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300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:           :
                             :   Docket Nos. 50-329 OM
CONSUMERS POWER COMPANY    :   50-330 OM
                             :
(Midland Plant, Units 1 & 2) :   Docket Nos. 50-329 OL
                             :   50-330 OL
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Quality Inn Central  
1815 South Saginaw Road  
Midland, Michigan 48640

Friday, February 18, 1983

Evidentiary hearing in the above-entitled matter  
was resumed pursuant to adjournment, at 8:40 a.m.

BEFORE:

CHARLES BECHHOEFER, Esq., Chairman  
Administrative Judge  
Atomic Safety and Licensing Board

DR. FREDERICK P. COWAN, Esq., Member  
Administrative Judge  
Atomic Safety and Licensing Board

DR. JERRY HARBOUR, Esq., Member  
Administrative Judge  
Atomic Safety and Licensing Board

## 1 APPEARANCES:

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<u>WITNESS</u>	<u>DX</u>	<u>CX</u>	<u>BD</u>	<u>RDX</u>	<u>RCX</u>
DENNIS M. BUDZIK					
by Mt. Steptoe	12184				
by Mr. Paton		12199			
by Ms. Stamiris		12216			
by Mr. Marshall		12268			
by Chr. Bechhoefer			12274		
by Mr. Paton		12281			
by Ms. Stamiris		12302			
by Mr. Marshall		12308			
JOSEPH KANE					
by Mr. Paton	12312				
by Mr. Steptoe		12321			
DARL HOOD					
by Mr. Paton	12317				
by Mr. Steptoe		12320			
by Mr. Paton	12329				
by Ms. Stamiris		12339			
by Mr. Marshall		12352			

P R O C E E D I N G S

1  
2 CHAIRMAN BECHHOEFER: Good morning, ladies and  
3 gentlemen, as a first preliminary matter the Board has  
4 decided that we will schedule the two weeks of hearings  
5 from April 26th through May 6th, including Saturday, not  
6 including Sunday.

7 At this time we do not want to set the dates  
8 for the future and we can talk about that either in March  
9 or through a telephone conference call. It will depend  
10 in part on the schedules of other cases. So we will set  
11 those two weeks.

12 Since we tentatively have reserved this room for  
13 the first of those two weeks, in any event, that one will  
14 be here probably. I think the second week we will probably  
15 be in this motel also, but I haven't discussed it with the  
16 person who is not here yet this morning.

17 MR. STEPTOE: Speaking for the Applicant, we  
18 certainly prefer this room.

19 CHAIRMAN BECHHOEFER: To the courthouse.

20 MR. STEPTOE: Yes.

21 MR. MARSHALL: Yes.

22 CHAIRMAN BECHHOEFER: Well, I know we have this  
23 room for the first week because, as I say, we tentatively  
24 reserved it earlier in case we needed it.

25 The second week we have not reserved it. The

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1 person supposedly is coming in at 10:00 this morning, so  
2 sometime later in the morning I will check.

3 The March dates are, as we scheduled before, 8th  
4 through 11th, if necessary. If my guess is right, we will  
5 have all or most of the steam generator issue plus the  
6 cooling pond issue. And on this, I guess -- did we grant  
7 you your request to file testimony late on that issue,  
8 the cooling pond issue?

9 MR. PATON: I'm not sure.

10 CHAIRMAN BECHHOEFER: You asked us.

11 MR. PATON: Yes. I'm not sure whether we moved  
12 on that or not, but --

13 CHAIRMAN BECHHOEFER: Well, anyway, we will grant  
14 you that request, but please use express mail so that we  
15 all get it in a couple days before we get back out here.

16 MR. PATON: Yes, we will. We'll file it on the  
17 28th and we'll get it to the Board and all parties as fast  
18 as we can.

19 CHAIRMAN BECHHOEFER: Are there further  
20 preliminary matters before we resume our sequestered  
21 hearing, I should say.

22 MR. PATON: Mr. Chairman, I would like to say  
23 that in light of the Applicant's request that Mr. Kane and  
24 Mr. Hood be excluded from the room, I have asked, as far as  
25 I know, all persons here with the Staff to be very careful

1 not to discuss Mr. Budzik's testimony with either Mr. Kane  
2 or Mr. Hood; and I have asked Mr. Kane and Mr. Hood to  
3 make sure that no one discusses Mr. Budzik's testimony  
4 with them.

5 CHAIRMAN BECHHOEFER: Fine.

6 MR. STEPTOE: Thank you. May we call Mr.  
7 Budzik to the stand, Chief Bechhoefer? This witness has  
8 not been previously sworn, I don't believe.

9 CHAIRMAN BECHHOEFER: Oh, do any other parties  
10 have preliminary matters? We could take them later, too.

11 MR. MARSHALL: I don't have anything.

12 Whereupon,

13 DENNIS M. BUDZIK,  
14 called as a witness by Counsel for the Applicant, having  
15 been first duly sworn by the Chairman, was examined and  
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. STEPTOE:

19 Q Mr. Budzik, would you state your name for the  
20 record?

21 A My name is Dennis M. Budzik, B-U-D-Z-I-K.

22 Q By whom are you employed and in what capacity?

23 A I'm employed by Consumers Power Company. I am  
24 the section head for the licensing section of the safety and  
25 licensing department for the Midland project.

1 Q Would you please briefly describe your educational  
2 background.

3 A My educational background is that I went to the  
4 University of Illinois and received a degree in engineering  
5 physics.

6 I then went on to the Naval Post Graduate School  
7 at Monterey, California and received a Masters Degree in  
8 nuclear physics. Plus I've also had the Navy's officer  
9 nuclear power training for submarines.

10 Q How long were you in the Navy?

11 A I was in the Navy for seven years. The first year  
12 I was in graduate school, and the rest of the time I was either  
13 in training or I was a nuclear training officer aboard two  
14 submarines, the USS Sea Wolf and the USS Patrick Henry.

15 Q Are you still in the Naval Reserve, Mr. Budzik?

16 A Yes, I am. I hold the rank of commander and I am  
17 attached as a reservist to Submarine Group 8 in Naples,  
18 Italy.

19 Q Would you please describe your work experience.

20 A After my service?

21 Q Yes.

22 A After my service, I joined Consumers Power Company  
23 in 1976 and have worked for them since then.

24 I have worked in areas of reviewing rad waste designs  
25 for both Palisades in Midland and other related nuclear areas.



1 Two and a half years ago I took on my present  
2 assignment.

3 Q Would you please describe what your responsibilities  
4 are in your present assignment?

5 A My responsibility is primarily coordination of  
6 the licensing information that is necessary to provide to  
7 the NRC Staff for their review so that we will eventually  
8 receive a license.

9 Q In your own words, would you please describe  
10 the events leading up to and including the March 3rd, 1982  
11 meeting with the NRC Staff, particularly focusing on  
12 what information you had concerning liquefaction potential  
13 at the site at the time of that meeting.

14 A Okay. The first thing I'd like to say is that  
15 if -- I've read Mr. Hood's testimony, and part of his  
16 testimony is Attachment 2, which is a summary of the meeting  
17 that occurred on March 3rd. And I would say that the  
18 facts in here agree with my memory.

19 One thing I will add, the only thing that I saw  
20 that was obviously incorrect was that the list of attendees  
21 does not include Mr. Prunner, and the meeting notes, if you  
22 notice, do include a remark made by him, so it's obvious  
23 that he was there.

24 Also, I believe, for part of the meeting -- I  
25 may be wrong -- I think Mr. Paton was there.

1 But, other than those two minor facts, I pretty  
2 much agree with what is expressed here.

3 One thing I would like to put in proper perspective  
4 is that Mr. Gonzales, who is assigned to the Midland --  
5 he's an NRC Staff reviewer in the hydrology section, and  
6 he is assigned as a reviewer for the Midland docket, and  
7 he has testified before this Board.

8 One of the reasons this meeting was called was  
9 that for about a year prior to this meeting he was  
10 unavailable to do any work on the Midland docket because  
11 of other priorities in the NRC, and so that we hadn't  
12 had an opportunity to meet with the hydrology reviewer  
13 for approximately a year prior to this.

14 This meeting, from Consumers Power point of view,  
15 was called primarily to discuss the hydrology aspects of  
16 the dewatering system and to discuss with the Staff the  
17 preliminary results we had on about roughly 30 days. It  
18 may have been a little less than that, but, roughly, we  
19 were at about the 30-day point on the recharge test, which  
20 was a test that we had proposed much earlier to show that  
21 there was sufficient time to repair the dewatering system  
22 before recharge would occur.

occur

1           Going into the meeting, my understanding and  
2 those who came along with me was that the design basis of  
3 the dewatering system was to prevent the liquefaction of  
4 soils in two areas: one, the area of the Diesel Generator  
5 Building and, two, the area of the railroad bay.

6           I was not aware of other areas that required  
7 dewatering specifically to prevent liquefaction.

8           At that time, going into the meeting, we thought  
9 that the Staff had reached independently -- primarily  
10 Mr. Hadala, who is employed by the Corps of Engineers --  
11 that they had reached the same conclusion.

12           One of the first things that happened at the  
13 meeting, as the meeting minutes reflect, is that we  
14 found there was a misunderstanding between us and the  
15 Staff on this point of what the design basis of the  
16 dewatering system was. And where it went back to -- and,  
17 in fact, at one point I went back to our Bethesda office  
18 to get a copy of the questions so that we could all look  
19 at it at the meeting was that question 24 and 47 were not--  
20 there were some ambiguities in it. The ambiguity that  
21 existed in the question which we didn't realize until  
22 this discussion ensued at the meeting, was that the  
23 question only addressed structures, it doesn't address  
24 underground utilities at all. And it says -- I'm trying  
25 to recall from memory because I haven't looked at it in

1 a long, long time, but I believe it said something to the  
2 effect that we were dewatering under two structures.

3 Q Mr. Budzik, just to be clear, the questions  
4 you're referring to are questions asked by the NRC pur-  
5 suant to 5054-F?

6 A That is correct. And, in fact, I believe  
7 question 47 was the last time that we had really spent  
8 any time on hydrology in the dewatering system because  
9 of the removal of -- the temporary removal of Mr. Gonzales  
10 for about a year from the review.

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1           A       At the meeting what the Staff -- I shouldn't try  
2 to paraphrase the question because it's been a long time  
3 since I read it, but what it came down to is that the  
4 description of the dewatering system basically indicates  
5 that most of the site will be dewatered to some level.

6                   And what the Staff had interpreted that to mean  
7 was that that was the design basis. You know, in our  
8 mind, that wasn't the design basis, that just happened  
9 to be that that's how it worked out when we tried to  
10 achieve dewatering of these two areas because it turns  
11 out from a hydrological point of view.

12                   And, again, this is an understanding that  
13 primarily Mr. Paris of Bechtel provided me with, is that  
14 the primary area of recharge is around the service water  
15 building.

16                   And so rather than putting wells to remove the  
17 water immediately around the railroad bay of the Auxiliary  
18 Building or the Diesel Generator Building, it appeared to  
19 be easier to just intercept the water at the place where  
20 it was primarily entering the power block area of the  
21 site. And that was the service water building.

22                   So if you look at the dewatering system, you  
23 have interceptor wells near that structure to intercept  
24 the water coming from the cooling pond. By doing that  
25 interception, and then having wells around the site

1 primarily to pick up any water that gets back past the  
 2 interception wells, we basically end up dewatering the  
 3 whole power block area.

3 2

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area

1 But the lack of understanding or communications  
2 between us and the Staff that became apparent very  
3 quickly at this meeting was that we hadn't properly  
4 communicated to the Staff what the design basis was.

5 That, of course, ensued -- one of the things  
6 that happened is Mr. Hadolla had indicated that he would  
7 have to go back and look at the boring data that the  
8 Staff had because he had made -- he had ignored some  
9 of the boring data based on his understanding of how  
10 the -- how the system was intended to operate.

11 I think it's clear in here that the Staff,  
12 because we had provided them with the boring data  
13 previously, and when I say previously, it's really at  
14 least a year earlier because it was provided before I  
15 really personally got involved in the soils remedial  
16 licensing issues.

17 And one of the areas that the Staff brought up  
18 was they remembered just offhand that there was some  
19 loose sand near the tanks for the deisel fuel oil. And  
20 as you can see in the meeting notes, there was quite a  
21 bit of discussion about us going back and evaluating that  
22 loose sand.

23 Anyways, I think the -- from there on the  
24 meeting notes pretty much reflect what happened.

25 Q Mr. Budzik, was there any discussion of loose

1 sands north of the service water pump structure in that  
2 meeting?

3 A Not that I recall.

4 Q You said that the design basis of the dewatering  
5 system is to dewater only two areas under the train bay  
6 area and the Deisel Generator Building, even though the  
7 entire plant area will, in fact, be dewatered.

8 What is the significance of the distinction?

9 A Well, what the significance is, is that when  
10 we -- when this system was designed, one of the things was  
11 that we didn't -- we wanted time to repair the dewatering  
12 system in case of any type of failure, and so we were  
13 counting on a certain amount of recharge time as is  
14 indicated in these meeting minutes.

15 Q Before the liqueraction retention would occur?

16 A That's correct, before liquefaction potential  
17 would occur above 610 of these two areas.

18 I would like to make one other point that goes  
19 beyond this meeting. As soon as I found out, and I don't  
20 remember if it was before the communication with Mr. Kane  
21 or after, my memory vaguely tells me that it was before,  
22 but I do remember calling Mr. Hood when I found out that  
23 this area in the service water building had loose sands --  
24 in front of the service water building had loose sands.

25 I called him up to tell him of this fact as soon



1 as it became known to me. And, in fact, I indicated to  
2 him that it was my judgment, before I had any management  
3 approval for this, but that in my judgement we would  
4 probably have to replace the sand.

5 The reason being is because the recharge rate  
6 in that area, being the area where the recharge is coming  
7 from, is so quick, in my opinion it didn't take any  
8 hydrology expert to ascertain that the dewatering system  
9 wouldn't suffice and that that material had to be  
10 replaced with more competent material from a liquefaction  
11 point of view.

12 Q Were any of the participants in this meeting,  
13 from Consumers Power, Bechtel, expert in liquefaction?

14 A Yes, there was one. And that was -- if you  
15 look at the list of attendees, if I can find it, was Mr.  
16 Meisenheimer, except that at this point in time Mr.  
17 Meisenheimer had not reviewed the boring data to make any  
18 ascertainment about liquefaction and so indicated at the  
19 meeting.

meeting.1

2 When I say he was an expert, it's based on my  
3 knowledge of his past training and experience in the  
4 field.

5 Q Was there any representative from Dr. Afifi's  
6 geotechnical group, that was doing the liquefaction  
7 analyses, at that meeting?

8 A No, because I think, as I explained, it really  
9 wasn't the intention to discuss liquefaction at this  
10 meeting. We thought we both had a common understanding  
11 of the liquefaction potential on the site going into  
12 this meeting.

13 JUDGE HARBOUR: Who do you mean by "both"  
14 there?

15 THE WITNESS: Pardon me?

16 JUDGE HARBOUR: Who did you mean when you said  
17 "both"?

18 THE WITNESS: Oh, both the Staff and us. See,  
19 we were aware that Dr. Hadolla, from the Corps of  
20 Engineers, had done independent evaluation of liquefaction  
21 and did come to the same conclusions.

22 The reason he came to the same conclusions  
23 is because he had used a different assumption about the  
24 dewatering system and its capability.

25 BY MR. STEPTOE:

Q To the best of your knowledge was there a

1 written report from Dr. Afifi's group concerning lique-  
2 faction potential at the site in existence on March 3rd,  
3 1982?

4 A No, there wasn't. I was aware that Dr. Afifi  
5 had to have evaluated the need for liquefaction on the  
6 site, but there was no report and, in fact, there was no  
7 intention of submitting a report because the data was  
8 already submitted to the Staff and we knew that Dr. Hadolla  
9 had done an independent evaluation of that data.

10 Q Have you specifically read -- well, if the  
11 report wasn't in existence, you hadn't read it. But had  
12 you specifically discussed liquefaction potential with  
13 Dr. Afifi before that meeting?

14 A No, I do not recall addressing him at any time  
15 before that meeting.

16 Q Do you know where the report came from that  
17 was eventually submitted to the NRC Staff on March 12th  
18 or thereabouts?

19 A We basically filed the report from the infor-  
20 mation that Dr. Afifi had in his files and notes and  
21 evaluations that he had done.

22 Q Was that based on the request made by the  
23 NRC Staff at the March 3rd meeting?

24 A Yes, it was.

25 Q Once the misunderstanding became apparent with --

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1 concerning what assumptions Dr. Hadolla had used and once  
2 the Staff asked for Consumers Power Company's basis for  
3 saying that there were only two areas subject to lique-  
4 faction, did you attempt to persuade the NRC Staff that  
5 there were no other areas in that March 3rd, 1982 meeting?

6 A The only persuasion I may have done is that I  
7 believe I indicated that those were the two areas that I  
8 was aware of where liquefaction could occur.

9 Q Did you agree to provide further information to  
10 the Staff, supplying the basis for liquefaction potential?

11 A Yes. And the meeting minutes reflect that.

12 Q If you had known of a third area of potential  
13 liquefaction, would you have told the NRC at that meeting?

14 A Most definitely. That is my job.

15 Q Did you or to your knowledge anybody at -- in  
16 Consumers Power Company or Bechtel at any time deliberately  
17 attempt to deceive the NRC concerning the existence of  
18 loose sands in the service water pump structure area?

19 A Not to my knowledge. I feel it was just a  
20 case that we didn't have the people there to properly  
21 represent that issue. And, quite frankly, if I ever  
22 caught anybody misrepresenting things, I'd break their  
23 neck.

