12 Q Was it dry?

13 A If there wasn't any water; yes, sir, it was dry.

14 Q It could be muddy.

15 A We were walking on rock at the time.

16 Q Walking on rock down in the bottom of the it?

17 A Uh-huh. They had put in some of this gravel, et
18 cetera, for the french drain, that's what we were walking on
19 at the time.

20 Q Mike, I think you're becoming confused a tad here
21 on the dates and time, sir, and I want you to stop and think
22 about this a minute.

23 A Okay.

24 Q The french drain was not even being established
25 until after the stem walls were poured on the excavation.

1 The stem walls were poured sometime around the 17th.

2 A I thought that's what we were talking about.

3 Q No, Mike. We have been discussing for some length
4 here your visit -- you brought up the subject of some surveys
5 being taken in the SX excavation pit. And the best I can
6 glean out of what is a somewhat lengthy drawing of
7 information has been, is that Mr. Vazquez and now Mr.
8 Knowinski and now Rick Callahan, were down in the pit at the
9 result of you and Mr. Vazquez having looked up during his
10 visit the 6th to the 10th --

11 A No, no, no, wrong time frame. --

12 MR. SHAPIRO: Well I to some extent share Mr.
13 Chapman's confusion, but Mike, there's a couple of time
14 periods here. The question is, is this not in the week of
15 the 6th to the 10th?

16 THE WITNESS: No, this was in the week --

17 MR. CHAPMAN: Don't be crossing weeks with me,
18 Mike. I specifically left you in this time frame, the 6th to
19 the 10th in discussing that.

20 THE WITNESS: I'm sorry, the 6th to the 10th, he
21 and I went out there, we never went in the pit.

22 BY MR. CHAPMAN:

23 Q Now I'm going to ask you a couple of questions
24 again and I'm going to preface them with the fact that Mr.
25 Vazquez and Mr. Spitzberg came to the facility, for your

1 information, and Mr. Shapiro I think will agree with me, they
2 made their visit unannounced -- you need to know this -- on
3 the morning of the 6th of August. And they were here for a
4 week and I believe they left on the 10th, I'm not exactly
5 certain of that.

6 A They left on Friday.

7 Q On Friday the 10th. Now one of the questions I
8 asked you was, that started this whole view down this road,
9 was about what your observations in the pit were.

10 A During that week?

11 Q Yes. And you started, somewhere down the road, --
12 flowing across this time line.

13 A I'm sorry.

14 Q Let's see if I can remember all the information I
15 sought to elicit from you. I believe we're on record as
16 saying here, Mr. Nichols, that -- and we'll limit it right
17 now to this period of time, between the 6th and the 10th, you
18 never observed any yellow streaks in the walls of the
19 excavation area.

20 A No, sir.

21 Q During -- we'll keep it in this week now.

22 A During this week.

23 Q All right, sir. And then I believe that I also
24 inquired of you to some degree, during this period of time,
25 this week, did you observe any water in the excavation,

1 excluding your reference to the sewer pit on the 4th.

2 A No. In fact, the times I went out there was
3 usually with Mike and your Mr. Driscoll told me in the last
4 interview that Bob Kiehn was coming at 4:00 in the morning
5 and pumping the water out before the workers came to work. I
6 was unaware of that. There's no way in the world I would
7 have seen it.

8 Q Well now if you want to get into that avenue, which
9 I haven't got to yet, we'll talk about barrels. But I'm
10 trying to establish your personal knowledge first of all.

11 MR. SHAPIRO: The first answer though is you didn't
12 see any water that week except on the 4th when that sewer
13 line broke, as far as you can recollect?

14 THE WITNESS: There was a problem of the safety
15 shower leaking on one side.

16 BY MR. CHAPMAN:

17 Q If you want me to make this an all-encompassing
18 question, Mike -- for whatever reasons, showers breaking,
19 sewers breaking, floods occurring or whatever -- during the
20 period of time, the 6th through the 10th, I'm trying to take
21 you through this on a weekly basis, to make it somewhat of a
22 compressed schedule for you so you'll have something to
23 reference -- do you recall seeing water in the excavation
24 pit?

25 A Yes.

1 Q Yes? So we've gone from no to yes?

2 A What do you mean no to yes?

3 Q Well you told me earlier no, I've never seen any
4 water. Now we're down to yes, I've seen water, Mike.

5 A Well I thought you prefaced that was the sewer
6 water and everything that was in there.

7 MR. SHAPIRO: Well he always said that he saw water
8 on the 4th.

9 MR. CHAPMAN: Granted. I granted you that.

10 MR. SHAPIRO: The next question was did you see
11 water besides that.

12 MR. CHAPMAN: I even specified for you, Mike, a
13 Monday through a Friday.

14 THE WITNESS: Let me give you a statement, maybe I
15 can solve the problem. Okay.

16 MR. CHAPMAN: I'd be most delighted.

17 THE WITNESS: With the exception of the sewer
18 water, okay, and we had a shower leaking on the north -- it
19 would have been the southwest corner, okay -- I do not
20 remember seeing any water during that week that I didn't
21 attribute to one of those two items. You're asking me to
22 think back six or seven months now -- but I saw nothing to
23 alarm me of anything unusual or that would be a problem.

24 BY MR. CHAPMAN:

25 Q In connection with that then, the water you

1 observed, by your statement now -- you never observed any
2 water that would give you any concern, that you observed
3 during this week -- you just said that to me. You're looking
4 reflective and pensive here. Are you trying to say -- do you
5 want to change that or do you want me to keep on with my
6 questions?

7 A Well I'm trying to think back. Okay?

8 Q This is not exactly a new subject, Mike. We've
9 been over this to some degree for several days. I'm not here
10 to take this testimony and twist it, I'm trying to get it
11 down into an exact format because it has been somewhat --
12 disjointed. So my purpose is to try to flow it together.

13 A But you're asking me to come up with specific dates
14 that I saw things from seven-eight months ago, and I can't do
15 that. I can't think back in generalities.

16 Q Okay -- all right, Mike, I'll ask you this simple
17 question. During the time that this pit was open between the
18 first of August and the 22nd reporting to NRC, did you ever
19 observe yellow water in the excavation?

20 A The 22nd -- no, sir.

21 Q Never saw yellow water between the first of August
22 and the 22nd of August, and you were down in that pit -- and
23 just so we have information here for the record, you told me
24 in previous testimony that you were by that pit frequently.

25 A Yes, sir.

1 Q And looked over in the pit.

2 A Yes, sir.

3 Q And now for the record, so that I understand your
4 answer, between the first of August, 1990 to the 22nd of
5 August reporting to the NRC, if that'll help, you never
6 observed yellow water in that pit?

7 A The -- according to my testimony before --

8 Q I didn't ask you that, Mike, I asked you this
9 question right now.

10 A I know what you asked me.

11 Q Okay, well then give me an answer. —

12 A The first time I saw it was after the walls were
13 poured, now if the walls were poured on the 21st, I could be
14 -- if they were poured on the 23rd, yes, your answer is
15 right, the first time I saw yellow water. To the best of my
16 knowledge --

17 Q Okay, I'll put it for you in a much simpler
18 fashion. When is the first time you saw yellow water, Mike?

19 A It was after the walls were poured, it was in the
20 north or southwest corner, there was a spot probably three or
21 four feet across of some yellow water that I remember seeing
22 then.

23 Q For the record, the walls we're speaking about are
24 the walls that go up, that actually make a --

25 A Concrete wall.

1 Q Those walls were poured on the 17th of August.

2 A Okay.

3 Q Now if that helps you get a date reference, I'll be
4 glad to give you that.

5 A It does.

6 Q I don't think that's without question that the
7 walls were poured on the 17th. And that gives you a --
8 that's a Friday. That gives you Saturday, the 18th, Sunday,
9 the 19th, Monday, the 20th, Tuesday, the 21st and of course
10 Wednesday is the date it was reported to the NRC. And you
11 feel very confident now that your first observation of any--
12 yellow water in that excavation was around the 17th of
13 August?

14 A I said it was after the walls were poured sir.

15 Q Within that five day time frame then, Mike.

16 A No, I don't know that. It was after the walls were
17 poured.

18 Q Okay, was it before the hole was finished and
19 covered up?

20 A Yes, sir.

21 Q Okay, so we can now establish the date that the
22 hole was covered up, and we know it was in between that time
23 frame.

24 A Yes, sir.

25 Q The NRC made an AIT visit out here -- I mean, Mike,

1 if I have to pull these dates out of you and start giving you
2 calendar dates, I will. You know as well as I do, you've
3 been here as long as I've been around here practically --
4 I've almost become a fixture here -- you know the dates that
5 the AIT showed up, you know the date Mike Vazquez showed up,
6 you know the date the hydrologist, Gary Knowinski, was here
7 and you know Knowinski didn't show up until sometime around
8 the latter part of August.

9 A Uh-huh.

10 MR. SHAPIRO: Well I would be inclined to agree
11 with you that he spends as much time around here as you do
12 but I'm not sure he spends as much time with these specific
13 dates and this investigation. One of the -- I mean I think
14 he should answer as well as he can, but one of the reasons
15 that he goes back to this transcript was that, you know, that
16 was taken a month or so after all this happened. It had some
17 --

18 MR. CHAPMAN: I don't argue that with you, Ira.

19 MR. SHAPIRO: I know, Larry, but the point is he
20 doesn't know the dates the way you know the dates, nor should
21 he be expected to.