24 MR. STEPTOE: I have nothing further.

25 MR. PATON: Mr. Chairman --

1 CHAIRMAN BECHHOEFER: We were going to suggest  
2 that the Staff may wish to cross examine first.

3 MR. PATON: I was going to make the same sug-  
4 gestion.

5 CHAIRMAN BECHHOEFER: Beat you to the punch. One  
6 thing that I would like to inquire, is the James Meisen-  
7 heimer referred to in the March 12th memo the same as the  
8 name that is spelled somewhat different in the list of  
9 attendees?

10 THE WITNESS: Yes, it is.

11 CHAIRMAN BECHHOEFER: I think it's Boosenheimer  
12 in the list of attendees.

13 MR. STEPTOE: I believe he's also been a witness  
14 in this proceeding.

15 CHAIRMAN BECHHOEFER: I want to make sure that  
16 they're not two different people.

17 THE WITNESS: No, there isn't.

18 JUDGE COWAN: One small clarification. You  
19 spoke of preparing further information based on Dr. Afifi's  
20 files. You said "We prepared". Was Dr. Afifi involved  
21 in that?

22 THE WITNESS: Yes, he was.

23 JUDGE COWAN: And whoever else, like yourself,  
24 that was interested?

25 THE WITNESS: Well, primarily who worked on it,

1 as I remember it, was Dr. Afifi and his people, along  
2 with overview and review by Mr. Meisenheimer. That is  
3 why Mr. Meisenheimer made the call to Mr. Kane because at  
4 that point he had firsthand knowledge of what the facts  
5 were.

6 CROSS EXAMINATION

7 BY MR. PATON:

8 Q Mr. Budzik, at the March 3rd meeting did you  
9 mention any studies that had been made by or under Dr.  
10 Afifi?

11 A No. I knew that Dr. Afifi had evaluated the  
12 site, but at that time I did not know of any studies.

13 Q Now, I want to make certain. Did you refer to  
14 any information prepared by Dr. Afifi, whether it was  
15 charts, studies, reports, et cetera?

16 A I knew that there had been evaluations made of  
17 the potential for liquefaction and that that formed the  
18 design, as I understood the design, basis for the dewater-  
19 ing system.

20 Q But are you indicating you did not mention that  
21 at the March 3rd meeting?

22 A No, I didn't.

23 MR. STEPTOE: Mention what?

24 BY MR. PATON:

25 Q Do you understand the question?

1 MR. STEPTOE: I don't understand the question.

2 MR. PATON: I don't care if Mr. Steptoe under-  
3 stands the question, if the witness understands the question.

4 MR. STEPTOE: I'd like a ruling, Judge Bech-  
5 hoefer.

6 CHAIRMAN BECHHOEFER: I think the witness  
7 answered already, but --

8 MR. PATON: I will ask another question, Judge  
9 Bechhoefer.

10 MR. STEPTOE: Judge Bechhoefer, I still don't  
11 know what the question was.

12 MR. PATON: I withdraw the question. I will  
13 ask another question.

14 CHAIRMAN BECHHOEFER: Why don't you do that,  
15 if there is a clarification problem.

16 MR. STEPTOE: Then is the answer stricken,  
17 as well?

18 CHAIRMAN BECHHOEFER: Yes, the answer should  
19 be struck as well. Re-ask it.

20 BY MR. PATON:

21 Q Mr. Budzik, I want to know if you referred in  
22 that meeting to any report or study or charts or other  
23 information prepared by or under Dr. Afifi with reference  
24 to dewatering at the site?

25

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site 1

A. No.

2

Q Or with reference to the potential for

3

liquefaction at the site?

4

A. Let me explain something. I think the -- well, let me explain in my own words.

6

What I was aware of is that Dr. Afifi's group was responsible and had made an evaluation of liquefaction. I never became aware of an official report, but that information, you know, was provided in some form and I don't know if it was orally or by memo or what.

10

11

But that information or the conclusions of his evaluation of the boring data was provided to Mr. Paris so that he could design the dewatering system.

12

13

14

Q When was it provided to Mr. Paris?

15

A. I have no idea.

16

Q Before March 3rd?

17

A. Yes.

18

Q And what did you know about that information before March 3rd?

19

20

A. My understanding was -- and it was an indirect understanding, in that I had never discussed it with Dr. Afifi or his -- or the people that work for him. My understanding was that the site contained two areas where there was the potential for liquefaction.

22

23

24

25

One was the area of the Deisel Generator



1 Building and the other was the area of the railroad bay.

2 Q Now, I do want to ask you about your understanding  
3 of that information, but the question I've asked you twice  
4 is what did you say about that information at the March  
5 3rd meeting?

6 A All I remember is that I indicated my under-  
7 standing of what the potential for liquefaction was at  
8 the site.

9 Q Did you say that that information came from  
10 Dr. Afifi?

11 A Yes.

12 Q Tell us anything else you remember about what  
13 you said at the March 30th meeting about the information  
14 that came from Dr. Afifi?

15 A I can't think of anything else. We indicated  
16 that we would have to go back to Dr. Afifi and review  
17 the information that he had and that we couldn't, you  
18 know, none of us at the meeting had what I would call  
19 first-hand knowledge of that information or that we'd  
20 have to go back and find it out.

21 Q All right. Now, I want to ask you a little  
22 different question and that is I want you to tell us what  
23 you knew about that information and where you got the  
24 information from.

25 MR. STEPTOE: It's been asked and answered

1 already.

2 MR. PATON: No, it has not. I want him to tell  
3 us everything he knew about the information from Dr.  
4 Afifi and I want him to tell us where he got it from.

5 If the witness wants to --

6 CHAIRMAN BECHHOEFER: I think we'll overrule  
7 the objection to that. I think it's a little different  
8 than was asked before.

9 THE WITNESS: I think I told you everything I  
10 know. There was two parts to your question. What was  
11 the second?

12 BY MR. PATON:

13 Q That's fine. I appreciate that answer. If you  
14 have told us everything you knew about it, that's fine.

15 From whom did you get the information?

16 A Okay. I know I got some of the information from  
17 Mr. Paris. I know I had conversations with other people on  
18 the project, including some of these people that attended  
19 the meeting.

20 Quite frankly, my knowledge is sort of dispersed  
21 as far as where I got it from because there wasn't some  
22 meeting before this meeting where I sat down and sort of,  
23 if you want to say, prepared for the March 3rd meeting  
24 and discussed these issues specifically. It's based more  
25 on just my general working knowledge and many discussions  
on the project with various people, both Consumers and  
Bechtel people.

1 Q Am I correct that you're indicating that you  
2 had many discussions with people about this information  
3 prior to March 3rd?

4 I believe that's what you said, but --

5 A Yes.

6 Q Many discussions?

7 A Right. Not in -- I do want to say not in  
8 detail.

9 Q Roughly how many discussions?

10 A I'm sure that in the course of things it must  
11 have been discussed half a dozen times.

12 Q Did you ever see any papers that were developed  
13 by Dr. Afifi?

14 A No. In fact, to this day I have not reviewed  
15 specifically the information that we submitted on that  
16 subject after this meeting.

17 Q And, in all of these half a dozen conversations  
18 that you had prior to March 3rd, it was never mentioned  
19 that in fact the Dr. Afifi information showed there were  
20 three areas and not two areas?

21 A No.

22 Q Do you understand how that could happen?

23 A Yes, because the people I talked to in all  
24 cases were not people that worked for Dr. Afifi or Dr.  
25 Afifi himself, and it was Dr. Afifi's group who actually

1 did the evaluation. And it's also, I guess, clear to me  
2 in retrospect that Dr. Afifi and his group did not clearly  
3 communicate the information to the rest of the project.

4 Q Is it clear to you now that the information  
5 developed by Dr. Afifi prior to March 3rd in fact showed  
6 that there were three areas that had potential for  
7 liquefaction?

8 A Yes.

9 Q Did you not on March 3rd ask the NRC to approve  
10 a dewatering plan which recognized only two areas which  
11 had potential for liquefaction?

12 A No. The meeting was primarily to discuss the  
13 recharge test which was discussed after some of these  
14 things were gone through and also to -- it was our first  
15 meeting in over a year with the hydrology reviewer and,  
16 basically, we just wanted to provide information and  
17 exchange information with the hydrology reviewer.

18 I guess, in my mind, going into it, because it  
19 had been the first meeting in a year with the Staff  
20 reviewer, the only -- it wasn't my intention to try to  
21 get approval at this meeting, because he was just starting  
22 up again his review.

23 The second thing is what we did want to do is  
24 see if the Staff would concur with our recommendation  
25 that the recharge data could be extrapolated beyond the

1 actual time period for the test.

2 What I mean by that is that like we ran the  
3 test for 30 days, could we extrapolate as to what the  
4 status of recharge would be, you know, 60 days from  
5 time zero.

6 Quite frankly, the feeling I got when I left  
7 that meeting was that the Staff, for various reasons,  
8 did not feel comfortable with extrapolating that data.

9 Q Do you deny that on March 3rd you asked the  
10 Staff to approve your dewatering on the basis of there  
11 being only two areas which had potential for liquefaction?

12 A I do not remember asking them for approval.

13 And, in fact, after these -- it became apparent  
14 that there were misunderstandings, you know, approval  
15 was impossible at this meeting.

16 Q So you not only don't remember it, you also  
17 deny that you asked that question, is that correct?

18 A I do not remember asking it.

19 Q Mr. Budzik, please listen to me carefully. You  
20 just denied remembering asking the question. You don't  
21 remember asking that question?

22 A That's correct.

23 Q Do you deny, do you remember positively that you  
24 did not ask the question? Or do you merely deny remembering  
25 it?

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1 A. To the best of my memory, I do not remember asking  
2 that question.

3 Q. Okay.

4 MS. STAMIRIS: That's not the question that Mr.  
5 Paton asked.

6 MR. PATON: I appreciate that, Mrs. Stamiris.  
7 Let me try it again.

8 THE WITNESS: Well, I --

9 MR. PATON: Can I try it again, please.

10 THE WITNESS: Go ahead.

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BY MR. PATON:

Q Can you state positively that you remember that you did not ask the Staff to agree with a dewatering plan which recognized only two areas with a potential for liquefaction?

MR. STEPTOE: That question is changed from the previous one. You said the word "agree" rather than "approval".

MR. PATON: If the question is changed, that's fine with me. Let him answer that question.

THE WITNESS: Could you repeat it?

MR. PATON: Do you understand it?

THE WITNESS: No. Could you repeat it?

CHAIRMAN BECHHOEFER: Do you want the reporter to repeat it?

MR. PATON: No, Mr. Chairman.

BY MR. PATON:

Q Did you ask the Staff at that meeting to approve of a dewatering plan which recognized a potential for liquefaction at two areas only, that being the Deisel Generator Building and the railroad bay area?

A No.

MR. PATON: Mr. Chairman, may I have a minute?

(Brief pause.)

CHAIRMAN BECHHOEFER: I would like to ask one

1 question at this point.

2 Did that last answer apply equally to all of  
3 the Consumers representatives at that meeting?

4 THE WITNESS: Yes.

5 BY MR. PATON:

6 Q Mr. Budzik, at the time of this meeting on March  
7 3rd, the information that had been developed by Dr. Afifi,  
8 how familiar were you with that information?

9 MR. STEPTOE: Objection; asked and answered.

10 (Discussion had off the record.)

11 CHAIRMAN BECHHOEFER: I can't remember if all  
12 aspects of that how familiar part were asked.

13 MR. PATON: I think he can answer the question.

14 CHAIRMAN BECHHOEFER: I think we'll overrule the  
15 objection, because I'm not sure that the how familiar part  
16 was in the first question.

17 THE WITNESS: Well, I'm not really sure I  
18 understand the question.

19 BY MR. PATON:

20 Q Well, were you aware of what information Dr.  
21 Afifi had developed at this time?

22 A No specific awareness.

23 The only thing I was aware of was what I thought  
24 was the results that had come from Dr. Afifi and the  
25 reason -- let me say something. Dr. Afifi's group is the



1 only group in the Bechtel organization that is capable  
2 of generating this information.

3 There may be some leap of faith on my part  
4 that the need to dewater two areas of the plant due  
5 to the potential for liquefaction had to come from his  
6 group.

7 Mr. Paris does not have the training or the  
8 qualifications to make that kind of judgment. He had  
9 to get that information from somebody. I cannot be  
10 absolutely certain that he got that information from Dr.  
11 Afifi's group.

12 But, as I stated, that's the only place it can  
13 come from in the organization.

14 Q All right, let me ask you something again, Mr.  
15 Budzik. This may be repetitious and your attorney may  
16 object, but I think this will reorganize me, because this  
17 is a significant portion of the testimony and it will help  
18 me to understand your position.

19 Am I correct that your testimony is that you  
20 did not ask the Staff at the March 3rd meeting to agree with  
21 a dewatering plan which recognizes the potential for  
22 liquefaction at two places only, one being the Deisel  
23 Generator Building and the railroad bay area?

24 A That's correct.

25 MR. PATON: May I have one minute, Mr.

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Chairman?

(Brief pause.)

BY MR. PATON:

Q Mr. Budzik, you may have answered this, but you did represent to the Staff at that meeting that there were only two areas that had a potential for liquefaction, and that was at the Deisel Generator Building and the railroad bay area, is that correct?

A That's correct.

See, I opened the meeting with a, you know, general discussion of, you know, why we're here, what things we wanted to discuss, and I believe I led off with some discussion of what the design basis of the dewatering system was. And we right away ran into this lack of communication between us and the Staff that we were unaware of until this meeting started.

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Q And you discovered later, after this meeting you discovered that, in fact, the information developed by Dr. Afifi showed that in fact there was a third area with potential for liquefaction?

A That's right. And, as soon as I discovered that, I made contact with Mr. Hood to let him know, as soon as I became aware of it.

Q Did you make any effort prior to the meeting to yourself learn whether Dr. Afifi's study showed that there were only two areas or three areas?

A No.

Q And yet I think you indicated you had six conversations with people about this subject?

A Yeah.

Q And in none of those conversations was it developed that Dr. Afifi in fact showed that there were three areas instead of two areas?

A That's correct.

Q Would you tell us who you talked to on those six occasions?

A I really can't remember, I'm just guessing how many conversations there were.

I know I talked to Mr. Paris. I know I talked to Thiru Bengadam, who works for Consumers. And I know I talked to Mr. Keeley about it, who was basically the

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1 project manager for this area.

2 Q Let me ask you this. When did you subsequently  
3 learn that Dr. Afifi's information showed that there were  
4 three areas with a potential for liquefaction?

5 A A few days later. I don't remember exactly  
6 who came into my office, but they let me know, you know,  
7 what had happened.

8 I don't know if it was Jim Meisenheimer or one  
9 of the other people in the geotech area that works for  
10 Consumers Power.

11 Q Did you then go back and read the information  
12 developed by Dr. Afifi?

13 A (No audible response.)

14 Q You did not?

15 MR. STEPTOE: Mr. Budzik, the court reporter  
16 can't get a nod.

17 THE WITNESS: Oh, I'm sorry. No.

18 I haven't read the information developed by him  
19 to this date.

20 BY MR. PATON:

21 Q I see. You must rely on other people to do that,  
22 is that right?

23 A That's exactly right. My job is to see that  
24 other people do their job, not to do their job for them.  
25 I have no geotechnical background.

1 Q What was the -- when did Dr. Afifi develop  
2 this information?

3 A I don't know. You know, the only thing I know  
4 is that the borings that were used for this evaluation  
5 were for the borings that were used in the initial site  
6 investigation, and those borings are quite old.

7 When I say initial site investigation, I mean  
8 of the soils compaction problem, when we took roughly  
9 I think, 300 borings around the site and under structures  
10 and other places, and these are reported in the 50-54F.  
11 I may have the number wrong, but there were large numbers  
12 of the borings taken around the entire power block to  
13 check out the soils.

14 Q All right, so you are certain today that the  
15 information developed by Dr. Afifi prior to the meeting  
16 of March 3rd, 1982 showed that there were three areas of  
17 potential for liquefaction?

18 MR. STEPTOE: That has already been asked and  
19 answered without the word certain, and the witness said --  
20 that adds nothing to the testimony.

21 MR. PATON: It's pretty important, Mr. Chairman.  
22 If the Applicant wants to stipulate that he so testified,  
23 I'll accept that.

24 MR. STEPTOE: I'll stipulate that he testified  
25 to what the transcript shows, Mr. Chairman.

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MR. PATON: Well, thank you very much. That's very helpful.

Mr. Chairman, I think he can answer the question.

(Discussion had off the record.)

CHAIRMAN BECHHOEFER: I think we'll let him answer.

THE WITNESS: Could you please repeat the question?

MR. PATON: Would the reporter read the question.

(Question read.)

BY THE WITNESS:

A. Yes.

BY MR. PATON:

Q So you would deny that at the meeting of March 3rd you asked the Staff to agree with a dewatering plan which recognizes the potential for liquefaction at only the Diesel Generator Building and at the railroad bay area?

MR. STEPTOE: Objection. Asked and answered several times.

(Discussion had off the record.)

CHAIRMAN BECHHOEFER: I think we'll sustain that one.

MR. PATON: All right.

(Discussion had off the record.)

1 MR. PATON: Mr. Chairman, we have no further  
2 questions.

3 (Discussion had off the record.)

4 CHAIRMAN BECHHOEFER: Mrs. Stamiris?

5 CROSS EXAMINATION

6 BY MS. STAMIRIS:

7 Q Mr. Budzik, one of the questions asked of you  
8 on direct examination by your counsel was, to the best of  
9 your knowledge, did Afifi have a written report in  
10 existence at that March 3rd meeting. Do you remember  
11 that question?

12 A I didn't hear the first part. I'm sorry.  
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sorry 1 Q You were asked by your counsel, to the best of  
2 your knowledge, did Afifi have a written report in  
3 existence at the time of the March 3rd, 1982, meeting.

4 Do you remember that question?

5 A. Yes.

6 Q And do you remember your answer?

7 A. Yes.

8 Q What is it?

9 A. The answer was that I was not aware of any  
10 report.

11 Q To the best of your knowledge?

12 A. Yes.

13 Q You were not aware of the existence of such a  
14 report. Okay.

15 Then, the next question, although I realize this  
16 is not testimony, the next question from Mr. Steptoe said  
17 if the report was not in existence you, obviously, could  
18 not have read it, and you agreed. Do you remember that?

19 A. Yes.

20 Q Well, do you think that there is a leap of faith  
21 between those two questions that your knowledge or your  
22 best knowledge of the existence of the Afifi report is  
23 not one and the same as an ultimate statement as to whether  
24 or not that report exists?

25 MR. STEPTOE: I don't understand that question at



1 all. It seems totally tautological.

2 THE WITNESS: I don't either.

3 MS. STAMIRIS: Okay. In the first question we  
4 established that to the best of Mr. Budzik's knowledge  
5 the report was not in existence. But the next question  
6 had a "therefore" in it, which he agreed to, which is what  
7 I want him to concentrate on now, because the next question  
8 was, if the report was not in existence, you obviously,  
9 could not have read it.

10 BY MS. STAMIRIS:

11 Q Okay, I'll ask it this way. By that question  
12 and answer, did you mean to imply that you are certain  
13 this report was not in existence on March 3rd, 1982?

14 A Yes.

15 Q Well, how can you be certain that no one else --  
16 you know, that it didn't exist?

17 I mean, if you say to the best of your knowledge  
18 it didn't exist --

19 A I can only answer within my own intelligence  
20 and memory.

21 Q Okay. Well, we have not established yet in the  
22 testimony this morning whether or not there was a written  
23 Afifi report in existence on March 3rd, 1983, and I  
24 would like to know the definite answer if you have the  
25 definite answer.

1 A At that time I was aware of no report, and today  
2 I'm still aware of no report that existed at that time.

3 Q Yes, but I'm not asking you your awareness at  
4 this point, because a minute ago you said you were certain  
5 it did not exist.

6 Is there not a possibility that it existed  
7 whether you knew of it or not at that time?

8 I mean, the existence could be there aside  
9 from your knowledge of it.

10 MR. STEPTOE: Chief Judge Bechhoefer, all the  
11 witness can do is to answer with respect to his own  
12 knowledge. We'll stipulate that it is conceivable that  
13 Mr. Budzik doesn't know everything in the world.

14 MS. STAMIRIS: Well, if he had answered my  
15 question properly --

16 CHAIRMAN BECHHOEFER: Will you stipulate there  
17 might have been a report he didn't know about in existence  
18 on March 3?

19 MS. STAMIRIS: That is different than what he  
20 answered.

21 CHAIRMAN BECHHOEFER: That is what Mrs. Stamiris  
22 is driving at.

23 MS. STAMIRIS: Yes.  
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1 MR. MARSHALL: I take exception to the objection.

2 MR. STEPTOE: Anything's possible but I'm not  
3 prepared to buy a stipulation to indicate that there is  
4 some doubt that should be applied to the witness's testi-  
5 mony.

6 I also believe that this point is irrelevant.

7 MR. MARSHALL: I am taking exception to his  
8 objection, Judge.

9 MS. STAMIRIS: May I say that the reason I  
10 asked the question is because when I was discussing -- or  
11 going into this with Mr. Budzik, he answered me that he  
12 was certain that such a report was not in existence.

13 Now, he did testify to the fact that it did  
14 not exist, so that is different than saying I was not  
15 aware of it. That's why I pursued it.

16 CHAIRMAN BECHHOEFER: I think the witness could  
17 answer the question; but, in any event, you could explore  
18 how he is so certain that the report wasn't in existence.

19 MS. STAMIRIS: That is what I was about to do.

20 BY MS. STAMIRIS:

21 Q Mr. Budzik, how are you so certain that -- and  
22 when I say report, I'm using this in a sense that I'm  
23 using the term generically to apply to a collection of  
24 information, whether it be written on a chart, whether  
25 it be an evaluation of the information that Dr. Afifi

1 had on the subject of liquefaction. It doesn't have to  
2 be a written formal report, but --

3 A I guess I don't accept that definition of a  
4 report.

5 Q Then I'll use the word, an evaluation of the  
6 liquefaction potential of the Midland plant site.

7 Do you believe that such an evaluation of the  
8 liquefaction potential of the Midland plant site was  
9 in existence on March 3rd, 1983?

10 A I guess I'm just getting really confused. My  
11 knowledge was that there was an evaluation done of the  
12 potential for liquefaction prior to March 3rd.

13 Q Okay. Now, on March -- I want to explore your  
14 knowledge as of March 3rd, 1982.

15 On March 3rd, 1982, what did you believe was  
16 the basis for that evaluation which you understood was  
17 in existence?

18 A The only thing it can be is the boring data  
19 taken around the site.

20 Q What about the conclusions for that -- from  
21 that evaluation?

22 MR. STEPTOE: Judge, what about the conclusions?  
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conclusions?

BY MS. STAMIRIS:

Q Did you have any knowledge of the conclusion of this evaluation?

A No, except that it formed the basis -- the design basis for the dewatering system, that is why the dewatering system was there.

Q So you had no specific knowledge of the conclusions?

A I'm not aware of any written conclusions, okay? And that's what I mean by a report.

Q Well, I didn't say written. I think I specified--

A I told you I didn't agree with your definition of report. That isn't the way it's used in the project.

A report is a document that is passed from one party to another and has had certain reviews depending upon the report.

I don't know how the information was passed to Mr. Paris so that he could do his work of designing the dewatering system.

Q So am I correct in understanding your testimony that you were not aware of any details of any evaluation or conclusions regarding the liquefaction potential at the Midland site on March 3rd, 1982?

A I was only aware of the conclusions in the sense that that is what was the design basis for the

1 permanent dewatering system.

2 Q Did you also say that you had not yet, as of  
3 today, read or reviewed any Afifi report as to the over-  
4 all evaluation of the liquefaction potential at the  
5 Midlland site?

6 A That's correct.

7 Q Okay. Did you not also testify in response to  
8 Mr. Paton's question that the -- that you were certain  
9 that the Afifi information was based on boring logs that  
10 had been developed extensively?

11 A That is the only place it can come from. Maybe  
12 that is a leap of faith but that's the only place it  
13 can come from.

14 Q What I was wondering, how did you arrive at the  
15 information that it was based on boring logs if you haven't  
16 read the study itself?

17 Because I know that is the only place it can  
18 come from because that gives you the characteristics of  
19 the soil that you need to evaluate liquefaction.

20 Q So you were really assuming that the study  
21 then was based on boring logs?

22 A (Witness nods his head.)

23 Q Are you also assuming that it was based on  
24 boring logs only?

25 A Again, that's where the information has to

1 come from to do specific analysis.

2 You know, it's just like I assume that you used  
3 the key this morning in order to drive your car.

4 Q I understand the assumption.

5 CHAIRMAN BECHHOEFER: The wires could have been  
6 crossed.

7 BY MS. STAMIRIS:

8 Q Mr. Budzik, did you testify that it was not  
9 Consumers Power Company's intention to discuss lique-  
10 faction at the March 3rd, 1982, hearing?

11 A That's correct because we didn't bring anybody  
12 who had done any of the evaluation work relative to  
13 liquefaction.

14 We mostly wanted to discuss hydrology with the  
15 hydrology reviewer.

16 Q I thought you also said earlier that you agreed,  
17 other than the minor additions that you made to Darl  
18 Hood's meeting summary of March 3rd, 1982 meeting, that  
19 Mr. Hood's summary of that meeting was correct, aside  
20 from the things that you mentioned.

21 Okay. Then would I be correct in assuming that  
22 the March 3rd, 1982, meeting, as written by Darl Hood,  
23 was on the subject of a meeting on dewatering criteria?

24 A Yes, and the dewatering criteria we're talking  
25 about primarily is the recharge test.

1 Q So you came to a 1982 meeting on dewatering  
2 criteria not intending to discuss liquefaction, is that  
3 correct?

4 A That's correct. I made preliminary remarks to  
5 start the meeting off that mentioned liquefaction as it  
6 indicates here, and I thought at the time I made those  
7 remarks that I would just get a yes and we would move on.

8 Obviously, the meeting minutes reflect I got  
9 a no and there was a lot of discussion that ensued.

10 Q You assumed that you would get a yes to what?

11 A A yes to my statement that it was designed to  
12 prevent liquefaction in two areas of the plant.

13 Q Well, if you assumed you were going to get a  
14 yes to that answer that it was designed for those two  
15 areas --

16 A Excuse me, that was the two areas that we  
17 needed to design the system for.

18 Q Well, then, if you had that assumption that  
19 you were going to get such a response from the NRC,  
20 doesn't that contradict your previous testimony that  
21 you were not seeking any NRC agreement or approval?

22 A Agreement and approval are two different words.

23 Q All right. Let's use one, then.

24 What I am zeroing in on is your statement  
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that you just made that you went into this meeting expect-  
ing that you would get a yes from the NRC about dewatering  
on the basis of those two areas, and previously you  
testified to Mr. Paton that you did not go to this -- or  
at that meeting you did not seek the NRC approval for  
dewatering in those two areas.

Do you see any contradiction between those  
two statements?

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1 A. No, because I see a significant difference  
2 between agreement and approval. Okay. I'm talking about  
3 agreement with the reviewer and not approval of the Staff  
4 as an entity.

5 Okay. I mean, you know, all we're talking about  
6 here is to see what common understandings or misunderstandings  
7 or disagreements, you know, the Applicant has with a  
8 specific reviewer.

9 Q. Well, when you talked about expecting to get a  
10 yes from the NRC on this issue, would you be more  
11 comfortable calling that expectation to get a yes,  
12 something going towards their agreement or something going  
13 towards their approval, since you indicate that you make  
14 a distinction in those words?

15 A. Their agreement, because my understanding from  
16 talking to various project people is that Mr. Hadolla  
17 had done a similar evaluation and that the Staff agreed  
18 that there were only two areas to be dewatered.

19 Okay. That obviously turned out to be incorrect,  
20 but that's --

21 Q. All right. If I used a different word than Mr.  
22 Paton used when he asked you -- he asked whether at that  
23 meeting that you sought the NRC approval to proceed with  
24 dewatering on the basis of the two areas.

25 I would like to ask you did you go to that

1 meeting and seek the agreement of the NRC about proceeding  
2 with those two areas?

3 A. No. I went there to seek their agreement on  
4 the design of the system, not the installation or  
5 something. You are implying installation of the system.  
6 This was strictly a design meeting.

7 Q. But you wanted their agreement that the  
8 dewatering system should be designed for only two areas,  
9 is that correct, at that meeting?

10 A. Yes.

11 Q. And did you not have in your mind -- what was  
12 your reason for wanting to seek their agreement that the  
13 design of the water -- dewatering system should be limited  
14 to those two areas?

15 A. I guess I don't understand the question.

16 Q. I think it's an important question and I would  
17 like the court reporter to read it back so that you can  
18 reflect on it.

19 (Question read.)

20 THE WITNESS: As part of the regulatory process  
21 we must seek their agreement on the entire design  
22 eventually. I see this as just, you know, one small  
23 step in that process.

24 They review the design of all systems that  
25 relate to the safety of the plant and they must concur

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with our proposed design.

BY MS. STAMIRIS:

Q Are you testifying -- are you testifying that you did not -- or that you do not, as you sit here today, place any significant relationship between the design of the system and the approval of that design -- or, I'm sorry, the word you're more comfortable with, the agreement for that design?

Do you not perceive a significant relationship between the agreement for that design and the approval of installation of that design?

A I'm not understanding the question, I'm sorry.

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sorry

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Q Okay. Let me ask you first, you testified that you are the head of the licensing section, is that correct?

A That's correct.

Q And would you explain what your duties are as the head of the licensing section in regard to the soil remedial activities?

A My job is to provide in a coherent and professional manner the information that the Staff needs to review in order to give us a license to operate the plant.

My job is not to review the adequacy of that information. It's to coordinate pulling that information together and see that the information has been reviewed by people in-house before it is given to the NRC.

Q All right.

A In the hopes that it's correct.

Q Do you believe that your job responsibilities would include that once you had made a determination as to the adequacy of the design, not yourself as you explained, but on the basis of information presented to you, that your job would include then presenting the adequacy of that design to the NRC in order to proceed with completion of the plant, towards licensing?

A Yes. And that is why when I became aware that we had not given them complete information and that this

1 third area of liquefaction potential existed, I called  
2 Darl Hood and told him the information.

3 Q Well, from what you have just said about your  
4 job, wasn't it your responsibility to have complete and  
5 accurate information for the NRC on March 3rd, 1982, if  
6 you wanted to see their agreement about that design?

7 A Yes.

8 Q Well, do you believe that you've failed in  
9 your responsibility to provide complete and accurate  
10 information at that time?

11 A Yes.

12 Q Why?

13 A I'm not perfect.

14 Q Well, could you explain in some more detail why  
15 you did not take it upon yourself to pursue -- I mean,  
16 if you were -- just a minute.

17 Would you consider the omission of the notification  
18 to the NRC of the loose sands near the service water  
19 structure at the March 3rd, 1982, meeting, to be a  
20 significant omission?

21 MR. STEPTOE: You mean the failure to notify  
22 them?

23 MS. STAMIRIS: Yes.

24 BY MS. STAMIRIS:

25 Q Do you consider that omission or failure to

1 notify them was a significant omission?

2 A. Significant relevant to what?

3 Q Relevant to the potential for liquefaction at  
4 the Midland Nuclear Plant site.

5 A. Yes, and that is why I called Darl Hood when  
6 I became aware of the information.

7 Q Okay. What steps did you go through to assure  
8 yourself that your purpose of seeking NRC agreement as  
9 to the design adequacy of the dewatering system for the  
10 two areas at the Deisel Generator Building and the RBA,  
11 what steps did you go through to assure yourself that you  
12 were presenting full and accurate information to the NRC  
13 at that meeting?

14 A. I don't really remember. My normal procedure  
15 is to whoever is going to attend the meeting, to hold a  
16 meeting the night before and go through the information.

17 Q I thought you previously testified that you  
18 didn't have any meeting the night before to get ready,  
19 or words to that effect, for the March 3rd meeting? Was  
20 there or was there not a premeeting?

21 A. I don't remember a premeeting.

22 Q So you did not follow your usual procedure of  
23 getting the information from people within Consumers  
24 Power Company all gathered together in an appropriate  
25 and complete manner?

5-4, dn4

5-5

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MR. STEPTOE: Objection, he said he didn't remember.

MS. STAMIRIS: He just said now that he remembered that there wasn't such a premeeting and he had previously testified that that was his usual practice.

MR. MARSHALL: Correct.



5-5,dnl

correct

(Discussion had off the record.)

1  
2 CHAIRMAN BECHHOEFER: I think he can answer the  
3 question.

4 BY MS. STAMIRIS:

5 Q Do you remember the question?

6 A No. Let me clarify something, though, and  
7 maybe this will help.

8 As I stated at the beginning of this testimony,  
9 the intention of the meeting was primarily to discuss not  
10 the geotechnical aspects but the hydrology aspects of  
11 the dewatering system and primarily relative to what  
12 information we had with respect to the recharge test  
13 that was in progress.

14 Q I believe you did testify to that before.

15 A Okay. And the reason I didn't do much looking  
16 into -- or, quite frankly, I don't remember doing any  
17 looking into the liquefaction question is because my  
18 general understanding was that that had already been  
19 discussed with the Staff prior to me getting involved in  
20 the soils licensing area.

21 Q When did you get involved in the soils licensing  
22 area?

23 A I got involved -- well, I don't know -- I  
24 started getting involved in a significant way about May  
25 of '81.

1           When I say a significant way, I mean, starting  
2 to attend some of the meetings with NRC.

3           What I did before then is process some of the  
4 submittals -- or my people did, the submittals that went  
5 to the NRC. When I said -- when I say process, distribute  
6 the copies of the submittal to the appropriate people.  
7 Literally send in the submittal and things like that, not  
8 really partake in the technical discussions.

9           Q     Would I be correct, then, in understanding  
10 that keeping in mind the history that, I believe, we're  
11 all aware of, of the constantly changing soils, would you  
12 agree that there is a constantly changing set of information  
13 regarding soils remedial issues at the Midland Nuclear Plant,  
14 that it's not static but changing?

15          A     I guess I'm not sure what you mean by changing.  
16                What I mean is are you talking about the design  
17 changing or are you talking about the information as far  
18 as what we know of the soil material or what?

19          Q     I'm talking about in a general sense. The  
20 development of new information as being a changing and  
21 developing situation as opposed to a static situation  
22 involving soils remedial work at the Midland plant site.

23          A     I would say at the present time what is mostly  
24 happening is that the design details are still being  
25 completed and being developed.

1 Q So you think that the design is basically still  
2 being developed and changing but do you believe --

3 A I said the design details.

4 Q All right. But what I -- what I asked you to  
5 focus on was the information.

6 Do you believe that the information, let's say,  
7 in March of 1982, represented static information as  
8 opposed to changing information? This was a pre -- now,  
9 I wanted to include that in my other question. I'm going  
10 to skip that and ask the question again.

11 Mr. Budzik, in relation to or bearing in mind  
12 the new information that has continued to develop at the  
13 Midland plant site regarding soils issues, am I correct in  
14 understanding that when you went to the meeting on March  
15 3rd, 1982, that you didn't look closely into the liquefaction  
16 issues because you assume that they had been taken care of  
17 and were resolved sometime prior to your involvement in  
18 1981?

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1981?