22 MR. CHAPMAN: Well I disagree with you, I 100
23 percent disagree with both of you here on the record.

24 THE WITNESS: How am I supposed to know the dates,
25 sir?

1 BY MR. CHAPMAN:

2 Q Mike, sir, this thing has been brought to light for
3 six months, it has been thoroughly discussed with you and the
4 NRC. These dates should well be firm and solidified in your
5 mind insofar as dates of being poured, AIT inspections, the
6 date the excavation has been covered up, the date the
7 excavation began. Mike, there should be no question in your
8 mind on these dates, it has been discussed numerous times.
9 And to tell me now, Mike, that all these dates are suddenly
10 out here floating in the outer planetary spectrum and
11 nebulous -- you've had plenty of time and chance to read ~~this~~
12 testimony and get your dates down, I afforded you that
13 opportunity.

14 A Sir, I had this testimony about 10:00, 10:30 this
15 morning. I was able to go through it one time.

16 Q Mike, you've had this knowledge for seven months.

17 A Many of the dates -- yes, I also have another job.
18 Many of the dates I know but the 4th through -- the 6th
19 through the 10th, they were here, et cetera, I know that.
20 The date of the 23rd or 22nd, whatever it was, I'll never
21 forget that date because that's the date we realized that we
22 really had a problem there. Those kind of dates, yes, sir, I
23 can quote you. But to ask me specific dates, no, sir, I
24 cannot.

25 They may be very familiar to you, okay? But I have

1 not had the benefit of this testimony. I have not been over
2 -- I've read the AIT report, like you said, one time gone
3 through it. That was, what, six months ago, seven months
4 ago? And to expect me to --

5 Q When you went over the AIT report, I don't know.

6 A That's when they gave it to us, six months or
7 something. We put that behind us and started on another
8 report. To expect me to remember dates from that, I think is
9 unreasonable. If you want to show me the dates, I'll be glad
10 to go over them for you, but I cannot remember every date and
11 every time. —

12 Q Okay, Mike, it's twenty minutes to four and this is
13 March 5. If you so desire, I will terminate this interview,
14 we'll give you ample opportunity to review the chronology of
15 actions out there. I'll give you another opportunity to read
16 this transcript, if you feel that will solidify your
17 information, fine.

18 I do not intend to get on record and argue dates
19 with you.

20 A I don't either.

21 Q I'm trying to understand when you observed events.
22 And Mr. Nichols, you can tell me that you're having problems
23 understanding dates all you want, but this is not a new
24 subject to you. You have had since September 12 to know that
25 I have had an interest in this and I have been here on

1 numerous occasions and visited you in the field at certain
2 times, been over asking you for data and for information
3 relative to this time frame. To tell me this is new to you -
4 - no, sir, you're going to have a difficult time convincing
5 me of that.

6 But I want to go on record right now, Mike, if you
7 desire additional time before I conduct this interview or
8 continue on with it, you may now have that opportunity to
9 take that intermission and do so. I will not discuss this
10 with you until tomorrow afternoon if you so desire. That is
11 your choice. —

12 THE WITNESS: Can I talk to you for a moment?

13 (The witness and Mr. Shapiro confer.)

14 MR. CHAPMAN: Okay, Mr. Nichols, it's your decision
15 after consultation with Mr. Shapiro that you wish to continue
16 on with the interview.

17 THE WITNESS: Yes, sir, I don't have anything to
18 hide, I'm trying to do the best I can.

19 MR. CHAPMAN: I didn't indicate you had anything to
20 hide, Mr. Nichols, I just wanted to make sure that you
21 understand.

22 I want to go back on the record here, which we are,
23 that I'm not here to quibble dates with you, I'm here to ask
24 some questions and try to solicit some information, and I
25 would appreciate the most forthright, straight-forward

1 answers you can give me. If you're lost, if you're unsure of
2 any dates that I've given you or any time frames, please stop
3 me, and I know Mr. Shapiro will, and you're free to stop me
4 at any time and make sure you understand the questions.

5 MR. SHAPIRO: Just for the record, I think I should
6 note that our discussion revolved around the fact that I
7 suggested to Mike that I don't think he's held to know every
8 specific date, but I do think, you know, it's reasonable to
9 expect some specific recollection -- you know, specific
10 recollection of actions he took or what he knew at given
11 times, and we'd like to try to proceed and see if we can do
12 that.

13 If we run into a situation where that kind of
14 information isn't coming through clearly enough, then
15 probably we would have to discontinue.

16 MR. CHAPMAN: Granted. No problem.

17 THE WITNESS: Okay.

18 MR. CHAPMAN: And Mike, the dates are well
19 established.

20 THE WITNESS: It might be better if you told me the
21 date.

22 MR. CHAPMAN: I'll be happy to tell you the date,
23 if everyone agrees the dates are correct. I'll not give you
24 an incorrect date, believe me.

25 THE WITNESS: I don't think you would either.

1 MR. CHAPMAN: And if a time frame that's more
2 conducive to your recollection is that the excavation was in
3 this stage of completion or period of time, I can even live
4 with those periods of time.

5 THE WITNESS: That's how I can remember, but I
6 can't come up with exactly this happened on this date --
7 that's the best I can do.

8 MR. CHAPMAN: I can easily live with that and go
9 along with that, if you will let me know where you are in the
10 time frame.

11 THE WITNESS: Yes, sir, I don't mean to confuse--
12 you.

13 MR. CHAPMAN: Okay.

14 BY MR. CHAPMAN:

15 Q I'm going to back up a little bit, Mike, and start
16 over here on a couple or three questions, to make sure we've
17 got them. And of specific concern to me and the NRC,
18 obviously, is the yellow water which has now been shown to
19 have some contamination of uranium in it. Do you agree that
20 since all this, it has now been shown that it did have
21 contamination in it?

22 A Yes, sir.

23 Q And that most people agree that the water down
24 there that contained contaminants had some sort of an off-
25 color, commonly referred to as yellow in color.

1 A Okay.

2 Q Are you in agreement with those broad generalities?

3 A Yes, I've heard this before.

4 Q Okay, sir. Now when I ask you a question such as I
5 asked you a few moments ago, of when did you first observe
6 yellow water, if you would please tell me to the best of your
7 recollection when you first observed yellow water in that SX
8 area that's in question.

9 A When I first observed yellow water was I would say
10 somewhere around the 22nd, 23rd, somewhere in that time
11 frame, because I remember it had hit the fan, so to speak,--
12 We were wanting to -- Lee had told me that the water was so
13 many grams per liter, et cetera, and we had gone down in
14 there, actually taking a close look at it, so to speak --
15 closer.

16 Q We, being?

17 A I was down there with Operations. There was
18 myself, Simeroth, half dozen operators, et cetera.

19 Q Was the NRC present with you at that time?

20 A No, sir.

21 Q Okay, Mike, so that -- to the best of your
22 recollection, knowing the date is not in absolute concrete,
23 you believe some time around the 26th, as you say, after it
24 hit the fan, you went down in the pit and first observed the
25 yellow water.

1 A Now we found out, the 22nd, 23rd is when we told
2 you guys?

3 Q Yes, sir, that's correct.

4 A It was after Lee got back.

5 Q Lee got back from where?

6 A He was gone the 20th and came back the 21st or
7 22nd, and then t. when we started.

8 Q Okay, sir. Now so that I'm understanding
9 correctly, you do not recall any visual observation on your
10 part prior to that date in 3X excavation area?

11 A Of the yellow water: —

12 Q Of the yellow water, sir.

13 A No, sir, I do not.

14 Q Okay, sir. Now I think I asked you sometime prior
15 to our conversation in this area if you were by that pit
16 frequently, and you indicated you were. Do you recall when
17 you first were around the area being excavated? And if you
18 need to reference the project's completion or is ongoing, use
19 that as a time frame.

20 A I could probably start around the first of August,
21 somewhere in there, 31st of July is when they started
22 bringing people in. I'm not sure when they stuck the actual
23 first shovel in the ground, somewhere around t here.

24 Q Yes, but my question to you is when do you first
25 recall being out there?

1 A I think I was there probably Thursday or Friday,
2 which would have been the second or third, somewhere in
3 there.

4 Q Do you recall when your first visit was, what
5 stages the project was in?

6 A The first time I was out t here, they were busting
7 the concrete up, I remember watching.

8 Q Busting the concrete from around --

9 A On top of it. There was a concrete pad.

10 Q Okay. So, Mr. Nichols, so that we're somewhat
11 clear, for your information and my understanding, on --
12 Wednesday, the first, the actual backhoe began scooping out
13 dirt.

14 A Okay.

15 Q So since it had not done that, your first visit out
16 there would have been sometime prior to the first of August
17 because they were merely getting the site ready for the
18 backhoe, they were busting up the layers on top.

19 A Right.

20 Q Okay, so between that time frame of your first
21 visit of the busting of the concrete and your last known or
22 first visible signs of yellow water somewhat established a
23 definitive parameter of the 31st of July -- 30th and 31st of
24 July, first of August down to the 22nd or so of August.

25 A Yes, sir.

1 Q Were you by this facility, this open pit any time
2 in between these two extreme dates?

3 A Yes, sir, I was there when they were digging up the
4 shovels of dirt.

5 Q Shovels of dirt as opposed to the track hoe or the
6 track hoe itself?

7 A They were using the track hoe -- is that what you
8 call it, the big one?

9 Q Yes, sir, that's what it's referred to, track hoe.

10 A That's what they were using. We were concerned
11 about hexane, that was a very major problem. --

12 Q Were you there in other stages other than the
13 initial digging of the track hoe?

14 A I was there the first couple of days, I was out
15 there a full day on the fourth, I was out there the first
16 couple of days when they first started sticking the shovel
17 in, making sure we had a technician out there and Ken was
18 there, and I'd talked to Gary Barrett about being there, we
19 were concerned about industrial safety. I was out there on
20 the morning of the fourth -- that was the day of the picnic.