1 A That's correct.

2 Q So you think a year had gone by and you didn't  
3 need to look any more closely at what the present state  
4 of affairs were as far as Consumers evaluation of the  
5 liquefaction potential at the Midland site?

6 A The main reason a year had gone by is because  
7 there was nobody at the Staff to talk to about the design  
8 of the dewatering system and so that issue basically sat  
9 on--to use a phrase, on the back burner until a reviewer  
10 became available that we could resume our discussions  
11 with.

12 Q Well, since you have mentioned that fact  
13 repeatedly, I wonder what you think -- what do you think  
14 the Staff assessment has to do with Consumers internal  
15 assessment of the liquefaction potential at the Midland  
16 site?

17 I mean, if the Staff had it on the back burner  
18 burner, if they did, why does that mean that there should  
19 not be new and developing information within Consumers  
20 Power Company about their own studies and attempts to  
21 get to the root of what the full implications of the  
22 liquefaction potential at the Midland site were?

23 Did you have it on the back burner?

24 A To some degree we did have it on the back  
25 burner because we had a lot of things to do and our

1 priorities were such that we were concentrating a large  
2 amount of our effort on things like the Auxiliary Build-  
3 ing underpinning and the service water underpinning and  
4 so forth.

5 Q Well, if you had it on a back burner, don't  
6 you think it was your responsibility to bring it up to  
7 the front burner before you came to the March 3rd, 1982,  
8 meeting on dewatering criteria?

9 A In retrospect, yes.

10 Q All right. What I want to ask you is with  
11 the knowledge that you had at the time -- I mean,  
12 you say that in retrospect, but putting yourself back  
13 in time to March 3rd, 1982, do you think that you acted  
14 properly in March 3rd, 1982, with the information that  
15 you had at that time?

16 A Yes.

17 Q Then by saying that, you must believe that  
18 as of March 3rd, 1982, that it was not your responsibility,  
19 you know, based on the information or lack of information  
20 that you brought to that meeting, that it was not your  
21 responsibility to look more completely into the lique-  
22 faction analysis of the Consumers Power Company.

23 MR. STEPTOE: Objection, these questions are  
24 confusing me. Is she asking the witness whether on March  
25 3rd, 1982, he thought he was acting responsibly or

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rather in retrospect he thinks he should have done some-  
thing more? Because I think both questions have been  
asked and we're getting confused by shifting time frames  
back and forth.

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forth

1 MS. STAMIRIS: We've had an answer to one of those  
2 questions and we haven't had the answer to the other and  
3 that is why I ask it.

4 CHAIRMAN BECHHOEFER: I thought I heard an  
5 answer to both of them. I may be wrong.

6 MS. STAMIRIS: Well, he said that today, that he  
7 can say in retrospect he was not acting responsibly on  
8 March 3rd, 1982. So then I asked him the question, which  
9 Mr. Steptoe is right in perceiving as a different question,  
10 then I asked him to put his frame of mind on March 3rd,  
11 1982.

12 And I asked him, considering the information or  
13 lack of information, considering his state of knowledge  
14 which he brought to the March 3rd meeting in 1982, does  
15 he think that he was acting responsibly at that point in  
16 time.

17 MR. STEPTOE: I'm still confused by the question.  
18 You see, is she asking for the witness's state of mind  
19 on March 3rd, 1982, or his assessment of his actions today?

20 MS. STAMIRIS: I'm not asking for his present --  
21 today's assessment of his past actions, I'm asking --

22 MR. STEPTOE: Then the question should be in the  
23 past tense, did he think he was acting responsibly in  
24 March 3rd, 1982, and there is no in between, between those  
25 two questions.

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1 MS. STAMIRIS: Okay. I would like to hear the  
2 answer to that question.

3 BY MS. STAMIRIS:

4 Q. Did you think on March 3rd, 1982, that you were  
5 acting responsibly?

6 A. Yes.

7 Q. Okay. When you made the statement, as you sit  
8 here today, you can say in retrospect that you were not  
9 acting responsibly?

10 MR. STEPTOE: I'm sorry, I think I interjected  
11 that particular formulation. I don't think the witness  
12 quite said that.

13 MS. STAMIRIS: I didn't mean those exact words.

14 MR. STEPTOE: But he did say in retrospect --  
15 he did admit something in retrospect, as I recall.

16 BY MS. STAMIRIS:

17 Q. Okay. Mr. Budzik, when you make your own  
18 judgment today that in retrospect you were not acting  
19 responsibly on March 3rd, 1982, did you have in mind your  
20 state of knowledge as of March 3rd, 1982, or did you have  
21 in mind things that you learned after that meeting?

22 A. Let me answer it this way, it is obvious that  
23 the information that we provided at the March 3rd meeting  
24 was incomplete and therefore looking at it today, looking  
25 back, close to a year ago, it's obvious that we had --



1 that we hadn't taken -- or that I hadn't taken sufficient  
2 precautions to make sure that the information was complete.

3 Q And when did that become obvious to you?

4 A The day I called Darl Hood to tell him that  
5 there was a third area.

6 CHAIRMAN BECHHOEFER: Do you remember exactly  
7 what date that was?

8 THE WITNESS: No, I don't, Judge. In fact, I  
9 do not remember for sure if my discussion with Mr. Hood  
10 occurred before or after this telecon that is attached  
11 here between Mr. Kane and Mr. Musenheimer.

12 I think it occurred before this telecon, but,  
13 you know, I cannot be sure of that, and I haven't made  
14 any attempt to search any records I may have to see if I  
15 could substantiate it one way or the other.

16 I do very distinctly remember calling Mr. Hood  
17 because I was very upset about it because I do feel it is  
18 my responsibility that the Staff gets complete information.

19 Q Do you agree that -- well, why don't you turn  
20 to the record of the telephone conversation on March 12th,  
21 1982, that is attached to Mr. Hood's testimony on the  
22 loose sands.

23 It says in the beginning paragraph that Mr.  
24 Musenheimer indicated that Consumers has mailed the  
25 results of Dr. Afifi's evaluation of liquefaction to

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Dr. Hadala, that he will have this same information to review during next week's design audit.

The next sentence reads, "This information was identified as being required for Staff review at the March 3rd, 1982 meeting in Bethesda on permanent dewatering."

Do you agree that this information, being the result of Dr. Afifi's evaluation of liquefaction, had been identified as being required for Staff review at that March 3rd, 1982, meeting?

A. This telecon is a reflection of what in the March 3rd meeting we agreed to provide the Staff with.

Q So do you remember at the March 3rd meeting agreeing to provide the Staff with the results of Dr. Afifi's evaluation of liquefaction?

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1           A       We agreed to provide an evaluation. You used  
2 the word in the past tense, and what we agreed is to  
3 generate the information necessary and provide it to the  
4 Staff as stated in the -- on page two of the meeting  
5 summary.

6                   There's three items identified that we were  
7 supposed to provide the Staff with.

8           Q       Would you point to me on page -- can you help  
9 me find that on page two of the meeting notes?

10                   MR. STEPTOE: Second paragraph.

11                   BY THE WITNESS:

12           A       The second paragraph, where it says (1), (2),  
13 (3), second paragraph.

14                   BY MS. STAMIRIS:

15           Q       Thank you.

16           A       And all I see this telecon as is confirmation  
17 that we were providing the information requested.

18           Q       Well, you said the word that Consumers was going  
19 to generate the information. That casts a very different  
20 light on what we've been hearing about producing infor-  
21 mation which --

22           A       No; what I'm saying is is to put it in a summary  
23 form that the Staff asked for.

24           Q       Oh, you mean the information -- you know that  
25 on March 3rd, 1982 that the information was available

1 but you were just going to generate a summary of that  
2 information?

3 A The information that I knew was available is  
4 that the borings existed and that some evaluation of  
5 liquefaction had been done.

6 There's a lot of design information that we  
7 put into some kind of summary form, and, in fact, the  
8 ESR itself is a -- one form of that summary information --  
9 design information that we pulled together for the Staff's  
10 review.

11 Q Have you made any effort by today to determine  
12 whether the information which Mr. Musenheimer committed  
13 to mail to Dr. Hadala on March the 12th, 1982 was indeed  
14 generated and written between March 3rd, 1982 and March  
15 12th, 1982, when this conversation took place?

16 A Would you say that once more, please?

17 Q Have you made any attempt today to determine  
18 whether or not the information which Mr. Musenheimer  
19 committed to mail to Dr. Hadala on March 12th was indeed  
20 generated and written between March 3rd, 1982, and March  
21 12th, 1982?

22 A The information, I know, was pulled together  
23 between those two dates of March 3rd and March 12th,  
24 because I know I had conversations with Jim Musenheimer,  
25 who assisted in overviewing the pulling together of that

1 information, assisted by Bechtel, and held conversations  
2 with Dr. Afifi regarding this information.

3 Q Okay, so you know that that information was  
4 pulled together between March 3rd and March 12th, 1982.  
5 Can you tell me more precisely what information was pulled  
6 together between March 3rd and March 12, 1982?

7 MR. STEPTOE: Objection, Chief Judge Bechhoefer.  
8 This is getting repetitive.

9 CHAIRMAN BECHHOEFER: Yes, I think we're cer-  
10 tainly going in circles quite a bit on the matter. I  
11 think it's quite obvious what was put together. So we  
12 will sustain that.

13 BY MS. STAMIRIS:

14 Q Mr. Budzik, since you were, from your own  
15 testimony, seeking the agreement of the NRC Staff that  
16 the dewatering system could be limited to the two areas  
17 discussed at the March 3rd meeting, at the Diesel Genera-  
18 tor Building and the railroad bay area, had you received  
19 the agreement of the NRC Staff that the dewatering system  
20 could be limited to those two areas, what were you  
21 intending to do with that agreement?

22 MR. STEPTOE: Objection. While this particular  
23 question hasn't been asked before --

24 CHAIRMAN BECHHOEFER: I don't understand the  
25 question.

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MR. STEPTOE: -- he has already testified as to why he was meeting with the NRC Staff and what his job is and what the purpose of the meeting was.

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It seems to me that we're reaching a point of diminishing returns here in this cross examination.

MS. STAMIRIS: I have a very important reason for asking what I asked, and that was Mr. Budzik's uncomfortableness with an exchange of the words agreement and approval, and the implication was that they were not -- in fact, not his implication but his testimony is that they were not seeking approval for implementation, they were simply seeking agreement for the design.

So I think it's a very important question to ask him. Since he went into that meeting intending to seek agreement for the design basis, what did he intend to do? Or he can testify he didn't have any intention, but I want to know if he had any purpose in his mind for seeking the agreement of the design adequacy.

MR. STEPTOE: I think that's clear on the record.

MR. PATON: Mr. Chairman, I think that's a very appropriate question.

MR. STEPTOE: Excuse me, Judge Bechhoefer. I think that that's clear on the record. And even Darl Hood has already testified on the record that no specific approval for implementation or for a specific remedial action was being sought at that meeting.

MR. PATON: Well, Mr. Chairman, I'd like to speak here.

1 I think that is a very relevant question, and I  
2 have a lot of trouble understanding why the Applicant  
3 doesn't want to answer that question.

4 That's the essence of this issue.

5 You asked for a certain agreement; what did you  
6 intend to do? I can't imagine a question that's more  
7 relevant, and I think it entirely inappropriate for the  
8 Applicant to object to a question like that.

9 I mean, we're following a legal proceeding  
10 which involves, we all recognize, some word games, but  
11 there are serious issues here, and I think we ought to  
12 back off on the word games and get at the heart of this  
13 issue.

14 The question is: What did you intend to do?  
15 I can't imagine a more relevant question.

16 MR. STEPTOE: I think it has already been --

17 MR. MARSHALL: I take exception to his objection.

18 MR. STEPTOE: Excuse me, Judge Bechhoefer. I'm  
19 not playing word games, and I'm sorry if my objections  
20 are annoying counsel for the NRC Staff, but I believe the  
21 questions have already been asked and answered, and this  
22 cross examination is unduly prolonged at this point.

23 MS. STAMIRIS: May I respond, please?

24 When Mr. Budzik --

25 (Discussion had off the record.)



1 CHAIRMAN BECHHOEFER: I think we don't need to  
2 hear from you. We're going to overrule the objection.

3 MS. STAMIRIS: Okay.

4 BY MS. STAMIRIS:

5 Q Mr. Budzik, what was the purpose of your seeking  
6 the agreement that you said you were seeking from the NRC  
7 Staff as to the design adequacy of the dewatering plan  
8 limited to the Deisel Generator Building and the railroad  
9 bay area?

10 A If the Staff agreed with our design criteria  
11 and basis for the dewatering system, we would simply  
12 proceed with developing the details of the dewatering  
13 system design pit.

14 It's basically a method of -- I see it as a  
15 method of feedback.

16 Q So --

17 A And then we would -- you know, the next step after  
18 that would be to provide the detailed design information  
19 to the Staff for their review. And eventually the Staff  
20 writes a safety evaluation report on the information provided  
21 to them.

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6-3,pj1

them.

1 Q Okay, when you testify that, do you intend that  
2 that was your only purpose or was that one purpose of  
3 seeking the design agreement at the March 3rd meeting?

4 A My purpose was to see what agreement or dis-  
5 agreement we had as far as the design basis of the per-  
6 manent dewatering system and see what the Staff thought  
7 about extrapolating the recharge test data.

8 Q But, from your previous testimony about your  
9 position as the head of licensing and not going into the  
10 details on the design adequacy, that that was done by  
11 somebody else and that your responsibilities were a little  
12 different, I'd like to ask you, in your responsibilities  
13 as the head of the licensing, did you have in your mind  
14 to any degree ideas about implementing this dewatering  
15 plan as the design was discussed at the March 3rd, 1982  
16 meeting?

17 MR. STEPTOE: Objection to the form of the  
18 question; did he have in his mind to any degree any ideas  
19 concerning implementation?

20 MS. STAMIRIS: Yes, as head of licensing.

21 MR. STEPTOE: I mean, that thoughts flitting through  
22 the man's mind, is that even relevant?

23 MS. STAMIRIS: Well, was it an additional  
24 purpose that he had in his mind in addition to what he  
25 now described as he was just interested in the design

1 detail, which I thought he testified was somebody else's  
2 job.

3 [ i MS. STAMIRIS:

4 Q Did you have in your mind any purpose related to  
5 implementation of the dewatering plan when you went into  
6 the March 3rd, 1982 meeting?

7 A I wasn't, at that point, considering or looking  
8 for an approval to implement the dewatering design.

9 Q All right, I guess that --

10 A I have trouble with your word "plan" because  
11 I'm not sure what it means.

12 Q Well, I won't ask any further questions, because  
13 I think that agrees with your previous denial that you  
14 were seeking NRC approval in any way to proceed with de-  
15 watering.

16 I would like to ask you, do you remember test -  
17 fying that none of us -- meaning the Consumers people --  
18 at the meeting had firsthand knowledge of the Afifi  
19 information?

20 A Yes.

21 Q Okay, do you also remember testifying that  
22 Mr. Paris had been in communication with Mr. Afifi about  
23 the liquefaction potential?

24 A Let me put it this way. I don't have firsthand  
25 knowledge of that, but based on people's responsibilities

1 and capabilities I assume that had to take place.

2 Q You assume that what had to take place?

3 A That there had to be some conversations or  
4 exchange of information between Mr. Afifi or Mr. Paris.

5 Q Okay. Then would you agree that by the assump-  
6 tion you just stated that Mr. Paris had firsthand knowl-  
7 edge on March 3rd, 1982, of the Afifi information?

8 A Not necessarily.

9 Q Would you explain?

10 A It depends what Mr. Afifi told him and how he  
11 portrayed information.

12 He may not have had a complete understanding  
13 of the information.

14 Q Are you saying --

15 A I think that's where the communications breakdown  
16 occurred.

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Q Well, I didn't ask you about --

CHAIRMAN BECHHOEFER: I think this is getting -- he's going to have trouble with knowing what Mr. Paris was told unless he was told directly, and I think he said he --

MS. STAMIRIS: I didn't ask him, you know, what Mr. Paris' understanding was of the Afifi information, I just asked him if he now thinks, you know, by the assumption he just stated that indeed Mr. Paris did have firsthand knowledge of the Afifi information.

BY MS. STAMIRIS:

Q When I say firsthand, do you assume, then, that Mr. Paris on March 3rd, 1982, had talked directly to Mr. Afifi in some way, as opposed to going through an intermediary?

MR. STEPTOE: Objection. That really calls for speculation.

CHAIRMAN BECHHOEFER: I think it does, and I think the witness has answered to the best of his understanding about that.

MS. STAMIRIS: Well, his two answers, I think, definitely conflict, and I think that, you know, on the one hand he said that no one at the April 3rd meeting had firsthand knowledge of the Afifi information, and then, a few minutes ago, he said that he assumed that

1 Mr. Paris had talked to Mr. Afifi about this information  
2 and Mr. Paris was present at the March 3rd meeting.

3 MR. STEPTOE: The question is -- there's no  
4 conflict.

5 CHAIRMAN BECHHOEFER: That is not a conflicting  
6 statement.

7 MR. STEPTOE: It depends on what time the  
8 assumption was made, among other things.

9 THE WITNESS: Well, and if I may try to clarify  
10 things, I believe the way the question was answered was that  
11 nobody at the meeting had firsthand knowledge of the  
12 liquefaction information. And what I mean by that is  
13 none of the people at the meeting had either reviewed,  
14 personally reviewed the boring data relative to lique-  
15 faction or, in some cases, were even capable of doing  
16 that kind of review.