21 Q Okay, sir, because you've used a couple of terms
22 interspersedly here, I want to make sure I understand.
23 You've mentioned shoveling, you referenced the backhoe and
24 then you said shoveled again.

25 A As far as I'm concerned, they would be the same.

1 Q Okay, because I want to make sure the shoveling,
2 you're not talking about the contractors down in the pit
3 using hand shovels. I want to make sure you have a
4 distinction between those two.

5 A No, this was the big one.

6 Q So since the time the track hoe was being used,
7 were you present at the pit at any other time? In fact, why
8 don't you just tell me all the times you can recall being at
9 the edge of the excavation? And I use the edge, because if
10 you walked past it and didn't look at it, I'm not
11 interested, I want to know when you actually physically were
12 present around it and perhaps --

13 A I was there -- again, I can't give you exact dates,
14 Larry. Okay?

15 Q I understand that.

16 A Okay. I was there the morning of the fourth. The
17 fifth was a Sunday, I wasn't out there. Monday, I --

18 Q That's when the NRC --

19 A The NRC didn't show up until the afternoon.

20 Q Correct, sir.

21 A I had to take off that afternoon and come back,
22 because they had showed up. I wasn't there when they went
23 out there for their tour. I came back. I doubt I was there
24 on that Monday and I doubt I was there much more that week
25 except when I was walking Mr. Vazquez around showing him the

1 facility. I spent a little time with Mr. Spitzberg but I
2 doubt that I was very seriously -- I may have gone out there
3 a couple of times with him.

4 Q Mr. Spitzberg?

5 A Mr. Vazquez.

6 Q Mr. Vazquez.

7 A I don't think Mr. Spitzberg ever left the office.

8 Q Other than that one visit that we've well
9 established on --

10 A On Monday. I spent the rest of the time with Mike
11 that whole week.

12 Q All right, sir, and now that you've covered the
13 period through the 10th, were you by the pit any time after
14 the NRC inspectors left? And for reference information for
15 you, I'll give you another date that will give you some sort
16 of reference time line, the 11th and the 12th it rained.

17 A Yeah, the 11th and 12th it rained. Okay, I
18 remember seeing the water after it rained, in the pit.

19 Q Okay, sir, now let's back up and ask you a question
20 here. What color was the water at the tie you remember
21 seeing it after the rain?

22 A I do not remember seeing any yellow water, sir, if
23 that's your question.

24 Q That was going to be my question, yes. Okay, then
25 Mike, I guess my next question is what water did you observe,

1 if you were there after the rain, what was its color?

2 A Clear and muddy, so to speak.

3 Q Clear and muddy.

4 A Depends on where it was standing.

5 Q Clear and muddy, depending on where it was
6 standing.

7 A Yes, sir.

8 Q Did you have any observations on this or did anyone
9 solicit your observations while you were looking at it, the
10 rain water?

11 A I remember asking what we were doing about it and
12 somebody telling me that it was being sampled and/or pumped -
13 - being taken care of. They were getting it out of there
14 because you couldn't work in there. It was a slip hazard --
15 you just don't like to work in water, it's just bad news
16 anyway.

17 Q Sampled --

18 MR. SHAPIRO: Sampled and pumped?

19 THE REPORTER: Mr. Nichols, you're going to have to
20 speak up because it's very important I hear you.

21 THE WITNESS: Okay. It was being sampled and/or
22 pumped.

23 MR. CHAPMAN: Is there such a thing as an amplifier
24 that would amplify his voice? I'm serious.

25 MR. SHAPIRO: I don't have one. Maybe you can pick

1 one up for us on your way back to the airport.

2 THE WITNESS: (Moving the microphone.) Will that
3 help?

4 THE REPORTER: Just speak up, for your own good
5 it's very important.

6 THE WITNESS: I'll try to speak up.

7 THE REPORTER: I'm ready. Sorry about this
8 interruption.

9 MR. CHAPMAN: That's fine. Keep in mind, Mike, you
10 do need to keep your voice up like he says, it's very much in
11 your favor that we get all the information down. →

12 BY MR. CHAPMAN:

13 Q Okay Mike, after the rainwater -- you mentioned it
14 was being sampled and I want to get back to the sampling here
15 in a few moments, but I want to continue on with this frame
16 of the questioning and that is, that's now the 13th, that's a
17 Monday after it rained. Were you by the pit any time after
18 the 13th up until the 22nd?

19 A I'm sure I was, I can't give the exact dates. We
20 were still in the middle of a what we call turn-around, an
21 outage, and I was spending predominantly most of my time
22 covering those jobs.

23 Q Even though the SX project was one of the largest
24 projects on site?

25 A It may have been the largest, but as far as a

1 health physics standpoint it was not more intensive. Once we
2 got past the hexane problem, I then had to worry about -- we
3 were taking equipment apart, pulling beams, major beams out
4 of the facility. We still had the DUF-4 facility where we
5 were working on. It was a minor -- became a very minor part
6 of my activities, to be exact.

7 Q Okay, once the hexane problem was somewhat under
8 control, this was -- what you're telling me is this
9 excavation became a minor -- I think that's the term you used
10 -- minor area of concern?

11 A A minor part of my activities, let's put it that
12 way.

13 Q Not to belabor the issue but would it be a fair
14 observation then that since that's the 13th and we're up to
15 the 22nd, you were not -- you didn't observe any yellow water
16 during that period of time?

17 A No, sir, I did not.

18 Q Okay, even though you were by the pit probably on --
19 -- were you by the pit on occasions between the 14th and the
20 22nd?

21 A I'm sure I was by the pit, yes, sir.

22 Q Just so that I have the record clear and for
23 information, when you were by the pit, you know that I'm
24 talking about observing inside the pit and not merely
25 strolling by the pit without any type of observation. You do

1 understand that's the context that I've been asking you these
2 questions?

3 A My typical activities would be to go out there and
4 talk to Mr. Barrett or Mr. Simeroth, or the technician in
5 charge, ask how things were going. The contractors at that
6 time, during some of this period of time, were putting forms
7 up. I inspected, on at least one occasion when they were
8 putting the top level to make sure they were wearing the
9 right equipment, trying to make sure that they weren't going
10 to be hurt because they were working some 15-20 feet off the
11 ground. →

12 Q Are you aware that sometime during the week that
13 Mr. Vazquez and Mr. Spitzberg were here, that water was being
14 barreled out of this excavation?

15 A I remember the sewer water was being picked up to
16 an extent, and what I assumed to be water from the safety
17 shower leaking in the condensate line was being picked up.

18 Q All right, sir.

19 MR. SHAPIRO: By picked up, do you mean barreled?

20 THE WITNESS: I'm sure it was, that's pretty
21 common. We don't like to leave water laying around. It's
22 just a bad habit, you just don't do it.

23 BY MR. CHAPMAN:

24 Q Do you have an indication or did you inquire as to
25 the volume of water the sewer and/or the shower placed into

1 the bottom of the pit?

2 A No, sir.

3 Q How many barrels did you -- let me back up, Mike.
4 You say you observed some water barrels and it's your -- I
5 guess your impression or your understanding that they were
6 picking the water up out of the pit as a result of this sewer
7 line breaking?

8 A The sewer line and the other line, yes, sir.

9 Q Was there -- how many barrels do you recall being
10 out there?

11 A I remember seeing 10, 15, maybe 20 barrels over ~~by~~
12 the heat exchanger over there. As to how many were full or
13 not, I don't know, because when they do that, they usually
14 take a truckload over there, so if they were filling one
15 barrel or two barrels or five barrels, they would take a
16 bunch of barrels over there and use them for that.

17 Q Okay. So to your knowledge, they were not drumming
18 any other water out of that pit other than the shower stall
19 or during any of your visits by there after the 10th, did you
20 notice any more barrels or -- maybe I should ask you, did you
21 have any information about water being pumped out of the
22 excavation into barrels?

23 A I did not know that Mr. Kiehn or anybody was
24 pumping water that was coming up out of the ground into those
25 barrels, and that's why he was doing it. No, sir, I did not

1 know that.

2 Q Mike, I haven't mentioned Mr. Kiehn's name in
3 connection with the barrels. Why would you bring up Mr.
4 Kiehn?

5 A Because in the last -- that came from reading my
6 earlier testimony.

7 MR. SHAPIRO: I think he subsequently got
8 information that Bob Kiehn had been doing some barreling, but
9 you're saying you didn't know it at the time?

10 THE WITNESS: No, sir.

11 BY MR. CHAPMAN:

12 Q Okay, Mr. Nichols, would I be correct in my
13 assessment that you did not know the contents of those
14 barrels out there at the edge of the pit?

15 A I assumed that it was the water from the sewer line
16 and from the other line.

17 Q You assumed that it was the water. Did you know
18 specifically what was in those barrels?

19 A No, sir.

20 Q Did you inquire of anyone what was in those barrels
21 and their function there?

22 A I asked if they were getting the water up from the
23 shower or whatever it was or from the sewer, I saw the
24 barrels and I made an assumptions that's what they were
25 coming from.

1 Q So to be correct in my view of what you're telling
2 me, you made some assumptions but you actually do not know
3 for a fact what was contained in those barrels?