17 We didn't have the proper geotechnical people  
18 there at the meeting.

19 Looking at the list of the Bechtel and Con-  
20 sumers people, I think myself -- my position is explained.  
21 Mr. Swanberg is primarily a civil structural engineer.  
22 Mr. Paris is a hydrology. Mr. Schaub is a project mana-  
23 ger. And Mr. Musenheimer is the only geotechnical  
24 person. And I know there were statements made by him  
25 that he hadn't reviewed the borings for liquefaction

6-4,pj3

1 potential.

2 Q All right, Mr. Budzik, what I want to conclude  
3 my cross examination by asking you is: Do you believe  
4 that you -- do you believe that Consumers Power Company  
5 on March 3rd, 1982 presented misleading information to  
6 the NRC Staff regarding liquefaction and dewatering?

7 A I guess my feeling is -- and I'm not trying  
8 to quibble with words, but my feeling is we presented  
9 incomplete information.

10 Q Do you think that the Staff was misled by the  
11 incomplete information which you presented at the March  
12 3rd meeting?

13 A No, because they asked the appropriate ques-  
14 tions.

15 Q Well, until such time as they found out that  
16 there was a third --

17 A Even without knowing that information, they  
18 asked us to present additional information to substantiate  
19 or -- you know, the statements we had made.

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up.  
1 Q So do you think that the burden is properly on  
2 the Staff to determine whether or not the information  
3 being presented has the potential for being misleading?

4 MR. STEPTOE: Objection.

5 MS. STAMIRIS: I don't know; maybe you didn't  
6 say that. I'll ask it as a question.

7 CHAIRMAN BECHHOEFER: I'll sustain that. I  
8 don't think that witness can answer that question, for  
9 one thing.

10 BY MS. STAMIRIS:

11 Q Do you think, Mr. Budzik, that the NRC Staff  
12 does business by proceeding on the assumption that the  
13 information that they're getting from the Applicant is  
14 accurate and complete?

15 MR. STEPTOE: Objection. Again, we'll stipulate  
16 that the NRC Staff relies on getting accurate and com-  
17 plete information from the Applicant.

18 MR. PATON: Judge Bechhoefer, that's not the  
19 question. She wants to know what this witness believes,  
20 which is very important.

21 MR. STEPTOE: That's irrelevant.

22 MR. PATON: It's a very important question.

23 MR. STEPTOE: It's a matter of law, and that's  
24 true, and we stipulated to it, and this is just badgering  
25 the witness.



1 MR. PATON: Judge Bechhoefer, that is totally  
2 wrong, in all respect. to counsel.

3 We are are here questioning the actions of  
4 Mr. Budzik. His understanding of his duty to reveal  
5 information to the NRC is absolutely at the center of  
6 these issues.

7 THE WITNESS: And I answered that.

8 MR. STEPTOE: And he answered that.

9 THE WITNESS: I think I made that very clear  
10 that I feel a very strong obligation to give them  
11 complete information, and I try to take whatever steps  
12 are necessary to provide complete information.

13 At the same time, as the record shows, I'm  
14 not perfect.

15 MR. PATON: I gather the objection is with-  
16 drawn?

17 MR. STEPTOE: No, sir, the objection remains.  
18 That was still an example of badgering the witness.

19 MR PATON: Well, is the Applicant moving to  
20 strike this witness's answer?

21 MR. MARSHALL: I'll take exception to the  
22 objection on the grounds it's the crux.

23 (Discussion had off the record.)

24 CHAIRMAN BECHHOEFER: I think the answer can  
25 stay. I think it repeats an answer that was given

1 earlier.

2 BY MS. STAMIRIS:

3 Q Mr. Budzik, do you consider yourself responsible  
4 for the inaccurate and incomplete information provided to  
5 the Staff on March 3rd, 1982?

6 MR. STEPTOE: Objection; asked and answered.

7 CHAIRMAN BECHHOEFER: I think he has.

8 MS. STAMIRIS: He has? Okay.

9 MR. STEPTOE: Yes.

10 BY MS. STAMIRIS:

11 Q Okay. All right, Mr. Budzik, do you consider  
12 that there were also other people from Consumers Power  
13 Company or Bechtel at that meeting who shared your  
14 responsibility to provide the full, accurate and complete  
15 information to the NRC Staff on these issues?

16 A Yes.

17 Q And do you believe that they shared that  
18 responsibility with you equally or, by your job position,  
19 were you more in charge of what should be presented by  
20 the Consumers Staff at that meeting?

21 A It's hard for me to make that judgment. I  
22 think, probably, based on job descriptions, it's probably  
23 equal. But, also, at the same time, I feel extremely  
24 strong personal responsibility to see that that's done.

25 Q Okay, thank you. Mr. Budzik, do you believe

6-5, pj4

1 that Mr. Afifi was completely open and above board in  
2 providing all of the relevant information regarding the  
3 liquefaction potential at the Midland site to other  
4 members of Consumers Power Company?

5 MR. STEPTOE: Objection. How can the witness  
6 answer that?

7 She's asking for an opinion about a subject  
8 matter which he has already testified that he doesn't have  
9 any firsthand knowledge of.

10 MS. STAMIRIS: Well, I think he has also  
11 testified that since the time in which he didn't have  
12 any firsthand knowledge that he has looked quite closely  
13 into the events surrounding the what I could call com-  
14 munications problems or lack of communication involving  
15 the information of the existence of a third area of loose  
16 sands, and I wondered if, after having looked at all the  
17 things he has looked at today, he has any opinion as to  
18 whether Dr. Afifi was open and above board with sharing  
19 all the relevant information that he had regarding the  
20 liquefaction potential at the Midland site as of March  
21 3rd, 1982.

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1982

1 MR. STEPTOE: Well, first of all, I don't agree  
2 with that summary of the testimony. Second of all, the  
3 question is irrelevant to any proceedings before the  
4 Board, or any contention before the Board, and it's just  
5 cumulative.

6 There's no basis on this record to suggest  
7 that Mr. Afifi is conspiring against the rest of Bechtel.

8 MS. STAMIRIS: Well, then, he can simply answer  
9 that way, if that's his opinion. I just think it would  
10 be helpful for --

11 MR. STEPTOE: It's asking for speculation,  
12 Judge Bechhoefer.

13 CHAIRMAN BECHHOEFER: I'd like to ask the  
14 question a little differently. I have it written out  
15 here anyway.

16 I'd like to know that, given the information  
17 that derived from the various boring logs, and given the  
18 fact that Consumers was designing or having designed for them  
19 a dewatering system to take into account liquefaction  
20 problems, do you think that Bechtel provided Consumers  
21 as of that time, March of '82, with sufficient information  
22 for Consumers to appropriately carry on its request or  
23 its licensing procedures?

24 THE WITNESS: The answer is no, and, in fact,  
25 people in Bechtel, like Mr. Swanberg, who attended this

1 meeting, did not have that information either. So I have  
2 it -- first of all, I would like to say that, contrary  
3 to what Mrs. Stamiris said, I did not say at any time that  
4 I made any kind of thorough investigation of this incident.

5 But, from conversations with people, it's  
6 obvious to me that the information that Mr. Afifi had,  
7 and his people -- I say his people because I don't know  
8 exactly who looked at these boring logs, and you must under-  
9 stand he heads up a group -- that that information  
10 wasn't clearly expressed to other Bechtel people.

11 CHAIRMAN BECHHOEFER: As well as Consumers  
12 people?

13 THE WITNESS: As well as Consumers.

14 BY MS. STAMIRIS:

15 Q Mr. Budzik, when you made reference just now -- you  
16 used the phrase "and his people," referring to the  
17 people that worked closely with Mr. Afifi --

18 A That work for Mr. Afifi. Mr. Afifi has a  
19 group of people that work for him.

20 Q Do you consider Mr. Paris to be in the group of  
21 people?

22 A No, he's in a totally separate group. He's in  
23 the hydrology group.

24 Q Then do you think the fact that Mr. Paris was  
25 the link between Mr. Afifi -- well, was Mr. Paris the  
communication link between yourself and Mr. Afifi on which  
you made the assumptions that you did on March 3rd, 1982?

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1 A Yes, primarily, that's true.

2 Q So that you believe that it would be -- in  
3 view of the fact that Mr. Paris had communicated with Mr.  
4 Afifi in some form or another, do you believe that it would  
5 be inaccurate to say that Mr. Afifi and his group had  
6 not communicated properly with others outside of their group?

7 A That's correct.

8 MR. STEPTOE: There are a lot of nots in that  
9 sentence, but --

10 THE WITNESS: Well, I think that there was not  
11 a complete communication between Mr. Afifi's group and  
12 Mr. Paris and the -- I don't know, one or two people that  
13 he has working for him, who were responsible for the  
14 hydrology portion of designing the dewatering system.

15 BY MS. STAMIRIS:

16 Q Well, then, Mr. Paris is a Consumers Power  
17 Company employee --

18 A No.

19 Q Or Bechtel?

20 A Bechtel.

21 Q But you would not -- for whatever lack of  
22 communication occurred, you do not consider the  
23 responsibility or blame for it to rest solely with Mr.  
24 Afifi's group?

25 A That's correct, I cannot judge who it rests with

1 between the two.

2 Q Okay. Mr. Budzik, since you have acknowledged  
3 that you and others at that meeting provided inaccurate  
4 and incomplete information to the NRC Staff regarding  
5 liquefaction and dewatering, would you also agree that  
6 it was a significant omission?

7 MR. STEPTOE: Objection, that's been asked and  
8 answered.

9 CHAIRMAN BECHHOEFER: Yes.

10 MS. STAMIRIS: All right.

11 BY MS. STAMIRIS:

12 Q Has this sort of thing -- when I say this sort  
13 of thing, I mean, the provision of inaccurate and  
14 incomplete information to the NRC Staff on an important  
15 soils matter occurred at other times?

16 MR. STEPTOE: Objection.

17 CHAIRMAN BECHHOEFER: I don't think this witness  
18 is --

19 MS. STAMIRIS: Well, by you personally. Then I  
20 will ask him his own personal knowledge.

21 BY MS. STAMIRIS:

22 Q Have you provided inaccurate and incomplete  
23 information to the NRC Staff on an important soils  
24 remedial issue at other times besides this?

25 A The only incident that comes to my mind immediately,

1 and I haven't thought about this prior to you asking the  
2 question, is the whole question of the materially false  
3 statement in the FSAR.

4 Q You mean the original materially false statement  
5 which was just stipulated to this time?

6 MR. STEPTOE: This what?

7 BY MS. STAMIRIS:

8 Q Which was stipulated in this proceeding.

9 A You know, I can't right now off the top of my  
10 head recall other incidences, but --

11 Q Do you mean to tell me you don't recall a  
12 very extensive investigation about the possibility of  
13 another materially false statement and inaccurate and  
14 incomplete information provided by you, Mr. Budzik, to  
15 the NRC Staff on -- I believe it was also in March of 1982,  
16 an issue that has been -- was first brought to the attention  
17 of this Board in the Spessard memo notifying the Board of  
18 potential misleading statements?

19 A I think the investigation of that issue, if  
20 you are referring to the one about the installation of  
21 instrumentation for underpinning the Aux Building, cleared  
22 us of that fact.

23 MR. STEPTOE: Again, I don't recall that Mr.  
24 Budzik -- are we using the word "you" to mean Mr. Budzik,  
25 individually?



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MS. STAMIRIS: Yes.

CHAIRMAN BECHHOEFER: It would have to because I don't think he's testifying for the whole company.

BY MS. STAMIRIS:

Q Sowith that, so with your memory refreshed to that extent, do you now remember making an inaccurate and --

A Mrs. Stamiris, let me interrupt you because if you read the investigation report, it was found that there was not --

Q Let me interrupt you because that is not what I am interested in.

7-2

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1 CHAIRMAN BECHHOEFER: Mrs. Stamiris --

2 MS. STAMIRIS: That is not answering the  
3 question I asked.

4 CHAIRMAN BECHHOEFER: We are not investigating  
5 various other incidents at this time.

6 MS. STAMIRIS: I agree. That is why I did not  
7 ask him about other incidents, the conclusion of them  
8 or anything else.

9 CHAIRMAN BECHHOEFER: I don't think the  
10 instrumentation matter is appropriate to be asked at this  
11 time, either.

12 MS. STAMIRIS: Well, I asked him a question about  
13 his personal knowledge of other times when he personally  
14 provided inaccurate or incomplete information to the NRC  
15 Staff on a soils related issue, and he just testified that  
16 other than the original materially false statement, he  
17 didn't remember any others.

18 And I now believe, without getting into the  
19 investigation or the conclusions, that he remembers --  
20 well, that is what I want to ask him if he now remembers  
21 providing inaccurate and incomplete information to the  
22 NRC on March 10th and 12th, 1982.

23 MR. STEPTOE: This is whether Mr. Budzik,  
24 himself, provided inaccurate and misleading information  
25 on that occasion?

1 MS. STAMIRIS: I didn't say misleading, I said  
2 inaccurate and incomplete.

3 MR. STEPTOE: Inaccurate information.

4 MS. STAMIRIS: And incomplete. If you want to  
5 get to the question the way I asked it --

6 THE WITNESS: I guess I don't understand what  
7 is going on anymore.

8 MS. STAMIRIS: May I have one more try at it?

9 MR. STEPTOE: My understanding is Mr. Budzik  
10 was not the guy that was involved in that incident.

11 MR. BRUNNER: I think Mrs. Stamiris has got  
12 Mr. Budzik confused with Mr. Boos.

13 MS. STAMIRIS: I'm sorry.

14 MR. BRUNNER: So Mr. Budzik is obviously  
15 confused by the whole line of questioning at this point.

16 MS. STAMIRIS: I'm sorry, I had the wrong  
17 person in mind.

18 I don't have any other questions now.

19 MR. MARSHALL: Well, I have some questions for  
20 you, witness.

21 CROSS EXAMINATION

22 BY MR. MARSHALL

23 Q And before we get started, out of fairness to  
24 everybody present, I want to say I don't have anything up  
25 my sleeve and I'm not a master of legerdemain, nor do I

1 want a battery of lawyers at my left to burst a blood  
2 vessel.

3 So having said that, I want to start in with a  
4 different line of questioning and it's not going to take  
5 very long.

6 You said you wasn't perfect. You still insist  
7 that you are not perfect?

8 A. That's right.

9 MR. STEPTOE: Applicant will stipulate --

10 MR. MARSHALL: This is cross examination,  
11 Counselor.

12 BY MR. MARSHALL:

13 Q. This morning, briefly in your qualifications,  
14 you gave us some information background on your qualifications  
15 in the Navy, and in particular, I believe, in the submarine  
16 service, nuclear submarine service.

17 A. That's correct.

18 Q. Would you please tell us at this time, a very  
19 fast and quick runover, on the word trig.

20 A. What?

21 Q. Trig. Would you explain to us what a trig is?

22 A. A trig?  
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trig

1 Q Yes. You used it -- we can have it read back,  
2 in your qualifications this morning. You used that word  
3 very fast, trig.

4 What is trig?

5 A I don't remember using that word.

6 Q You were not speaking about trigonometry.

7 A I don't remember using that word.

8 Q You did use the word, I'm sure of it. It's in  
9 the record. And it has to do with your job in the Navy,  
10 so you certainly must remember that.

11 JUDGE HARBOUR: I believe that you may possibly  
12 have misunderstood him when he was referring to his training  
13 responsibilities on --

14 MR. MARSHALL: Onboard ship. It had to do with  
15 his work.

16 JUDGE HARBOUR: But, I mean, is there a confusion  
17 between the word trig and training?

18 MR. MARSHALL: No, I'm quite sure -- positive.  
19 I'm sure that he used the word trig and passed right on  
20 over it.

21 MS. STAMIRIS: If Mr. Budzik doesn't know what the  
22 word trig means, then he couldn't have used it in his  
23 testimony.

24 MR. MARSHALL: Well, I don't want you --

25 MS. STAMIRIS: I'm sorry.

1 MR. MARSHALL: Please don't help the witness.  
2 He is an expert. He is a Navy man.

3 MS. STAMIRIS: I thought he already said, you  
4 know, that he doesn't know what it means.

5 MR. MARSHALL: School teachers give them a post-  
6 graduate course on it, nuclear physicist.

7 I will ask the question direct.

8 BY MR. MARSHALL:

9 Q Do you know what a trig is?

10 A No, sir.

11 Q You do not know and yet you are an expert on --  
12 I'm a farm boy, remember that, keep that in mind. I'm not  
13 supposed to know.

14 But isn't a trig a miniature Mickey Mouse thing,  
15 sort of like what you are dealing with down here at this  
16 giant nuclear plant?

17 A I don't know what you mean, Mr. Marshall.

18 Q Well, isn't a trig a small form of a machine of  
19 some sort that has to do with nuclear fission, a very small  
20 one?

21 MS. SINCLAIR: Is he referring to a trigger  
22 reactor?

23 THE WITNESS: A trigger reactor is a research  
24 reactor.

25 BY MR. MARSHALL:

1 Q But didn't you work with one of those in the --  
2 in your service -- in the Navy, doesn't that show that  
3 you had?

4 A No, sir. I worked with propulsion reactors  
5 that drove the ship. The research reactors, like the  
6 trigger reactor, do not provide power to drive machinery.

7 Q That is exactly, precisely what I am getting at.  
8 But what I think I'm getting at most of all is  
9 just what we're getting right now. You said that you were  
10 not -- you were not perfect, but it turns out now that  
11 you are quite a perfectionist.

12 A I try to be, sir.

13 Q Yes. Well, I mean, isn't this a conflict of  
14 testimony here today?

15 A No.

16 Q I mean --

17 CHAIRMAN BECHHOEFER: He hopes not.

18 BY MR. MARSHALL:

19 Q One minute you are saying you are not perfect  
20 and the next minute you're telling me you are.

21 MS. STAMIRIS: He tries.

22 MR. STEPTOE: A perfectionist is one who aspires  
23 to be perfect, not one who has achieved that.

24 MR. MARSHALL: Well, what I am attempting to do  
25 here, I am not trying to prove whether he is or isn't,

1 I'm only trying to prove veracity.

2 MR. PATON: Could I remind Mr. Marshall that I  
3 certainly wouldn't want to interrupt his cross examination,  
4 but we have very limited time left today.

5 MR. MARSHALL: That was my last question.

6 MR. PATON: I see. Thank you.

7 MR. MARSHALL: That was it.

8 MR. PATON: I appreciate it.

9 CHAIRMAN BECHHOEFER: Mrs. Sinclair, do you have  
10 any questions.

11 MS. SINCLAIR: No, I have no further questions.

12 MR. PATON: I do when you get to it.

13 CHAIRMAN BECHHOEFER: I think the Board -- we  
14 have a few questions, not too many, and then we'll come  
15 back. Why don't we take a short break.

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(Recess taken.)

CHAIRMAN BECHHOEFER: Mr. Budzik, I just have a couple questions. Most of mine were asked already.

BOARD EXAMINATION

BY CHAIRMAN BECHHOEFER:

Q Was there any mention at all in the March 3rd meeting of an evaluation by Dr. Afifi's geotechnical engineering group in those terms or similar terms?

A No, I don't remember. I remember references that Dr. Afifi had done liquefaction evaluation of the site and that -- but if you are asking about some kind of compiled report or that, no.

Q Well, I was really trying to trace the mention of the words -- those same words that appear in the meeting notes, and I was trying to figure out how they got there, page two.

MR. PATON: Where on page two?

CHAIRMAN BECHHOEFER: Second paragraph.

MR. PATON: Thank you.

BY CHAIRMAN BECHHOEFER:

Q What I was trying to ascertain is whether that got there from something that was said at the meeting or whether it was put in after the fact, as the meeting notes were prepared sometime later.

A No, I think that reflects what was said in the

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1 meeting, you know. We had a general understanding that  
2 Dr. Afifi had evaluated boring information for --  
3 potential for liquefaction.

4 Q I see. Now, we had considerable discussion  
5 of this agreement or approval, whether you were seeking  
6 either. When you finally get approval on -- don't  
7 consider the work authorization procedure at this point,  
8 but what would be the form -- what kind of approval  
9 that you would have to, say, implement a dewatering  
10 system?

11 A Well, if you ignore the -- unfortunately the  
12 dewatering system comes under the Board order.

13 Q I'm saying, ignore that for the moment.

14 A Okay. If you ignore that --

15 Q There was no Board order at that time.

16 A My understanding is with a construction permit  
17 we would be allowed to put in those systems that were  
18 described in the PSAR, and subject to -- at the operating  
19 license stage, subject to the Staff's approval.

20 And that approval normally comes in the form  
21 of the safety evaluation report that the Staff writes.

22 Q So that you would not, again, absent the work  
23 authorization procedure, but you would not normally seek  
24 any sort of formal approval for something like the dewatering  
25 system, other than through the safety evaluation?

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A. That's correct, sir. There are sometimes exceptions where because we see maybe a high risk, you know, financial risk for something to the company, we might ask for some, you know, early approval in writing or concurrence with something we want to do.

But the normal process is the safety evaluation report which leads to issuance of a license.

MR. STEPTOE: Judge Bechhoefer, you asked him to ignore for the time being the Board order.

CHAIRMAN BECHHOEFER: And the work authorization.

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1 MR. STEPTOE: And work authorization plan. Did  
2 you also intend to ask the witness to ignore the agreement  
3 between the Staff and Consumers that preexisted those  
4 documents concerning concurrence, because it's not clear  
5 from the question what the witness is assuming.

6 BY CHAIRMAN BECHHOEFER:

7 Q Ignore that for the moment.

8 A I did. I assumed you were asking a question  
9 of what is the normal means, not what special situations  
10 exist on this docket.

11 Q Now, to carry it forward, what procedure -- well,  
12 again, ignore the work authorization procedure and the  
13 voluntary commitment for the moment, maybe they can't be  
14 separated, but what procedure would you go through, if any,  
15 before you actually started installing the components of  
16 a dewatering system, before you implement the system?

17 A If the dewatering system was part of the original --  
18 included in the original construction permit, we would  
19 need no further authorization to install it.

20 Q This was not, was it?

21 A No, sir.

22 Q So what would you normally do for this system?

23 A Okay. We would have to get -- well, the reason  
24 I am having trouble answering it is because what has to be  
25 clearly researched is the PSAR and the CP license, itself,

1 because if it's totally outside the scope of those things,  
2 you would have to get an amendment to the license if it's  
3 totally outside the scope of those.

4 If the Staff agreed with you, and this has  
5 happened to us where that -- it was -- it may not be  
6 specifically called out, but they felt it was within the  
7 criteria that we were trying to meet from the PSAR, that  
8 no change was necessary.

9 What I am getting at is if you go back to the  
10 construction permit license and the basis for that license,  
11 some of the criteria in that are quite general in nature.  
12 They're not as -- especially on Midland because of the  
13 time, 1972, I believe, that the information isn't  
14 developed as completely as it would be if you were  
15 seeking a construction permit today.

16 Q Would this dewatering system have required an  
17 amendment either to the PSAR or to the initial versions  
18 of the FSAR which were submitted?

19 MR. STEPTOE: Isn't that a legal question, Judge  
20 Bechhoefer?

21 CHAIRMAN BECHHOEFER: Well, it's both.

22 THE WITNESS: Could you say that again?

23 BY CHAIRMAN BECHHOEFER:

24 Q Whether at that point any such documents had been  
25 submitted at the March date.

1           A.     Could you repeat that, Judge, I'm not sure I  
2 followed that question.

3           Q.     Would Consumers have anticipated filing either  
4 an amendment to the PSAR or amendment to the earlier  
5 versions of the FSAR prior to installing the dewatering  
6 system?

7           A.     Yes, the way the agreements we have with the  
8 region is that before construction proceeds in something,  
9 that information must be reflected in what we call a SAR  
10 notice, meaning that it's already been approved for  
11 inclusion in the next revision of the FSAR.

12          Q.     Had a document of that sort gone out at the  
13 time of the March 3rd meeting?

14          A.     No, Your Honor, because this was being handled  
15 quite a bit differently because of the Board order. I'm  
16 sorry, not the Board order, the -- what I mean is the  
17 original December order and also there had been a 5054F --  
18 I lost my train of thought, series of questions, that had  
19 been provided to the Staff, and that's how some of the  
20 information was being provided.

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1 Q Now, before you actually started implementing  
2 these plans, would there be anything different than the  
3 type of meeting that you attended on March 3rd? Would  
4 that have been sufficient -- would that type of a meeting --  
5 I don't mean to say meeting, but I mean would that type of  
6 a meeting have been sufficient for you to start implementing  
7 the system?

8 A The problem I'm having with that question is,  
9 if you consider that system to be within the scope of the  
10 construction permit or you don't for talking -- or for  
11 hypothetical purposes.

12 Q Well, for hypothetical purposes, considering  
13 not within the scope of the inspection permit.

14 A No, I wouldn't consider it sufficient, just  
15 that meeting.

16 Q Well, I didn't mean that meeting, but that type  
17 of meeting is what I was --

18 A That type of meeting, your Honor, no. If we're  
19 talking about adding a system that the Staff and us both  
20 agree -- and, really, the Staff agrees, because they have  
21 the last judgment of that -- is outside the scope of the  
22 construction permit, that meeting wouldn't suffice. You  
23 know, that type of meeting would not suffice to give  
24 us approval to go ahead with it.

25 CHAIRMAN BECHHOEFER: Okay, that's all the

1 questions the Board has.

2 Mr. Steptoe.

3 MR. STEPTOE: We have no redirect, your Honor.

4 MR. PATON: Judge Bechhoefer, could I have some  
5 questions based on your questions and Mrs. Stamiris'  
6 questions?

7 CHAIRMAN BECHHOEFER: Yes.

8 MR. STEPTOE: Is the Staff allowed to ask  
9 questions based on Mrs. Stamiris' questions?

10 MR. MARSHALL: He can if the Judge says so.

11 CHAIRMAN BECHHOEFER: Yes, anybody can follow.

12 MR. PATON: May I proceed, Mr. Chairman?

13 CHAIRMAN BECHHOEFER: Yes.

14 CROSS EXAMINATION

15 BY MR. PATON:

16 Q Mr. Budzik, would you look at Attachment 2 to  
17 the Staff testimony, page two, the first sentence in the  
18 second paragraph, in which Judge Bechhoefer asked you  
19 about -- may I read that sentence for the record, Judge  
20 Bechhoefer?

21 CHAIRMAN BECHHOEFER: Yes.

22 BY MR. PATON:

23 Q The evaluation by Dr. Afifi's geotechnical  
24 engineering group, from which the Applicant concluded that  
25 no liquefaction concern exists for seismic Category 1



1 structures other than the DGB and RBA has not been  
2 presented to the Staff."

3 Mr. Budzik, my question is: Did you tell the  
4 Staff at the March 3rd meeting that the evaluation by Dr.  
5 Afifi's geotechnical engineering group concluded that no  
6 liquefaction concern exists for seismic Category 1  
7 structures other than DGB and RBA?

8 A. Yes.

9 Q. Do you consider that inconsistent with your  
10 previous testimony today?

11 A. No.

12 Q. So that as of March 3rd you personally were --  
13 well, on March 3rd you were aware that Dr. Afifi had done  
14 an evaluation?

15 MR. STEPTOE: Objection. Asked and answered.

16 BY MR. PATON:

17 A. Is that correct?

18 MR. STEPTOE: Objection. Asked and answered.

19 MR. PATON: I'll withdraw the question.

20 BY MR. PATON:

21 Q. On what did you base your statement to the Staff?

22 MR. STEPTOE: Objection. Asked and answered.

23 MR. PATON: Judge Bechhoefer, we have the witness  
24 on the stand who says he subsequently discovered that Dr.  
25 Afifi's statement, or study in fact showed that there were

1 three areas of potential liquefaction.

2 He, by his own admission, just stated that he  
3 told the Staff that this study showed only two.

4 That's a pretty serious conflict. I want to ask  
5 him on what he based his statement that there were only two.

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1 MR. STEPTOE: Objection. It's a total  
2 misrepresentation of what the witness has said, and  
3 especially the use of the word study.

4 It's clear and it has been explored the difference  
5 between an evaluation which exists, which has been done by  
6 Dr. Afifi, and their written report, written study or  
7 reification of that information.

8 That was explored, and there's just no point in  
9 proceeding with this.

10 I believe if counsel reads the transcript it  
11 will become clear, because it certainly is clear on the  
12 basis of the record which has been established this  
13 morning.

14 MR. PATON: Judge Bechhoefer, I submit that's a  
15 word game, but I withdraw the question. I want to pursue  
16 this.

17 MS. STAMIRIS: And I would --

18 MR. PATON: Now, I really do want to pursue this.

19 MS. STAMIRIS: I just wanted to get the --

20 MR. PATON: I really do want to pursue this.

21 BY MR. PATON:

22 Q You admit that you told the Staff on March 3rd that  
23 the Dr. Afifi study was limited to -- indicated the liquefaction  
24 problems were limited to two areas. Do you agree with that?

25 MR. STEPTOE: Objection.

1 MS. STAMIRIS: He's going to object to the use  
2 of the word study. Would you be willing to use the word  
3 evaluation?

4 MR. PATON: Evaluation.

5 BY MR. PATON:

6 Q The evaluation showed that? Did you?

7 A What I remember initially telling the Staff is  
8 that there were two areas of potential liquefaction. And  
9 then, as the discussion evolved, Dr. Afifi's name was brought  
10 into it because he is the one who does this type of  
11 evaluations and this is where the information would have  
12 come from.

13 MR. PATON: Judge Bechhoefer, I would like to have  
14 the witness be instructed to answer my questions.

15 MR. STEPTOE: Objection to that. I object to  
16 that.

17 MR. PATON: This --

18 MR. STEPTOE: Excuse me. I think I'm entitled  
19 to the courtesy of being allowed to continue.

20 MR. PATON: I'll start again.

21 CHAIRMAN BECHHOEFER: Well --

22 MR. MARSHALL: Wait for a ruling.

23 MR. STEPTOE: Judge Bechhoefer, this witness has  
24 been more than responsive to all of the questions that have  
25 been asked this morning, and this cross examination is

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repetitive. All these questions have been asked and answered a number of times by Staff Counsel, by Mrs. Stamiris, and, to a much more limited and constricted extent by the Board.

There is just no point in continuing going over the same ground.

MR. PATON: Judge Bechhoefer, I am not going over the same ground. You developed this statement on your questions.

It is a very limited issue here. Mr. Budzik, I submit to the Board, has told this record and stated on this record that he told the Staff at that meeting that the Afifi study -- that the Afifi evaluation showed that there were only two areas of concern for liquefaction.

I believe he said that. Now, I want to ask him what he based that on, because, obviously, he has also testified that the Afifi study showed in fact there were three areas. I want to ask him what was his basis for telling the Staff that the Afifi study showed that -- the evaluation showed there were only two areas.

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areas

1 Now, I don't understand why the Applicant is not  
2 willing to answer that question.

3 MR. STEPTOE: Judge Bechhoefer, the Applicant  
4 does not want its witness to answer that question because  
5 the witness has answered that question a number of times,  
6 and I believe the Board is absolutely clear and the record  
7 is absolutely clear on what the witness's answers to this  
8 were.

9 MS. STAMIRIS: I disagree, and I believe that  
10 perhaps in all of the answers that we've heard this morning  
11 that the answers have been slightly different at different  
12 times, and that's the reason for needing this very important  
13 clarification at this point in time.

14 MR. PATON: I agree, Judge Bechhoefer. I ask  
15 him questions and he doesn't answer my question. He gives  
16 me a little different answer. My questions are very simple.

17 MR. STEPTOE: Again, I refuse to accept that  
18 characterization of the witness's responses.

19 MR. PATON: I do not understand the Applicant not  
20 wanting to clarify this issue.

21 Mr. Budzik knows why he's here today. The issue  
22 is clear to everybody in this room. Why they're objecting  
23 I cannot imagine.

24 I would think they would want to make every  
25 effort to clarify this record.

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1 MR. MARSHALL: Judge Bechhoefer, I believe  
2 yesterday's evidence in the record, stated by some witness --  
3 I don't know who -- that there was three areas.

4 (Discussion had off the record.)

5 CHAIRMAN BECHHOEFER: We think that the question  
6 probably has been asked indirectly, but, for clarification,  
7 I think the witness can perhaps answer it, or answer it again,  
8 as the case may be.

9 So we'll overrule the objection.

10 MR. PATON: Judge Bechhoefer, I would just as soon,  
11 as opposed to going back and finding the question, ask it  
12 again.

13 CHAIRMAN BECHHOEFER: Okay.

14 BY MR. PATON:

15 Q Mr. Budzik, did you tell the Staff on March 3rd --

16 CHAIRMAN BECHHOEFER: That's a different question.  
17 That was the prior question.

18 MR. PATON: All right, he has answered that  
19 question.

20 CHAIRMAN BECHHOEFER: He answered that one.

21 BY MR. PATON:

22 Q Mr. Budzik, you did admit that it came to your  
23 knowledge at some time that, in fact, the Dr. Afifi study  
24 showed there were three areas of concern for liquefaction?

25 MR. STEPTOE: Objection to the characterization

1 of his testimony.

2 MR. PATON: Well, he has already agreed with it.  
3 He didn't say it.

4 BY MR. PATON:

5 Q. But do you agree with that, Mr. Budzik?

6 MR. MARSHALL: He just indicated it for the record.  
7 He just nodded his head.

8 BY THE WITNESS:

9 A. That information came to me after the March 3rd  
10 meeting.

11 BY MR. PATON:

12 Q. All right. My question to you is: If you  
13 didn't learn that until after the March 3rd meeting, why  
14 did you tell the Staff on March 3rd that Dr. Afifi's study  
15 showed there were only two areas of concern for liquefaction?

16 MR. STEPTOE: Objection again to the use of the  
17 word study.

18 MR. PATON: This is a word game. The Applicant --  
19 I don't understand this, why he isn't anxious to put this  
20 information on the record.

21 CHAIRMAN BECHHOEFER: Well, try to use --

22 MR. PATON: Evaluation.

23 CHAIRMAN BECHHOEFER: -- evaluation.

24 BY THE WITNESS:

25 A. That was my understanding of the evaluation at



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1 that time, that there were only two areas of concern for  
2 liquefaction.

3 I got that understanding from Mr. Paris and other  
4 people that I talked to in the project. I can't remember  
5 all of them. Some of them were people like Mr. Keeley and  
6 Thiru Bengadam, as I indicated before, and I believe Mr.  
7 Ramasham, and so forth.

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BY MR. PATON:

Q Did you ever go back and make any kind of an investigation as to how all of these people could have been wrong?

MR. STEPTOE: Objection. That has been asked and answered.

Mrs. Stamiris asked him, or assumed in a question that he had gone back and made a detailed investigation, and he volunteered that he had not.

BY MR. PATON:

Q Do you agree with that, Mr. Budzik?

MR. STEPTOE: Excuse me, Judge Bechhoefer. My objection was directed to you.

(Discussion had off the record.)

CHAIRMAN BECHHOEFER: I think that objection we'll sustain.

MS. STAMIRIS: On the basis that Mr. --

CHAIRMAN BECHHOEFER: That he has already answered the question.

MS. STAMIRIS: Okay. The way that Mr. Steptoe characterized it?

CHAIRMAN BECHHOEFER: I guess, yes.

BY MR. PATON:

Q Mr. Budzik, would you turn to page one of Attachment 2, and near the bottom of the page, under summary,

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1 would you read the first two sentences there.