4 A If you put it that way, no, sir. I just assumed
5 that that's what was going into them because that was the
6 water I had seen in the pit.

7 Q In connection with these barrels, Mr. Nichols, were
8 you aware of the subsequent number of barrels that were
9 collected as a result of pumping the water from this
10 excavation prior to the notification to the NRC on the 22nd?

11 A No, sir. →

12 Q No one ever advised you of the volume of barrels
13 being collected out at the edge of the pit?

14 A No, sir.

15 Q Did you happen to observe the volume of barrels
16 being --

17 A Like I said, I saw some barrels over there that
18 were -- 10, 15 barrels, maybe 20.

19 Q As of the time you came on the 22nd and you were
20 down there making an inspection with some of the other
21 Sequoyah Fuels personnel, after it hit the fan, as you speak,
22 did you happen to observe the volume of barrels, in the
23 number of quantities -- the number of barrels sitting out
24 there is what I'm trying to say.

25 A I don't think the barrels were sitting next to the

1 pit, so to speak, Larry, I think they were quite a distance
2 away, over by the -- out of sight. Not out of sight, but
3 quite a ways off. After the 22nd, we started asking all
4 kinds of questions trying to find things out, what's really
5 going on here. And as far as the number of barrels, we
6 started talking to Mestepey and --

7 Q So you want to say that up to the 22nd, you did not
8 know the number of barrels or the volume of water coming out
9 of that pit?

10 A No, sir.

11 Q No, sir, you did not know?

12 A I did not know. I mean, I thought I knew until the
13 22nd, and then I found out different, that I was wrong.

14 Q Okay, Mr. Nichols, so what you're telling me is
15 that up till the 22nd, prior to that date, to your knowledge,
16 there was no contaminated water being collected from the
17 bottom of that pit, yellow water, as we've somewhat
18 identified it, being placed in to barrels?

19 A There had been some numbers that somebody -- I had
20 asked about the levels of the water, as far as amount of
21 uranium in the water, because it had been sampled. That's in
22 my other --

23 Q Well I understand that.

24 A Okay, and it was always --

25 Q We're going to get to the values, but my question

1 is you're indicating to me you didn't have a connection
2 between any contamination of the water in the excavation and
3 being placed in the barrels. The only water you thought was
4 going in the barrels was shower something water and sewer
5 pipe water.

6 A Right.

7 Q So I'm not ready to make a correlation between why
8 you'd be sampling shower water and sewer line water.

9 A That's the kind of water I thought was being pumped
10 in there, yes, sir.

11 Q And back to my question, Mike, to the best of your
12 knowledge then, based on what you've told me, you were not
13 aware that they were pumping any yellow contaminated water
14 from the SX excavation to barrels?

15 A No, sir.

16 Q Okay. Now you've kind of launched into another
17 area that I was interested in. In our previous discussions,
18 you indicated to me that you had heard that there was samples
19 being taken on water at the SX excavated area.

20 A Yes, sir.

21 Q And not to put words in your mouth, please make
22 sure you stop me at any time. In our previous discussions,
23 you indicated that to your knowledge, they were low volumes
24 or low values in this water.

25 A Yes, sir.

1 Q And you heard these early on, as I understood you
2 telling me, because one of my questions back then was -- I
3 heard there was water there, I inquired of Bob Kiehn and I
4 heard of low values, and you and I specifically discussed an
5 August 1 lab report of .02.

6 A Okay.

7 Q It's documented here for us.

8 A Okay.

9 Q Now in that connection, Mike, why would you tell me
10 you had no knowledge there was any contaminated water coming
11 out of that pit going into barrels when you were discussing
12 low values of contaminated water affecting that excavated
13 area?

14 A The .02 is water that is dischargeable, it's below
15 regulatory limits, so to speak. Okay? It could come from
16 surface, if it's very low amounts of water, it's something
17 that is -- it's just not a concern. Of course any
18 contamination is a concern, but it's of amounts that I think
19 you could discharge to the environment without any permits or
20 anything.

21 Q So this early water that you understood had low
22 limits, as far as you were concerned they were discharging it
23 onto the ground or anywhere they wished?

24 A Well I had understood that Jim I think had
25 discharged the first ones and then --

1 Q Jim?

2 A Mestepey. And then had started collecting it
3 afterwards.

4 Q Collecting it where?

5 A Into barrels.

6 Q Why would Jim Mestepey be collecting water into
7 barrels if it's sewer water and shower water?

8 A They typically do that, we do that quite a bit
9 around here. To be conservative, taking the conservative
10 approach to something.

11 Q So now are you trying to make a correlation, so I
12 understand, between what Jim Mestepey's barreling and the
13 shower water and the sewer water you knew out here -- that
14 you saw being put in the barrels, or assumed I should say,
15 I'm sorry, being put in barrels?

16 A No, I'm just saying that Jim had the first couple
17 of batches of water, it had shown to be very little, and he
18 had just sent it to the combination stream, so to speak.

19 Q Say that again for me, Mike, I'm sorry.

20 A He had sent them -- he had discharged the water
21 because it was so low, there was no problem with it.

22 Q You know for a fact he discharged this water on the
23 first to the combination stream?

24 A I asked him or he told me or something, that the
25 first couple he didn't find anything in, it was like .01,

1 .02, some very low level, below MPC levels, that could be
2 discharged, and he had done that.

3 Q Who is telling you this?

4 A Either Jim Mestepey or one of the operators, that
5 the water -- he gave me a feeling yeah, there's not a problem
6 with the water, it is below standards, it can be discharged,
7 it's not a contamination problem.

8 Q Okay. So now you're telling me, Mr. Nichols, that
9 early on you had a conversation with Jim Mestepey regarding
10 the water coming out of this excavation and it had very low
11 levels of contamination in it. And furthermore, you're
12 telling me that in this conversation it was discussed the
13 fact that it could now be discharged out onto the ground or
14 the combination stream?

15 A I think it may have been after he did it that I
16 found out about it, I just know that he did it, because I
17 remember I asked the numbers and was told that it was very
18 low, and then I either found out immediate after he did it --
19 I'm not sure, I cannot tell you if it was before or after,
20 but I know he did discharge the first amount of water we
21 found out, to the combination stream.

22 Q Which is before the shower stall broke -- the sewer
23 line broke?

24 A The sewer line, I think this would have been after.
25 The sewer line broke on like the fourth -- is that when we

1 determined?

2 Q Yes, sir.

3 A I think it would have been after.

4 Q That he discharged these levels, or you had your
5 discussion?

6 A I think both.

7 Q Both?

8 (Brief pause.)

9 MR. CHAPMAN: Let's take a break. We'll go off the
10 record at eight minutes after four.

11 (A short recess was taken.)

12 MR. CHAPMAN: For the record, after a short break,
13 it's now 4:24 p.m. and we're now back on the record
14 continuing our interview with Mr. Michael Nichols.

15 BY MR. CHAPMAN:

16 Q Mike, we were in the process of discussing to some
17 degree the values associated with your first knowledge that
18 the water from the SX excavation area contained any
19 contamination was early sample results taken by someone in
20 your Operations or Engineering, which had a value of
21 something in the neighborhood of .02 grams per liter. Am I
22 correct or incorrect?

23 A That's about .02, .01 there somewhere. .02, .01,
24 somewhere in there. It was real low.

25 Q I'm not sure -- I've lost my train of thought to

1 some degree. Did you understand that those values were being
2 associated with water at the SX excavation, even though they
3 are low?

4 A Yes, I understood that that was the water that was
5 coming from the drain line or the sewer line or wherever.

6 Q So, you're now -- let me make sure that I
7 understand you. Your impression and your understanding was
8 that this water was the result of the drain line or the
9 shower line breaking?

10 A And possibly the rain. I'm not sure when that fits
11 in there.

12 Q Possibly the rain that occurred on the 11th and
13 12th?

14 A Yeah -- I'm not sure. I just remember that the
15 conversations I had with the people after -- the several
16 times that I asked about it, I was always told that it was
17 .01 and .02. .04, I think, was the highest that I ever
18 heard.

19 Q .04 was the highest you ever heard?

20 A Yes, and that was -- and the order of those, I
21 really can't give you at this point.

22 Q Okay.

23 A I just remember every time I asked that I was told
24 --

25 Q Every time you asked, you were told what?

1 A That the numbers were low -- in that range. I
2 didn't ever remember hearing anything that would get me
3 concerned about it.

4 Q Who all did you ask? And if you can, when did you
5 ask?

6 A That's going to be a tough one. I remember Jim
7 bringing it up a couple of times -- Mestepey. The numbers
8 that he had. I think I remember discussing it with Ken
9 Simeroth one time. Besides that, I think -- Bob Kiehn keeps
10 coming up in my mind, but I'm not sure if I asked him, or if
11 the numbers came from him -- at this point. →

12 Q So you're not real certain -- since you've mixed in
13 the date of the sewer line breaking on the 4th and the rains
14 on the 12th, you're just not absolutely certain when you
15 first heard of the low values of .02 or .01 range?

16 A No. All I can really remember is checking on the
17 water that was in there and getting numbers that sounded very
18 reasonable and very low.

19 Q Okay.

20 A You've got to remember, Larry, that -- I'm not
21 saying the job was not important to me, and I didn't mean to
22 say that earlier, but with all the other things we had going
23 on, I had staff, I thought, handling it so to speak. I had
24 at least one technician and my only supervisor keeping track
25 of it. I concerned myself with the in-plant items. The

1 handling of sulfuric acid and the hydrochloric acid and the
2 amounts of uranium in there.