2 A. (Reading) "The Midland permanent dewatering system  
3 -- "

4 Q. You can -- okay. Either aloud or to yourself. I  
5 don't care.

6 A. Which do you want, Mr. Paton?

7 Q. I don't care. Read it out loud, please.

8 A. (Reading) "The Midland permanent dewatering system  
9 has been designed on the basis that the foundations of the  
10 DGB and the RBA are the structures where liquefaction is a  
11 concern.

12 "The meeting opened with the Applicant asking the  
13 Staff agreement that these are the only critical structures."

14 Q. Do you agree that that is accurate?

15 MR. STEPTOE: Objection, asked and answered. He  
16 has already agreed that the whole attachment is accurate.

17 MR. PATON: Let me ask a different question.

18 (Discussion had off the record.)

19 MR. PATON: I withdraw the question.

20 CHAIRMAN BECHHOEFER: I was going to let him  
21 answer that one.

22 MR. PATON: I was just going to put a little more  
23 emphasis to the question. I want the answer.

24 I think it's important for him to say exactly what  
25 it is he asked of the Staff, because I will proffer that

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1 our witnesses are going to have some statements to make  
2 about that.

3 (Discussion had off the record.)

4 CHAIRMAN BECHHOEFER: You may answer the question.

5 BY THE WITNESS:

6 A. Yes, I think that is correct. These two statements  
7 are correct.

8 BY MR. PATON:

9 Q. Did you make your request once or more than  
10 once?

11 A. I don't remember.

12 Q. Am I correct that you agreed with Mrs. Stamiris  
13 that on March 3rd, 1982, at that meeting, you acted  
14 irresponsibly?

15 MR. STEPTOE: Objection. That's not my recollection  
16 of the record.

17 MR. PATON: I'm just asking him the question.

18 CHAIRMAN BECHHOEFER: I think he can say if that's  
19 what he agreed to or not.

20 BY THE WITNESS:

21 A. No, I don't think I acted irresponsibly, but it  
22 is also obvious that the information I had in hand was not  
23 complete.

24 BY MR. PATON:

25 Q. All right, we're being very careful about words

1 today. Do you agree that your conduct on that day was  
2 in some respect irresponsible?

3 MR. STEPTOE: Objection; asked and answered.

4 MS. STAMIRIS: Well, I think the answer is  
5 different this time, so I'm very interested in hearing the  
6 answer.

7 MR. STEPTOE: The preceding question was the same  
8 question.

9 MR. PATON: Well, we're being very careful about  
10 words here, Chairman Bechhoefer, and I want to make sure  
11 that the Applicant is satisfied.

12 I think the word irresponsible was the word that  
13 was used, and he may be objecting to my use of the word  
14 irresponsibly. It's difficult to know.

15 But my recollection of the record was that he  
16 admitted that.

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that.

1 CHAIRMAN BECHHOEFER: I think he can ask whether  
2 that's accurate or not, which is, I think, what you asked  
3 him.

4 (Discussion had off the record.)

5 MR. STEPTOE: I think the Judge has ruled that  
6 you can answer, Mr. Budzik.

7 BY THE WITNESS:

8 A I do not feel that I acted irresponsibly. I  
9 acted in error.

10 BY MR. PATON:

11 Q When you presented your direct testimony today did  
12 you have in mind the purpose of your testimony?

13 MR. STEPTOE: Objection. What kind of question  
14 is that?

15 MR. PATON: I think it's a very reasonable --

16 MR. STEPTOE: That's nothing more than argu-  
17 mentative.

18 MR. PATON: Judge Bechhoefer, I'll indicate  
19 to the Board where I'm going with this question.

20 MS. STAMIRIS: I think it was probably meant  
21 to just focus on the certain time frame.

22 CHAIRMAN BECHHOEFER: I can't see the pertinency  
23 of the last question, but maybe you can.

24 MR. PATON: All right, let me have one minute,  
25 Judge Bechhoefer.

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(Discussion had off the record.)

BY MR. PATON:

Q Mr. Budzik, do you agree that on March 3rd, 1982 you did not give this Staff information that they should have had?

A Yes.

Q And were you aware -- did you -- when were you first aware of that?

A Some days after the meeting.

Q Did you tell that to the Board in your direct testimony?

MR. STEPTOE: Objection.

CHAIRMAN BECHHOEFER: I asked him the question when he called Mr. Hood, but --

MR. STEPTOE: Staff counsel is now badgering the witness about his direct --

MR. PATON: No, I --

MR. STEPTOE: Wait a second. I am entitled --

MR. PATON: Certainly.

MR. STEPTOE: -- to conclude my sentences.

Staff counsel is merely badgering the witness, as the direct testimony did address this. I have a very clear recollection of it.

Mr. Budzik said that when he found out about it he called Mr. Hood.

1 CHAIRMAN BECHHOEFER: I asked him when, I think.

2 MR. STEPTOE: And I don't think it's fair for  
3 Staff counsel to be asking these kinds of questions.

4 He can go back and read the transcript and then  
5 make any argument he wants to in his findings of fact.  
6 But that kind of question is simply no more than baiting  
7 the witness.

8 MR. MARSHALL: Judge, this is cross examination.

9 MR. PATON: Judge Bechhoefer, I have just one  
10 or two more questions. I'll be glad to tell you what they  
11 are.

12 CHAIRMAN BECHHOEFER: Okay.

13 MR. PATON: I want to ask the witness his  
14 concept of his duty to disclose information to this  
15 Board. And, after he answers that question, I want to  
16 ask him his opinion on whether his direct testimony  
17 satisfied that duty. And those are my questions.

18 MR. STEPTOE: That's totally improper, Judge  
19 Bechhoefer. There has been no foundation laid that this  
20 witness has not satisfied any duty of disclosure to  
21 the Board, and the implicit assumption is that there's  
22 something that Mr. Budzik has not said in his direct exam-  
23 ination that he should have said, and that has not been  
24 identified, as I said.

25 My recollection of his direct examination was



1 that he said that he told Mr. Hood when he found out  
2 about the error.

3 And I'm confident that the record will bear me  
4 out on that.

5 This kind of examination is sheer baiting the  
6 witness, and it's really saddening for me to see the  
7 counsel for the NRC Staff stoop so low.

8 MR. MARSHALL: This is cross examination --  
9 recross, and it's open to anything that's been raised  
10 on direct examination, as every lawyer here knows.

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knows

1 MR. PATON: Judge Bechhoefer, we all know why  
2 we're here. There were certain facts developed on the  
3 record yesterday that left a serious question open.

4 Mr. Budzik came in here, and, in my opinion,  
5 there was a lot of information developed and only on  
6 cross examination. That was not forthcoming in his direct.

7 All I'm doing is asking him what he feels his  
8 duty is to this Board and does he think that that duty  
9 was satisfied with his direct testimony.

10 Maybe I'm wrong. Maybe we'll read the record and  
11 find out that his direct testimony contained everything  
12 that was developed on cross.

13 My present opinion is that that's not true,  
14 especially in light of the fact, Judge Bechhoefer, that  
15 this issue -- we're focusing on this issue.

16 This witness should know exactly why he's here.  
17 And if he didn't make full disclosure of the facts that he  
18 had for this Board, I think that information should be  
19 developed on this record.

20 MR. STEPTOE: Judge Bechhoefer, if Staff Counsel  
21 is accusing Applicant's witness of not making full  
22 disclosure --

23 MR. PATON: That's incorrect.

24 MR. STEPTOE:-it's incumbent upon him to read  
25 the record and then, perhaps, if he wants to make an

1 appropriate motion, the witness can be recalled. But this  
2 is based on a faulty recollection of what the direct  
3 examination was.

4 I am confident that in direct examination Mr.  
5 Budzik said that he called Mr. Hood and told him of the  
6 error.

7 MR. PATON: Judge Bechhoefer, I have to respond  
8 to that.

9 I'm not worrying about whether Mr. Budzik called  
10 Mr. Hood, and I'm not accusing Mr. Budzik of anything. All  
11 I want to do is ask Mr. Budzik if, in his opinion -- first,  
12 what is his opinion about his duty to the Board. And,  
13 number two, in his opinion, has he satisfied that duty.

14 That's all I want to ask him. It's his opinion,  
15 not mine.

16 (Discussion had off the record.)

17 CHAIRMAN BECHHOEFER: Mr. Paton, we'll allow you  
18 to ask those last two questions. I think we will not allow  
19 the former question. You can look in his direct testimony  
20 and in your proposed findings you can say whether he did or  
21 didn't include that and what the significance of that is.  
22 But his attitude and his approach to the questions which are,  
23 I believe the gist of your last two questions, we'll allow  
24 those to be asked.

25 BY MR. PATON:

1 Q Mr. Budzik, please tell us what you believe your  
2 duty is to this Board today to reveal information concerning  
3 the issue on which you're testifying.

4 MR. BRUNNER: Just one second. Is he asking Mr.  
5 Budzik what the legal standard for disclosure before  
6 the Board is?

7 MR. PATON: No.

8 MR. BRUNNER: I guess I don't understand the  
9 question then.

10 CHAIRMAN BECHHOEFER: No; what the witness thought  
11 his obligations were, which may or may not be coincident with  
12 the legal standard.

13 THE WITNESS: Can I answer it?

14 CHAIRMAN BECHHOEFER: Yes.

15 BY THE WITNESS:

16 A I'm not trying to be funny, or that, but my first  
17 duty is to tell the truth here, and the purpose for me  
18 coming up here was to provide the Applicant's viewpoint  
19 of what occurred at the meeting, prior to the meeting,  
20 and after the meeting, especially areas that only the  
21 Applicant can know, like, for instance, the questioning of  
22 whether I was aware before the meeting or at the meeting  
23 of three areas for liquefaction or not. And I think I tried,  
24 to the best of my ability, to answer that question, or that  
25 series of questions.

questions 1

MR. PATON: That's all I have, Judge Bechhoefer.

2

CHAIRMAN BECHHOEFER: Mrs. Stamiris?

3

MS. STAMIRIS: Yes.

4

## CROSS EXAMINATION

5

BY MS. STAMIRIS:

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Q Mr. Budzik, in light of what you just said of

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how you perceive your obligation in reporting to the

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Staff and parties on this issue, did you take it upon

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yourself to attempt to determine more precisely whether

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your phone call to Darl Hood took place prior to or after

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the Musenheimer conversation with Joe Kane, which is

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attached to this testimony?

13

A I've had no opportunity, because I wasn't aware

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that I would be testifying until yesterday, and all my

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records except for a few are back at the office, and, quite

16

frankly, right now I don't know if I have any written

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record or not of that.

18

Q Do you think that perhaps -- do you think that

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it would help us to get to the bottom of how open your

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disclosure was to the NRC Staff in March of 1982 to

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determine whether or not you called Darl Hood on your own

22

initiative before that March 12th phone call which is

23

recorded by Joe Kane?

24

MR. STEPTOE: Objection. That's a question for

25

the administrative judges to decide, whether a piece of

1 evidence is required or not required.

2 In any event, the answer is obvious that it's  
3 not an essential piece of evidence.

4 (Discussion had off the record.)

5 CHAIRMAN BECHHOEFER: I think we will sustain  
6 that objection, but we may well ask Mr. Hood when he gets  
7 here whether he got the call.

8 MS. STAMIRIS: Okay.

9 CHAIRMAN BEC'HOEFER: It's a way of confirming  
10 it, perhaps, or finding out when it occurred and if Mr.  
11 Hood remembers it.

12 (Discussion had off the record.)

13 BY MS. STAMIRIS:

14 Q Mr. Budzik, do you remember testifying in response  
15 to my earlier cross examination questions that you considered  
16 that you acted irresponsibly in that you did not provide --  
17 that you considered today that you acted responsibly in  
18 March of 1983 in that you did not provide accurate and  
19 complete information to the NRC Staff at that meeting?

20 MR. STEPTOE: Objection. If I heard the question  
21 right, not only has it been asked and answered before but  
22 it's an inaccurate representation.

23 MS. STAMIRIS: Well, I believe it has been asked  
24 and answered. I'm asking if he remembers it and agrees  
25 with my characterization of it.

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CHAIRMAN BECHHOEFER: Is that a starting point for another question that will lead into another question?

I don't want to have him repeat what he said before, but is this the foundation for another one?

MS. STAMIRIS: Well, I mean, I don't have a lot of questions, but, depending on his answer, I may have another one or two about what he said.

(Discussion had off the record.)

CHAIRMAN BECHHOEFER: Why don't you just assume, say, in view of your statement, that and then go on.

MS. STAMIRIS: Well, you know, I guess, in a way it really was more isolated, in that --

CHAIRMAN BECHHOEFER: Otherwise, if he said he answered it, I don't particularly want him to answer it again unless it's leading to something more.

MS. STAMIRIS: Well, what I want to ask him is if he had that answer to my question as to whether he considered that he acted responsibly in providing the degree of accuracy and completeness that he did to the Staff on March 3rd, 1982, whether he had that answer, his previous answer in mind when he answered Mr. Paton's question.

That's what I really am trying to go at here.

MR. STEPTOE: Judge Bechhoefer, this is pointless. Can we cut this off?

CHAIRMAN BECHHOEFER: I don't think that's too

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pertinent, so we'll sustain that.

BY MS. STAMIRIS:

Q At the March 3rd, 1982 meeting that we've been talking about, were you seeking to limit the dewatering at the Midland Plant site to the two areas mentioned in that meeting, the RBA and DGB?

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DGB.

1 MR. STEPTOE: Objection. This has been asked  
2 and answered. This really is becoming very repetitive.

3 CHAIRMAN BECHHOEFER: We'll sustain that. He  
4 has --

5 MS. STAMIRIS: Okay, one last question.

6 BY MS. STAMIRIS:

7 Q Mr. Budzik, would you just -- and I -- I put  
8 this down in response to something. If it does not follow  
9 the question, I'll ask Mr. Hood or somebody else. But I  
10 think it would be helpful to the record if someone would  
11 describe it, and I'd like to ask Mr. Budzik to describe the  
12 size of this sand lens, you know, describe the size of  
13 the sand lens that we're talking about near the service  
14 water pump structure which Consumers omitted from their  
15 discussions in the March 3rd, 1982 meeting.

16 MR. STEPTOE: That's already in the record,  
17 Judge Bechhoefer, the testimony concerning the rebedding  
18 of the service water piping. And, also, the testimony  
19 concerning the service water pump structure itself has  
20 some foldout drawings, cross-sectional drawings of the  
21 sand in that area.

22 MR. PATON: Judge Bechhoefer, that may be  
23 correct, we may be able to go back in the record, but  
24 I think it's significant because there's a very large  
25 amount of loose sand and the witness could probably

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describe it in 30 seconds.

I meant to ask that question myself. I agree it's in the record, but it will just take a second.

MR. STEPTOE: This witness has stated that he's not a geotechnical expert, and he has not reviewed Dr. Afifi's report.

CHAIRMAN BECHHOEFER: I think Mr. Kane would be the better person to ask that question.

MS. STAMIRIS: Okay, I don't have any other questions.

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to

1 MR. MARSHALL: I have a couple three questions,  
2 Judge Bechhoefer, that I'd like to clear up.

3 RE CROSS EXAMINATION

4 BY MR. MARSHALL:

5 Q Witness, there's been much said about -- and  
6 there's been much objection on the part of counsel and quite  
7 a lot of nif-nog going on here today and to satisfy me I'd  
8 like you to tell me if it's within your knowledge that  
9 this famous doctor made both an evaluation and a study of  
10 this particular situation.

11 Do you know that within your own knowledge?

12 A Do you mean Dr. Afifi?

13 Q Yes.

14 A Prior to --

15 Q I'm not saying at any particular time. Do you  
16 know of your own knowledge that there was both an evaluation  
17 and a study made?

18 MR. STEPTOE: I think it's critical to have the  
19 time element in the response, Judge Bechhoefer.

20 MR. MARSHALL: If you think so -- a while ago  
21 you were objecting so strenuously, I didn't think you wanted  
22 it that way so I was trying to be nice.

23 CHAIRMAN BECHHOEFER: Do you mean at any point in  
24 time, forever, or --

25 MR. MARSHALL: I'm trying to establish -- it's

1 been such an afternoon here of whether it is, it ain't.

2 BY MR. MARSHALL:

3 Q I want to know, is this man capable of making both  
4 an evaluation and a study? This is competency. Are we  
5 attacking the competency of Dr. Afifi or what are we doing  
6 here? I just want an answer as to the -- prior to the time  
7 that this all takes place.

8 Do you of your own knowledge know whether there  
9 was both an evaluation made by this doctor and a study, as  
10 well?

11 MR. STEPTOE: Prior --

12 CHAIRMAN BECHHOEFER: Answer that irrespective of  
13 any particular date and time.

14 MR. MARSHALL: Well, yes, he doesn't have to give  
15 the date. He probably didn't set --

16 JUDGE HARBOUR: Let him answer it, please.

17 THE WITNESS: At the present time, both exist.  
18 Dr. Afifi also is completely qualified to do such a study  
19 and evaluation.

20 BY MR. MARSHALL:

21 Q And of your own knowledge, you knew it was in  
22 existence at the time, is that correct, of the dates that  
23 you just mentioned?

24 MR. STEPTOE: In existence --

25 CHAIRMAN BECHHOEFER: As of March 3.

1 MR. MARSHALL: Yes.

2 MR. STEPTOE: What does it refer to?

3 MR. MARSHALL: He can answer yes or no.

4 CHAIRMAN BECHHOEFER: Does it -- what does it  
5 refer to?

6 MR. MARSHALL: I'm asking if they were both in  
7 existence at that time. That is all I'm asking is yes  
8 or no.

9 THE WITNESS: Not to my knowledge.

10 MR. MARSHALL: Not to your knowledge. Then that's  
11 the answer. Now I have got something else here that I want  
12 to know.