3 Q You had a health tech and a supervisor, I believe
4 you said, taking care of it and taking care of "it" being?

5 A Providing supervision for it.

6 Q Before you forget, Mike, I need to know what "it"
7 is.

8 A For the health and safety activities out there at
9 the excavation pit.

10 Q Am I now to assume that in your taking care of it,
11 that there are also concerns of radiological aspects? →

12 A Yes, sir.

13 Q And to your knowledge, prior to the 22nd, do you
14 recall any of these individuals coming in and expressing any
15 concern to you?

16 A No, sir, I do not.

17 Q None of your health techs or -- the supervisor, can
18 we identify him a little more?

19 A Ken Simeroth.

20 Q Ken Simeroth?

21 A Ken Simeroth did not say anything to me at any time
22 about yellow water.

23 Q About yellow water -- did he express any values to
24 you? Now keep --

25 A No, sir.

1 Q -- in mind, I'm addressing before the 22nd of
2 August.

3 A No, sir, he did not.

4 Q Okay. Now, Mike, I'm going to make an
5 understanding that you know some information on the 17th
6 though Mr. Chilton and Mr. Lacey, and I'm not going to try to
7 use this time frame you put you in a trap on that issue. I'm
8 strictly talking about the pit and your knowledge of the pit.

9 A Okay.

10 Q Because I believe, if I'm correct, that although
11 we've now somewhat established through your testimony that
12 you may not have been aware of any -- according to your
13 information, any -- for lack of a better word, elevated
14 levels of uranium, and you've used yourself some values that
15 are allowed be discharged to the combination streams.
16 There's a cutoff point in your mind and this cutoff point
17 would be a value of what?

18 A It would be .045.

19 Q .045?

20 A Grams per liter.

21 Q Grams per liter. That cutoff value means?

22 A That means you could discharge it to the
23 environment. It's considered to be an MPC level.

24 Q Less than .045?

25 A (Nodding head affirmatively.)

1 Q And anything higher than .045 must be controlled to
2 some degree?

3 A Right.

4 Q I'm going to take off just a small area in this and
5 then try to come back to what I was originally moving toward.
6 Why would you be cognizant of the value of .045? Is that
7 something in your area of concern or a regulation that
8 directly affects your department?

9 A 10 CFR 20 defines MPC, national permissible
10 concentration, value for uranium of so many microcuries per
11 cc and when you transport -- when you go from -- that's --
12 radioactivity per cc of water. And when you convert that to
13 grams per liter, it comes out .045.

14 Q .045?

15 A (Nodding head affirmatively.)

16 Q Okay, I'll take your word for that. I'm sure
17 that's absolutely correct.

18 Are you aware of a --

19 MS. SHAPIRO: It's a number that we've been using.
20 We've been using it in micrograms but it's 45,000.

21 MR. CHAPMAN: Yes, it's either 45,000 micrograms
22 per liter or .045 grams per liter.

23 MR. SHAPIRO: Right.

24 BY MR. CHAPMAN:

25 Q Do we agree those are both identical?

1 A Yes, sir.

2 Q As you are looking at the board with some notations
3 up there, you see a notation of 225 micrograms, which is, as
4 I understand, if my mathematics are somewhat correct, would
5 be .0025 grams per liter, three zeroes in front of the 25.
6 Does that sound reasonable to you, sir?

7 A Yes.

8 Q Sir? Speak up.

9 A Yes.

10 Q Now what do you know -- that 225 micrograms per
11 liter, does that number have any significance to you? →

12 A It does now. It means that's the environmental
13 action level for soil.

14 Q Did it have a meaning to you back in the period of
15 time of August?

16 A No, sir, it did not.

17 Q You didn't know about 225 micrograms per liter as
18 an action level at Sequoyah Fuels?

19 A No, sir. That's -- is that grams per liter or
20 micrograms per gram?

21 Q No, sir, that 225 is micrograms per liter.

22 A Okay.

23 Q Which in a grams per liter equation is .0025.

24 A Is that out of a license?

25 Q Sir?

1 A I assume that's out of a license?

2 Q Yes, sir, it is out of the license.

3 A It's an action level.

4 Q An action level.

5 A It means you should look at it.

6 Q Yes, sir.

7 A That's kind of self imposed, as I understand it
8 now.

9 Q You're giving me a lot of information here and I
10 guess I'm going to get around to asking you, did you know all
11 of this information at the time --

12 A No, sir.

13 Q -- this matter was going on?

14 MR. SHAPIRO: He's answered that already.

15 MR. CHAPMAN: I know, but he keeps adding data to
16 it.

17 THE WITNESS: I've done a lot of research since
18 then, sir. I've read up on it and tried to learn everything
19 I could about it.

20 BY MR. CHAPMAN:

21 Q As the Manager of Health, Safety and Environment,
22 is this not an area of your concern since you have the
23 responsibility for environmental releases or values effecting
24 environmental?

25 A Yes, sir.

1 Q Are you responsible for reviewing the license
2 condition at that time frame regarding these action levels so
3 that your department would be prepared to take the
4 appropriate --

5 A Well, I think -- I mean -- I'm sorry to interrupt
6 you. Go ahead.

7 Q I asked my question. I think I -- as the manager
8 in charge at that time of this incident or action here,
9 environment was directly your responsibility?

10 A Yes, sir.

11 Q And as such, these values are directly the
12 environmental values established by Sequoyah Fuels and --

13 A It's an action level.

14 Q As an action level. I'm not arguing. I just
15 merely ask, as a manager of this department did you know
16 about it and I guess my next question is why didn't you, if
17 you're in charge of the department?

18 A This was a thing that had been put in the license
19 and there weren't very many people who did know about it.

20 Q Well, as Manager of Health, Safety --

21 A I was --

22 Q -- Environment, this is an area of your direct
23 concern.

24 A No, sir, I was not aware of it.

25 Q Okay.

1 A And I'll be honest with you, to this date there
2 still is a debate going on as to whether it applies to
3 restricted area or not. I'm not saying that it shouldn't,
4 but a restricted area, as defined in 10 CFR 20, is for the
5 purposes of containing radiation --

6 Q I'm sorry. Say that again.

7 A I said if you looked at the definition of a
8 restricted area, it's for the purposes of containing
9 radiation and radioactive material, okay. There is quite a
10 debate going on now as to that number, the 225. It's a big
11 matter for the health physicists. This is --

12 Q I won't argue that with you, Mike. I won't argue
13 what's going on now. I'm just trying to establish what
14 occurred then. There's all kinds of discussions and
15 unhappiness over --

16 A Yeah.

17 Q -- and difference of views between the NRC and
18 Sequoyah Fuels and other parties. But what I'm trying to
19 understand is, when you had values of .002 brought to your
20 attention, or .001, I believe you said, from samples out here
21 at this -- what I'm getting from you is, you had -- this 225
22 micrograms was not a value that you associated with that and
23 would not have had a concern because --

24 A Could we stop for a second?

25 MR. CHAPMAN: Certainly.

1 Let's go off the record for a moment.

2 (Brief pause.)

3 MR. CHAPMAN: Back on the record.

4 BY MR. CHAPMAN:

5 Q Okay, Mr. Nichols, you went and reviewed something
6 in the license.

7 A Table -- I reviewed Table --

8 THE REPORTER: I'm sorry?

9 THE WITNESS: I reviewed Table 51.

10 BY MR. CHAPMAN:

11 Q What was your concern in reviewing Table 51 that
12 you've now satisfied yourself about?

13 A Well, I -- like I said, I work with a lot of
14 numbers every day and I knew the 225 was right. I just
15 couldn't remember whether it was micrograms per liter or
16 micrograms per gram.

17 Q It is now micrograms per liter -- you're satisfied?

18 A Right.

19 Q Okay, sir. This is a recap, you're -- the amount
20 of contamination that triggers it in your mind was the 45,000
21 micrograms per liter, which is out of the 10 CFR --

22 A 20.

23 Q 10 CRF, Part 20.

24 A Right.

25 Q I might as well get it on the record because you'll

1 probably bring it up later for me. We have a difference in
2 the amount of MPC, which stands for...

3 A Maximum permissible --

4 THE REPORTER: I'm sorry?

5 THE WITNESS: Maximum permissible concentration.

6 BY MR. CHAPMAN:

7 Q There's a different value for unrestricted area
8 versus restricted area?

9 A Yes, sir.

10 Q I'll let you take this opportunity to tell me your
11 knowledge of the values that apply to restricted areas
12 release versus non-restrictive.

13 A 1.5 grams per liter.

14 Q And that comes from?

15 A 10 CFR 20.

16 Q 10 CFR part 20?

17 A Yeah.

18 Q Okay. We want to get that on the record, so that
19 when you talk values to me and you make reference to these
20 restricted versus unrestricted, we'll have something to apply
21 them to.

22 Now, Mr. Nichols, in light of the fact that we have
23 some discussions of contaminated water out there, your first
24 observation being the 22nd, I understand that prior to the
25 22nd, you had some indication that there could possibly be

1 elevated levels of uranium contained in water that was in the
2 excavation area, specifically around the 17th of August, is
3 that correct?

4 A Mr. Lacey came to see me on the 17th and said that
5 he had heard -- it's in my transcript -- he had heard that
6 there was some elevated levels. And I asked him, "what are
7 you talking about? He said he "had heard", so we called up
8 the Environmental Lab --

9 Q Yes, sir.

10 A -- and we asked them and they didn't have anything.
11 Carol was gone, so I took the liberty of going to -- looking
12 in Carol's in-basket, looking -- she keeps a notebook. I
13 looked through her notebook and looked through her desk and
14 checked the mail trying to see if there's anything -- any
15 validity to what he said because Lee could not tell me at the
16 time where he heard that. So, we searched and couldn't find
17 anything.

18 Q So either you searched in Carol's desk or you
19 contacted the Environmental Lab -- Sonny Eidson?

20 A Yeah, Sonny confirmed the only numbers he had were
21 the lower numbers below the .045.

22 Q Did you receive any information that would give you
23 values associated with these elevated readings on the 17th?

24 A No, sir.

25 Q When was your first understanding of any values

1 placed on the discussion you had with Mr. Lacey?

2 A (No response.)

3 Q Mike, what I'm saying is, when was your first
4 knowledge of the values expressed to me of numbers of one to
5 eight grams per liter? When did you first learn of these
6 values associated with this excavation area?

7 A I want to say the 21st or the 22nd, after Lee got
8 back.

9 Q Did you happen to look at the lab reports yourself
10 at that time that showed these values? Do you recall?

11 A I remember talking -- I had a conversation with ~~Lee~~
12 that morning and asked him if he was sure about what he was
13 saying and he said yes. And at that time, I started -- I got
14 hold of Mr. Simeroth and I got hold of the technicians and we
15 started -- as you guys said in the last interview, I had to
16 cover my ass. We started looking at things trying -- you
17 know, what did we miss, where did we miss it, how did we miss
18 it, what do we need to do to make sure things are right.
19 What have we got to do here?

20 MR. SHAPIRO: Are we still on the 17th?

21 THE WITNESS: No, we're on the 22nd.

22 BY MR. CHAPMAN:

23 Q Let me ask you a couple of questions that might
24 help identify some things. Mr. Mestepey was also out of the
25 facility during a period sometime around the 16th through the

1 early part of the 20th. He called a meeting together on the
2 20th upon his return. Were you present at that meeting?

3 A Yes, sir.

4 Q Were there any specific discussions of value at
5 that time in that meeting?

6 A The meeting -- as I recall, we were discussing the
7 French drain.

8 Q I'm sorry?

9 A He wanted to discuss the French drain.

10 Q Did he express -- Mr. Mestepey that is -- did he
11 express any concerns over the level of uranium out there in
12 the excavation during that meeting?

13 A He -- we talked about the French drain going in and
14 the contaminated rock going into it. The fact that the
15 contaminated rock would be washed into a sump -- into a tank
16 and sampled before it was discharged. That was mine and
17 Carol's concern and --

18 THE REPORTER: I'm sorry, but I can't hear you.

19 THE WITNESS: That was mine and Carol's concern.
20 We did not want to see just rock put in that could go any
21 where. So we talked about cleaning up the rock. We felt
22 that we could get rid -- kill two birds with one stone. We
23 could get rid of the contaminated rock and put it -- rather
24 than ship it off as waste. At the same time, we could wash
25 it out and collect the contamination and it could be shipped

1 off. That's what the meeting was about.

2 BY MR. CHAPMAN:

3 Q On the 20th? Now you understand that I'm talking
4 about August 20th?

5 A I don't have the exact date. It's close to there.

6 Q Upon Mr. Mestepey's return?

7 A Right.

8 Q Okay. The reason I asked that question is because
9 you indicated to me that you didn't learn the values,
10 particular values, associated with the contaminated water in
11 the excavation until sometime around the 21st or 22nd. →

12 A Yes, sir.

13 Q And I want to understand that you were not made
14 aware of these values in any meetings that Mr. Mestepey
15 conducted on the 20th; consequently, you didn't try to locate
16 this date until the 21st or 22nd?

17 A Right.

18 Q Do you understand what I'm trying to say?

19 A Yes, sir. It was -- I think Lee came back on the
20 21st and that's when I -- the next morning is when I heard
21 about it.

22 Q I'm trying to understand why you delayed looking up
23 this data. It's simply that you were not made aware of it
24 until Lee returned on the 21st?

25 A Yes, sir.

1 Q Now, Mike, just so that I understand, between the
2 first low values that you heard, .02 to .01, as we've
3 discussed, between that time frame and up until you discussed
4 it with Mr. Lacey on the 21st, you had absolutely no
5 indication nor no values associated of elevated levels of
6 uranium concerning the SX excavation area?

7 A No, sir, the -- I had a hint of it on the 17th,
8 which we did a search, couldn't find anything. Lee was
9 supposed to go back and try and figure out where he found out
10 about it and he didn't get back to me.

11 Q Lee did not get back to you? →

12 A No, sir. This happened about three or four in the
13 afternoon. If I remember right, it was late in the afternoon
14 when he came to me. It may have been -- it could have been
15 just after lunch but it seems to me that it was in the
16 afternoon when this was going on.

17 Q Also, in connection with that then; you have told
18 me in past conversations that you had no indication through
19 your routine sampling process of any elevated levels of
20 contamination, uranium contamination, regarding this
21 excavation. And I will even go so far as tell you that you
22 made it very clear to me that that included air samples, that
23 included, I guess, soil samples or any type of sampling
24 procedure that you routinely conduct. None of these gave you
25 any indication there was concern for elevated levels of

1 uranium, correct or incorrect?

2 A Correct. We -- the restricted area is a
3 contaminated area, okay.

4 Q Granted.

5 A I'm not trying to say or bullshit somebody there's
6 no contamination out there because there is. We didn't see
7 anything that would give us any indication -- or I didn't
8 know of anything that would give us any indication of this
9 one to grams we're talking about in the water.

10 Q Okay. In light of that, would you give me the
11 routine precautions you were taking which gave -- that you
12 reviewed yourself, or that your staff reviewed with you,
13 which gave you complete confidence that there was nothing of
14 an elevated nature out there?

15 A We pulled air samples.

16 Q Do you recall the dates that you pulled those air
17 samples, sir?

18 A I want to say the 3rd and the 4th. I believe
19 that's right.

20 Q I believe you're correct.

21 A We pulled about 20, which was at the time they were
22 moving the actual dirt, stirring it up. If they were going
23 to have any, that would be the time that you would get it,
24 when it was stirred up. We didn't see any indication. The
25 highest we had there was like a .2 MPC, which is very, very

1 low.

2 We had been surveying the equipment and people
3 coming out. In fact, Mr. Vazquez had -- was that before when
4 he did that? Anyway, we had surveyed people coming out. We
5 had frisked people. We had a stepoff pad added, but the
6 stepoff pad was not for contamination concerns. I had made
7 that decision to keep the guys from killing themselves
8 because shoe covers are very, very dangerous on a slippery
9 tank.

10 Q You made a decision to put the stepoff pad out
11 there because shoe covers are very, very dangerous. What's
12 the correlation between a stepoff pad and shoe covers?

13 A A stepoff pad is where you change shoe covers at.
14 If you come up to the stepoff pad in the plant, that means
15 you change shoe covers.

16 Q I guess, Mike, I'm a little confused as to what a
17 stepoff pad would have to do with shoe covers being very
18 dangerous on a tank.

19 A Okay. What we --

20 Q You say, "I made the decision for safety", why?

21 A What we did was, we allowed the people to work on
22 the tanks, just people on the tank, not down in the pit,
23 without shoe covers because they were slick. You're walking
24 on stainless steel.

25 Q In their street shoes or whatever they had on?

1 A Yeah. I was afraid somebody would get hurt.

2 Q And the stepoff pad would allow them to come off
3 the tank onto an area to put back on or take off shoe covers?

4 A To keep somebody from getting hurt, yes, sir.

5 Q How does the stepoff pad have a direct bearing on
6 insuring that there's not elevated levels of uranium? I
7 missed that.

8 A What I'm saying is, we felt there wasn't enough
9 contamination -- we felt that we could do that. If we had
10 felt that there was a lot of contamination, I would never
11 have done that. →

12 Q Now, how do you -- "we felt", how does "we felt"
13 equate to my assurances that we didn't have contamination?

14 A Okay, that's from the surveys we were getting from
15 people coming out of the hole, surveying with meters, et
16 cetera, as they came out. And then, bringing shovels out and
17 equipment, we weren't finding any contamination of enough
18 significance to warrant --

19 Q Okay, people coming out of the hole, where were you
20 surveying them?

21 A Usually at the hole, but not all the time.

22 Q Usually at the hole?

23 A Yes, sir, we had an HP technician there. We were
24 surveying shovels -- a lot of surveying of equipment was done
25 out there.

1 Q Do you keep records of these surveys?

2 A Probably not. It's like you frisking out -- when
3 you frisk out, or you're coming out, we don't -- we're not
4 required to and we don't record everybody that's frisked out.

5 Q Okay, Mike. I guess in light of this line that
6 you've brought up, that you did some surveys and frisks,
7 or surveys, were people's shoe covers wet when you were
8 frisking them? Are you pretty sure that all of your surveys
9 included when they did finally get into some sort of water?

10 A Pardon?

11 Q I guess what I'm trying to understand here is --
12 maybe I missed something here. You said you surveyed their
13 shoe covers as they came out of the pit?

14 A I say shoe covers, whatever they were wearing. It
15 may have been boots.

16 Q Footwear?

17 A It could be footwear, it could be clothes, it could
18 be shovels, it could have been forms that were coming out,
19 trucks -- we did trucks quite a bit.

20 Q I guess my specific question to you is, since you
21 weren't by there and you didn't talk to everybody, and you
22 didn't keep a record, how do you know that this information,
23 this footwear and all of this equipment is not at elevated
24 levels or is not of concern? There's no record of that.

25 A I asked Mr. Simeroth. I asked a couple of the

1 technicians, are you finding anything? Are we showing any
2 contamination? That's typically how we did it. We asked
3 them -- when we have our meetings like once a week, are we
4 having a problem out there. Is there a contamination problem
5 out there?

6 Q Was it standard practice that Mr. Simeroth have a
7 meter with him capable of surveying this footwear and
8 equipment, shovels, et cetera, et cetera, coming out of the
9 pit?

10 A (No response.)

11 Q You're making some absolute statements here, Mike,
12 and I want to make sure I understand them.

13 A I understand. The conversations I was having with
14 him and the technicians were, are we finding any
15 contamination on any of the people or equipment that's coming
16 out. And it's typically common to have a meter out there. I
17 know I was there specifically when we surveyed some
18 equipment, one of the pickups. It just basic health physics.
19 I mean, if you go out there now, you'll find meters on all
20 the jobs, et cetera. We survey them. Now, as to everybody
21 being surveyed, no, sir, I won't say that happened. What I
22 will say is that the indications I had from my supervisor and
23 talking to a couple of technicians was that we were not
24 picking up any elevated levels of contamination.

25 Q Well knowing what we know now -- and I'm going

1 forward a little bit, knowing that we have specific lab
2 values that you were made aware of after the fact; of
3 interest to the NRC, of course, is the high elevated level,
4 in their opinion, of 8.2 grams per liter which occurred on
5 the 7th of August 1990. I'm not saying that you knew that
6 value at that time. So that I will understand how your
7 instrumentation works, is this a level high enough than an
8 instrument should be able to detect elevated levels of
9 uranium if a person was surveyed?

10 A If it had dried on there, probably so, yes.

11 Q Just for informational purposes, what difference
12 would it make if it was dry or not?

13 A Well, when it's wet, it shields it.

14 Q Wet shields it?

15 A Yes, sir.

16 Q Now you're -- so I understand, Mike, what you've
17 telling me is if they surveyed somebody with wet shoe covers
18 the meter is not going to pick them up?

19 A I understand that, but our technicians are trained.
20 For example, when we were doing the forms and things, they
21 were trained not to survey the items that are wet, because
22 they do it shields it. That's part of our basic training.

23 Q When do you survey these shoe covers? Now, I'm not
24 trying -- I'm just trying to understand the procedure as much
25 as anything. The reason I'm asking is, you're giving me some

1 assurances that you have no reason to suspect there's any
2 contamination out there and one of your assurances is that
3 your people are doing surveys. So that I understand how I
4 can have complete confidence that your complete confidence is
5 vested -- for me to be vested in, I want to understand
6 exactly what took -- transpired at the pit. And the reason
7 I'm asking you this is because this is what you're saying
8 your knowledge of what transpired out there was. I'm not
9 asking you to attest to how they did it. You're indicating
10 to me that the shoe covers must be dry for the meters that
11 they would have out there to indicate a value. And the
12 reason I ask this question, Mike, is because my information
13 is these individuals walked out of the pit in their muddy
14 shoe covers and went to the change room and deposited their
15 shoe covers.

16 A Sometimes -- was it wet shoe covers or wet boots?

17 Q Well, either one. It makes no difference. We
18 describe them as footwear -- wet boots or wet shoe covers.

19 A Okay.

20 Q Whether you put a wet boot in here in the frisk
21 room or you put a wet shoe cover, how do we know between the
22 time they left the pit and they came here --

23 A Larry, obviously we cannot -- let me see how to put
24 this. Obviously, I can't sit here and say that we surveyed
25 the stuff that was wet because that would give an erroneous

1 signal.

2 Q Okay.

3 A But my supervisors and my technicians know enough
4 to look at a person's coveralls, shovels that they're working
5 with, equipment that they're working with and get a feeling
6 as to whether we're seeing elevated levels or not. And
7 that's what I discussed with Mr. Simeroth.

8 As far as contamination, typically when we work in
9 a restricted area, the place for frisking is in the change
10 room. That's just how it's designed, for people to come up -
11 - and some of them are contaminated. They are supposed to
12 come up and shower and change clothes or whatever, frisk and
13 go out. That is the area. I know we were doing some at the
14 hole. I know we were doing some pickups out there. In fact,
15 some of the trucks were surveyed there and then surveyed
16 again at the gate. We discussed that in our departmental
17 several times. I was out there a couple of times and I said
18 have you checked this truck. Just for my own information, I
19 can remember asking. And that's the information I had.

20 Q I agree with you, Mike, and I'll grant you that
21 you're telling me that everything that your indications were
22 before you made an absolute statement about survey values, I
23 need to know how you derived that information. I want to
24 make sure that I understand correctly what's transpiring out
25 there and what information you're receiving. As I've

1 indicated to you, some of the information has come to me, via
2 contractors and otherwise, that they weren't surveyed coming
3 out of those pits. Now, you're indicating to me that
4 basically your folks out there were surveying.

5 A I --

6 Q I'm trying also to establish a parameter of what
7 your measurable pick-ups -- because I know this is critical
8 to --

9 A I -- I understand. I don't mean to indicate that
10 we surveyed everyone that came out. That's not my point. My
11 point is that whenever they had a truck or something wanting
12 to go out, or a tool or something, or if somebody did want to
13 be frisked or something, we were not finding elevated levels.

14 Q Mike, whenever someone wanted to be frisked --
15 that's not what you really mean. When someone comes to you
16 and asks you to be frisked -- y'all have some procedures to
17 frisk those people, don't you?

18 A Everybody who goes out is frisked. I'm talking
19 about -- let's say it came out of the hole or something, a
20 technician for his own information may want to check
21 something.

22 Q Okay. Now the reason I'm somewhat pursuing this
23 information is, one of the indications you gave me when I
24 talked to you last time was airborne samples don't show
25 everything. This dirt is being moved -- you said we were out

1 there taking airborne samples and if there were contaminants
2 out there, it would be showing up.

3 A At the time we were moving the dirt, yes, sir.

4 Q And you've already indicated to me that at the time
5 the dirt was being moved you didn't see any water. So we
6 can't be sampling water out of dirt. Would that be a fairly
7 accurate statement?

8 A Yes, sir.

9 Q So you took air samples on the 3rd and the 4th? I
10 believe that's the dates that are correct. Which
11 interestingly enough, the 4th is a Saturday. I don't know
12 who took it. Maybe that's just a routine --

13 A He was actually taking it the day we moved the
14 dirt.

15 Q Okay. So it would probably be the 2nd or 3rd?

16 A Yeah, somewhere in there.

17 Q Okay. And that's the last airborne samples I have
18 a record of of your staff ever taking until later in the
19 month of August after the NRC became involved.

20 A The 22nd.

21 Q The 22nd. So I'm trying to understand what
22 assurances Sequoyah Fuels has made, once the dirt stopped
23 being pushed around, with the knowledge, as you have
24 discussed with me, that this is a restricted area known to
25 contain contaminants out there in the ground -- I mean,

1 that's a known. What assurances are Sequoyah Fuels making
2 that the water itself and that the people down in the pit
3 were not being unduly exposed to any contaminations, being as
4 you're not doing any more air samplings? That's why we're
5 into the line of questioning about what are you doing to
6 satisfy the people down there. Then you brought up the fact
7 of wet shoe covers. Of course, for that period of time, the
8 first question that came to my mind is, now you know about
9 wet shoe covers. Are you now having some indications that
10 there's some liquid down in that pit during this period of
11 time?

12 A Sir, I was going by what you had told me was there,
13 okay. I didn't know about it at the time.

14 Q No, Mike, I don't mean to correct you here, but I
15 believe that my indications were that there were liquids down
16 there and you said "not to my knowledge" and then I said
17 "well how do your meters work" and you said "now keep in
18 mind, Mr. Chapman, my meters won't measure wet boots." Well
19 I didn't even -- you're indicating to me during that period
20 of time that you've got some wet boots.

21 A Well we had the sewer water and we had the other
22 water and you convinced me that there evidently was water
23 down there I wasn't aware of. That's something that --

24 Q Okay, so I'm going to take it to mean that the only
25 time you were aware of wet boots now was during the sewer

1 water problem. I'm taking your information and trying to
2 assimilate to me. You weren't aware of any wet boots or wet
3 shoe covers, other than as a result of the sewer line.

4 A The sewer and the shower and the rain and
5 everything.

6 Q Right.

7 A I specifically asked Bob Kiehn about when he went
8 to boots instead of shoe covers and his comment to me was "at
9 the first sign of water" when they busted the sewer line, he
10 instructed people to put rubber boots on.

11 Q He instructed people to wear rubber boots? →

12 A That was his words to me, sir.

13 Q And it wouldn't come as a surprise to you that the
14 contractors I've interviewed said that Sequoyah Fuels didn't
15 tell them to wear rubber boots, they had to take it upon
16 themselves to get those?

17 A I can't comment on that.

18 Q Okay. Okay, Mike, we were discussing the fact that
19 you had assurances, so the summation would be that your air
20 samples you took sometime around the early part of August,
21 second or third, with the results known the third or fourth,
22 the fact that any indications you had of any values out there
23 prior to the 22nd were below release limits, MPC limit, of
24 .45 grams per liter. Your technicians have been assuring you
25 out there that they were making surveys as required, and

1 nothing was showing up of an elevated level, to be of concern
2 to you.

3 A Yes, sir.

4 Q And therefore, your first knowledge of any elevated
5 values which had numerical applications was the 21st or the
6 22nd of August, even though on the 17th, you'd had some hint
7 that --

8 A You're talking about water?

9 Q Yes, sir.

10 A Yeah.

11 Q And I believe it's well documented when I talked
12 with you earlier, you didn't pursue the 17th, you left that
13 to Lee Lacey to take care of, pursue about what information
14 he had brought to you, as far as establishing those values.

15 A I did call the lab, I did go through Carol's notes
16 and try to find out what I could about it.

17 Q Well I agree with you --

18 A Lee couldn't even tell me that he had heard about
19 it for sure. Lee said it was just a rumor, he wasn't even
20 sure that it was a fact. If he had come to me and said yes,
21 I know for sure, sir, I might have taken a little difference
22 stance. But he came to me and he says I think I heard -- I'm
23 not sure where I heard it. And I said all right. And we
24 searched and did not find anything.

25 Q We had a small discussion last time, while we're on

1 the rubber boots issue -- you indicated to me in an earlier
2 discussion that you had assurances that rubber boots had been
3 tested and no levels had shown up, high levels had shown up.
4 And then later, Mike, in a subsequent interview, you weren't
5 sure whether you had had rubber boots tested or not.

6 Now the specific question I have to you is of a
7 certain contractor's rubber boots, by the name of Calvin
8 Taylor. And you are now aware of the fact that Mr. Taylor's
9 rubber boots exited this facility and went off-site and came
10 back, on and off on a daily basis. Do you now understand
11 that occurrence? →

12 A I have heard that. I have questioned my
13 technicians about that and the only technician that knows
14 anything about it said that he saw a pair of boots in the
15 back of the trailer one day --

16 Q Back of trailer or pickup?

17 A I don't remember. And he took one away from and
18 Mr. Taylor got very irate because he took it.

19 Q All right. You're not aware of the fact that
20 Sequoyah Fuels has since surveyed those boots themselves, Mr.
21 Taylor's boots, or the back of his truck or anything?

22 A We have been unable to do that, sir.

23 Q Unable to do that.

24 A We have contacted him. Ira can speak to that. I
25 know the NRC has surveyed it and found it to be below SFC

1 release limits.

2 Q SFC release limits for what?

3 A For release of radioactive material.

4 Q In what, alpha or beta? Mike, I know you're going
5 to play some numbers with me on alpha-beta here and I want to
6 -- I want you to get on record of telling me what your survey
7 indicated.

8 A I would have to read Mr. Vazquez' report again. I
9 believe he did it for beta.

10 Q Now you've made a comment to me that the NRC
11 surveyed and found it below release limits -- is it below
12 beta release limits too?

13 A I need to read his report one more time before I
14 say, but the report he got I believe says that he determined
15 using certain -- I'd just better read his.

16 Q So you're not real sure about your statement? I
17 want to make sure before you throw data at me that -- I'm not
18 an expert in this, Mike, and I don't know beta or gamma, and
19 I don't want to argue with you on that.

20 A Do you have a copy of that 30-page report that he
21 sent us?

22 Q I'll give you a chance to look at it.

23 MR. SHAPIRO: I'm sorry, which report?

24 THE WITNESS: The last one that just came in.

25 MR. SHAPIRO: The inspector's report?

1 THE WITNESS: The inspector's report.

2 MR. CHAPMAN: August 6?

3 THE WITNESS: Well we just got it.

4 (A document was proffered to the witness.)

5 BY MR. CHAPMAN:

6 Q Does it basically say it's below release limits for
7 beta or alpha --

8 A Yes, sir, page 11 says that "In late October 1990,
9 an NRC inspector discovered contaminated equipment and
10 materials in the possession of a contractor who had worked in
11 the SX excavation pit. Contamination was measured with a
12 calibrated, open-window GM survey meter." -- that's beta --
13 "The inspector measured values of 3200 counts per minute on a
14 localized spot on a truck bed, 1400 counts per minute on a
15 broom which the contractor stated was used to sweep some of
16 the liquids that seeped into the pit, and six to eight
17 hundred counts per minute distributed along a conveyor belt
18 that was used in the SX excavation activities. The inspector
19 then made some reasonably conservative assumptions regarding
20 the instrument's response was due solely to beta/gamma
21 activity, detector efficiency and beta-to-alpha ratios to
22 correlate the readings to SFC's license release limits. At
23 the time, the licensee's program for surveying the equipment
24 and materials for release at the restricted area boundary was
25 based solely on on alpha activity."

1 One more paragraph.

2 Q Okay. My question to you was it says below release
3 limits.

4 A "Converting from the assumed beta/gamma activity to
5 an estimated alpha activity, the inspector concluded that the
6 contamination levels were considered below the SFC license
7 release limits."

8 Q As of what date, October 11?

9 A Yes, sir, -- October 1990.

10 Q Were these specific items surveyed by Sequoyah
11 Fuels prior to leaving this site in August of 1990? →

12 A We surveyed -- all I can say is we survey
13 everything that goes out the gate.

14 Q You're absolutely positive on that statement?

15 A Sir, it is our practice to survey everything that
16 goes out the gate, and keep a log of it -- trucks, trailers,
17 everything.

18 Q Can you show me where you surveyed those items and
19 what their values were in August when those items left this
20 site? And I ask you this question as a person in charge of
21 health physics. Would the values assessed in October be
22 lower than the values assessed in August?

23 A No.

24 Q They don't change?

25 A The half-life for uranium is in millions of years.

1 Q So you would have absolute confidence in saying
2 that these values on October 11 would be the values that left
3 here in August.

4 A If it is natural uranium, yes, sir.

5 Q If it's natural uranium.

6 A That's what we deal with.

7 Q When you read this into the record, Mike, I want to
8 understand that that's October and I want to know what value
9 it has on the bearing of August.

10 Now my question to you is did you do beta surveys
11 and are you absolutely sure that that's the values on those
12 items that you surveyed?

13 A We did alpha surveys.

14 Q Why didn't you do a beta survey?

15 A We've been cited for that, for not doing that.
16 It's always been the philosophy and practice in this facility
17 for the last 17 years that if you do the alpha then the beta
18 is controlled because you know the ratio of alpha to beta.
19 Our release limits are set up, in the license, for example,
20 were alpha, and we should have been doing a GM 2, and we were
21 not doing it. We've been cited for that. You've given us a
22 violation for not doing it.

23 Q I haven't given you a violation, NRC has.

24 A NRC has.

25 Q Well my question is why -- you lost me just a tad.

1 I understand what you're saying to me, but I guess my
2 question to you, Mike, is why haven't you been doing the beta
3 surveys if you're required to do them?

4 A We felt --

5 Q We, please explain we.

6 A SFC felt that by controlling the alpha activity,
7 measuring for it, that knowing normal beta to alpha ratio,
8 you would not exceed the beta if you controlled the alpha
9 ratio.

10 Q Is that a given fact?

11 A It has been for the last 17 years. →

12 Q No, I mean is that a given fact in the world of
13 physics, I don't know that.

14 A Yes, sir. It will vary some.

15 Q It will vary some?

16 A Yeah, the ratio will vary from 8 to 20, it depends
17 -- old yellow cake, new yellow cake -- it stays pretty --
18 fairly constant.

19 Q Is that a value that would affect the release
20 limits, 8 to 20?

21 A Not as far as uranium. I mean that was our
22 philosophy. Now Larry, I'm trying to answer you in layman's
23 terms and it's getting difficult.

24 Q Please do because I --

25 A I understand.

1 Q One of the concerns that the NRC has had.

2 THE WITNESS: Can we stop for a second?

3 MR. CHAPMAN: Sure, let's go off the record.

4 (Discussion off the record.)

5 MR. CHAPMAN: For the record, we've had a very
6 extensive off-the-record discussion and I'm not sure the time
7 we went off, but it is now ten minutes to six and we're back
8 on the record. And because there has been some other values
9 and information discussed off the record that we feel may or
10 may not have an important part of the interview with Mike
11 Nichols, it has been agreed to by all parties here that we
12 will terminate this interview for this afternoon and tomorrow
13 afternoon, we will pick up the interview again with Mike
14 Nichols, after having an opportunity to visit with Ira
15 Shapiro or anyone else at Sequoyah Fuels relative to the new
16 information.

17 Before we go off the record, Mike, we're going to
18 officially end this one and pick up tomorrow, I want to ask
19 you if there's anything either of you feel we should discuss
20 prior to closing out this one.

21 (No response.)

22 MR. CHAPMAN: Mr. Nichols, just for simplicity of
23 keeping things kind of orderly and neat as far as the court
24 reporting records, let's end this one by asking Mr. Nichols,
25 have I or any other NRC representative here threatened you in

1 any manner or offered you any rewards in return for this
2 statement?

3 THE WITNESS: No, sir.

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

6 THE WITNESS: Yes, sir.

7 MR. CHAPMAN: Is there anything further you care to
8 add to the record at this time, realizing that you will have
9 an opportunity tomorrow to continue on with this?

10 THE WITNESS: No.

11 MR. CHAPMAN: The time is now five minutes to six,
12 and this interview will be closed.

13 (Whereupon, the interview was adjourned at 5:55
14 p.m., to continue at 1:30 p.m. on Wednesday, March 6, 1991,
15 in the same place.)

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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 Michael Nichols

Docket Number:

Place: Gore, Oklahoma

Date: March 5, 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