13 BY MR. MARSHALL:

14 Q. Now, I want -- now, I don't know the answer to  
15 these questions, that is why I'm asking you, regardless of  
16 how they seem and appear to you.

17 I want to ask this question: In your opinion,  
18 do the rules impose a duty upon you to report such events  
19 as soon as they become knowledgeable to you?

20 A. Yes, they do.

21 MR. MARSHALL: That is all I want to know. That  
22 is the end of that.

23 CHAIRMAN BECHHOEFER: Mrs. Sinclair?

24 MS. SINCLAIR: I have no questions.

25 CHAIRMAN BECHHOEFER: Anything further, Mr. Steptoe?

1 MR. STEPTOE: No, sir. I ask that the witness  
2 be excused.

3 CHAIRMAN BECHHOEFER: Is there any follow-up,  
4 Mr. Paton?

5 MR. PATON: No.

6 CHAIRMAN BECHHOEFER: The witness may be excused.

7 THE WITNESS: Thank you, Your Honor.

8 CHAIRMAN BECHHOEFER: Is Mr. Kane and Mr. Hood --

9 MR. PATON: They are on standby, shall we get them?

10 CHAIRMAN BECHHOEFER: Yes.

11 (Recess taken.)

12 CHAIRMAN BECHHOEFER: Back on the record. Mr.  
13 Paton, would you like further direct testimony before we  
14 resume cross examination?

15 MR. PATON: Yes, I think in light of what has  
16 happened, I think that would be appropriate.

17 CHAIRMAN BECHHOEFER: Fine. Why don't you proceed.  
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proceed. 1

Whereupon,

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JOSEPH KANE

3

DARL HOOD

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called as witnesses by counsel for the Regulatory Staff, having previously been duly sworn by the Chairman, was further examined and testified as follows:

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DIRECT EXAMINATION

8

BY MR. PATON:

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Q Mr. Kane, would you state your recollection, and let me ask you to be as precise as you can, the request made at the beginning of the March 3rd, 1982, meeting by Mr. Budzik with respect to the areas of potential for liquefaction at the Midland site.

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A My recollection is that shortly after the meeting began, Mr. Budzik indicated one of the purposes of this meeting was to have Staff agreement that only two areas were involved. Those two areas were the Diesel Generator Building and the railroad bay area. When that came to light that those were the areas which there was going to be a commitment to maintain the water at 595, questions developed with respect to what our understanding was about the area that was actually dewatered and whether other areas had the problem with liquefaction.

At that same meeting it was discussed of the one boring at the diesel fuel oil storage tank, boring

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1 DF5, that had shown, I think, a three-foot layer of loose  
2 sand.

3 And the meeting discussed what alternatives were  
4 available to Consumers to either demonstrate that it was  
5 a widespread problem or not.

6 That is my recollection.

7 Q Did Mr. Budzik or any other representative of  
8 Bechtel or Consumers at that meeting at any time, during  
9 the meeting, mention a study or an evaluation done by  
10 a Dr. Afifi?

11 A (WITNESS KANE) Yes.

12 Q Tell us what was said about that.

13 A (WITNESS KANE) It's my recollection that the  
14 basis for Consumers indicating that only two areas were  
15 involved was on the basis of Dr. Afifi's study which  
16 evaluated the boring information and made a judgment  
17 where the loose sands were, which did not provide an  
18 acceptable margin of safety against liquefaction.

19 Q Do you know who made those statements?

20 A I'm not sure they were only made by one person,  
21 but to the best of my recollection the one who made it  
22 initially was Mr. Budzik.

23 Q With respect to Mr. Budzik's request to limit  
24 the areas of liquefaction to these two areas, did he  
25 make that request more than once?



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A (WITNESS KANE) The request for Staff agreement, to my recollection, was made more than once, that these were the only two areas involved.

Q Was there any statement as to what was going to result after this agreement or the purpose of having such an agreement?

9-3

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-ment.

1           A       The purpose of the meeting was to address  
2 permanent dewatering which is -- which was being installed  
3 to control the problem with the liquefaction.

4                    So it's my understanding the purpose of the  
5 agreement would be to have an agreement between the  
6 Applicant and the Staff as to which areas definitely had  
7 to be committed to for permanent dewatering which would  
8 then be followed through in the technical specification.

9           Q       Mr. Kane, can you tell us very briefly the  
10 physical description -- by that, I mean, the size of the  
11 loose sands that we are talking about? Just very briefly,  
12 how wide and how deep and how long?

13           A       (WITNESS KANE) Are you talking about the entire  
14 site or one specific locale?

15           Q       I'm talking about the third area that the  
16 Applicant plans to rebed the two 26 inch pipes?

17           A       The area that is -- that ultimately was judged  
18 to have loose sands requiring replacement of the two 26-  
19 inch diameter service whirl lines runs in front of the  
20 north side of the circulating water intake structure and  
21 the service water pump structure and to my recollection  
22 it runs about a 125, 150 feet long and there are two pipes  
23 involved.

24                    Excuse me, I think it's more like 250 foot long.

25           Q       Did you subsequently learn that the information

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1 that had been given you about the Afifi evaluation or the  
2 information developed by Dr. Afifi was not limited to  
3 two areas?

4 A (WITNESS KANE) If Dr. Afifi's evaluation was  
5 of all the borings where loose sands were present, that  
6 would identify a potential for liquefaction.

7 Dr. Afifi's study, when presented to us, showed  
8 loose sands in the area where rebedment of the pipe  
9 was going to be necessary, but that had not been indi-  
10 cated at the meeting.

11 Q Did you receive a telephone call from a Mr.  
12 Musenheimer on March 12th?

13 A Yes.

14 Q Can you tell us what he told you?

15 MR. STEPTOE: Could we move along a little bit  
16 because that really is already in evidence in terms of  
17 the -- his memorandum of that telephone call.

18 MR. PATON: I'll agree with counsel on that.

19 BY MR. PATON:

20 Q Is there anything -- does your note, that is in  
21 the record, is that accurate, Mr. Kane?

22 A (WITNESS KANE) Yes.

23 Q Was that your first knowledge that there were,  
24 in fact, more than two areas of concern?

25 A (WITNESS KANE) It was the first indication

1 that a remedial measure, because of loose sands, was going  
2 to be performed somewhere other than the Diesel Generator  
3 Building and the railroad bay area. It was not the first  
4 indication that there were loose sands.

5 But what should be pointed out is that at this  
6 March 3rd meeting the Staff has a concept of a large  
7 area being dewatered where we knew there were loose sands,  
8 but we felt they were being addressed by the permanent  
9 dewatering system.

10 And then when it became clear at that meeting  
11 that they were not, that is when we began asking those  
12 present at the meeting to furnish us with information  
13 that we could go back and look at the sands above eleva-  
14 tion 610 to determine if, in fact, they were the only  
15 two areas.

16 Q Mr. Hood, did you hear Mr. Kane's response to  
17 my question about precisely what it is the Applicant  
18 was asking for at the beginning of that March 3rd meeting?

19 A (WITNESS HOOD) Yes, I did.

20 Q Do you agree with his answer?

21 A (WITNESS HOOD) Yes, I do.

22 MR. PATON: May I have a minute, Mr. Chairman?

23 (Discussion had off the record.)

24 MR. PATON: That is all I have, Mr. Chairman.

25 CHAIRMAN BECHHOEFER: Before we start cross

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examination, Mr. Hood, when was the first time that you learned from either Consumers or Bechtel about the loose sands area, the third area near the service water pump structure?

WITNESS HOOD: I think my answer to that is generally consistent with the answer that Mr. Kane gave. The Staff was aware there were loose sands existing. We knew that from, like, mid-'80, from the borings that were taken sometime in 1979. But we thought that was being addressed by the dewatering system.

The first time I became aware that that was not the case, that those loose sands were not being addressed by that manner, was at the meeting of March 3rd.

CHAIRMAN BECHHOEFER: Then after that meeting -- sorry.

WITNESS HOOD: Excuse me, a minute, I may have misspoke. I don't mean to imply that I necessarily connected to my own mind that -- the sands at that time. I'm trying to remember if I did or not.

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not

1 MR. PATON: Mr. Chairman, while Mr. Hood -- may I  
2 interupt a second?

3 WITNESS HOOD: Yes.

4 MR. PATON: While Mr. Hood is thinking, could I  
5 ask that the question be read?

6 (Question read.)

7 WITNESS HOOD: If your question means when we first  
8 were aware of loose sands in that area, it would have been  
9 back in mid 1980. That was information that we obtained  
10 through the boring data.

11 CHAIRMAN BECHHOEFER: When was the first time you  
12 were notified that some remedial actions would have to be  
13 taken again in that third area? Again, notified by Consumers  
14 or Bechtel.

15 WITNESS KANE: On March the 12th, 1982.

16 CHAIRMAN BECHHOEFER: How did that occur?

17 WITNESS HOOD: That was a result of my learning  
18 of the telephone call between Mr. Musenheimer and Joe Kane.  
19 That is the telephone call for which the record of telephone  
20 conversation is attached to my testimony.

21 CHAIRMAN BECHHOEFER: I think this is all the  
22 questions we have for the moment. Would it be preferable  
23 on this one for Mr. Steptoe to lead off?

24 MR. STEPTOE: I'd like to.

25 CHAIRMAN BECHHOEFER: Would you like to?

1 MR. STEPTOE: Yes, please.

2 CHAIRMAN BECHHOEFER: Because I think in this  
3 situation it might be desirable.

4 CROSS EXAMINATION

5 BY MR. STEPTOE:

6 Q Mr. Hood, do you recall either before or after  
7 the telephone call, March 12th, 1982, that Mr. Musenheimer  
8 made to Mr. Kane, do you recall ever having a conversation  
9 in a telephone call with Mr. Budzik about the subject?

10 A. (WITNESS HOOD) A telephone call before March  
11 the 12th?

12 Q Before or after.

13 MS. STAMIRIS: The question was before. The  
14 first question you asked was did you remember a call from  
15 Mr. Budzik before March 12th.

16 MR. MARSHALL: Right.

17 CHAIRMAN BECHHOEFER: Well, let Mr. Steptoe ask  
18 his own questions.

19 WITNESS HOOD: If the question is did I at any  
20 time ever have a telephone call with Mr. Budzik --

21 BY MR. STEPTOE:

22 Q In March, in this general time frame which you  
23 discussed the loose sands north of the service water pump  
24 structure.

25 A. (WITNESS HOOD) No, as I sit here now, I don't

1 recall any specific call. I think there was -- there  
2 must have been some call to set the meeting up, but --

3 Q No, after the meeting, after the March 3rd  
4 meeting discussing the information in the Musenheimer --  
5 the same information covered in the Musenheimer/Kane  
6 telephone call.

7 A (WITNESS HOOD) I'm sorry, if there was such a  
8 call I don't recall it.

9 Q Mr. Kane, the Staff was conducting its own  
10 liquefaction analysis of the Midland site through the good  
11 offices of Dr. Hadala, is that correct?

12 A (WITNESS KANE) They were conducting an independent  
13 liquefaction analysis, yes.

14 Q And the information for that came from borings  
15 from the Applicant, did it not?

16 A (WITNESS KANE) Yes.

17 Q And did the Applicant therefore know that the  
18 Staff was performing an independent analysis of liquefaction  
19 potential at the site?

20 A (WITNESS KANE) You are asking me whether I knew  
21 the Applicant knew the Staff was conducting an independent  
22 study. I would have to assume -- there is more to the  
23 liquefaction study than the borings, going back to your  
24 previous question.

25 There was information submitted to the NRC on



1 liquefaction analysis before. But to answer your question,  
2 I think the Applicant knew the Staff was conducting an  
3 independent study.

4 Q Well, Mr. Hood, Dr. Hadala was attending the  
5 March 3rd, 1982, meeting, was he not?

6 A (WITNESS HOOD) Yes, he was.

7 Q And Staff -- and Consumers knew who he was, did  
8 they not?

9 A (WITNESS HOOD) Yes.

10 Q Wasn't one of the reasons that the meeting was  
11 held when it was, was that Mr. Gonzales, who is a hydrology  
12 reviewer, who had recently been reassigned to the Midland  
13 effort within the NRC Staff?  
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staff

1 A. (WITNESS HOOD) Had recently been assigned?

2 Q. Reassigned.

3 A. (WITNESS HOOD) Reassigned. That may very well  
4 be the case. Mr. Gonzales -- there was definitely a period  
5 of time in which Mr. Gonzales was working full time on  
6 another project, an interruption in his review with respect  
7 to Midland, and a resumption of his review.

8 And it -- to the best of my recollection, which  
9 is very vague, as I sit here without any records, it was  
10 sometime around that time frame.

11 Q. And, in fact, that March 3rd, 1982, meeting  
12 was the first meeting in quite some time on dewatering  
13 that had been held between the NRC Staff and the Applicant,  
14 is that not correct?

15 A. (WITNESS HOOD) You mean on dewatering?

16 Q. Yes.

17 A. (WITNESS HOOD) I will accept that. It would seem  
18 to follow from what I just said, but I am having a little  
19 trouble, you know, sitting here trying to recall whether or  
20 not there was some meeting apart of that.

21 I do make a point to keep records of meetings  
22 and that is a matter that can be easily confirmed from the  
23 record.

24 Q. Those records are, in fact, contained in the back  
25 of the SSER?

1 A. (WITNESS HOOD) Yes, in the form of a chronology  
2 appendix in the SSER.

3 Q. Mr. Kane, do you have first-hand knowledge whether  
4 there was in existence a report, a physical report by Dr.  
5 Afifi's group on liquefaction potential at the Midland  
6 site on March 3rd, 1982? I'm asking first-hand knowledge.

7 A. (WITNESS KANE) As of March 3rd, other than the  
8 statements that were made at the meeting, I did not have  
9 knowledge of Dr. Afifi's report.

10 Q. And, therefore, you do not have first-hand  
11 knowledge of what papers or materials Mr. Budzik had  
12 reviewed prior to that meeting concerning liquefaction, is  
13 that correct?

14 A. (WITNESS KANE) That is correct.

15 Q. Mr. Hood, you have been working with Mr. Budzik  
16 for several years, have you not?

17 A. (WITNESS HOOD) Yes, I have.

18 Q. Based on that acquaintance, based on -- well, I  
19 guess I should ask you one more question.

20 Were any of Mr. Afifi's group present at that  
21 meeting?

22 A. (WITNESS HOOD) You are referring now to the  
23 March 3rd meeting, of course?

24 Q. Yes.

25 A. (WITNESS KANE) One moment, please.

1 I do know that Mr. Neal Swanberg, who I understand  
2 is a Bechtel assistant project manager, I believe is his  
3 title, was present, and a Mr. Bill Paris, Jr., was present.  
4 There may have been others present.

5 Those two, at least, elected to sign the  
6 attendance sheet.

7 Q Mr. Swanberg is not a geotechnical engineer, is  
8 he?

9 A (WITNESS HOOD) To my knowledge he is not.

10 Q Mr. Paris is a hydrologist, is he not?

11 A (WITNESS HOOD) Yes, he is.

12 Q And, Mr. Paris, also works in the hydrology group  
13 at Bechtel, does he not?

14 A (WITNESS HOOD) That is my understanding.

15 Q Mr. Afifi works in the geotechnical group, is  
16 that not correct?

17 A (WITNESS HOOD) That is correct.

18 Q So as far as you sitting here today, you cannot  
19 think of anybody from Dr. Afifi's geotechnical group  
20 attended that meeting, is that correct?

21 A (WITNESS HOOD) That is correct.

22 Q Your testimony is also that no one at that meeting  
23 on behalf of Consumers or Bechtel was able to discuss the  
24 details of Dr. Afifi's liquefaction analysis, isn't that  
25 correct?

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A. (WITNESS HOOD) That is correct.

Q. Based on the fact that there were no people knowledgeable about liquefaction attending that meeting from Consumers Power or Bechtel -- I'm sorry, about Dr. Afifi's liquefaction study, who attended that meeting from Consumers Power or Bechtel, and based on your knowledge of Mr. Budzik, do you believe there was a deliberate attempt by Mr. Budzik to deceive you or the NRC Staff with respect to the existence of loose sands north of service water pump structure?

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structure

1 MS. STAMIRIS: I would like to object that I think  
2 he is asking Mr. Hood to go into Mr. Budzik's mind in order  
3 to answer that question about whether it was deliberate or  
4 not. I don't see how -- what Mr. Hood's impression of what  
5 might have been going on in Mr. Budzik's mind is -- I just  
6 think we have overruled questions like that in the past.

7 MR. PATON: Mr. Chairman, I think that the Applicant  
8 has established that Mr. Hood has been doing business with  
9 Mr. Budzik for some time and I -- for that reason I do not  
10 object to the question. I think it's appropriate.

11 MR. MARSHALL: Well, I object, Your Honor.

12 CHAIRMAN BECHHOEFER: We will overrule the  
13 objection. I think the question can be answered. We've  
14 overruled the objection.

15 WITNESS HOOD: No, I do not claim that it was a  
16 deliberate effort. But at the same time I say that I am  
17 at a loss to explain the source of the information that  
18 was given to us. I don't know and I just can't explain it,  
19 and I feel that there must be some explanation. I don't  
20 know what the explanation is.

21 But I have no reason to believe that there was  
22 a deliberate effort to deceive me, to mislead me.

23 MR. STEPTOE: Thank you. I have no further  
24 questions.

25 MR. PATON: I have one question, Judge Bechhoefer,

1 in light of that last --

2 CHAIRMAN BECHHOEFER: Well, Mrs. Stamiris --

3 MR. PATON: I'm sorry.

4 MS. STAMIRIS: Well, if he would like to ask his  
5 question now on that subject, I would not object.

6 MR. PATON: It's very brief.

7 CHAIRMAN BECHHOEFER: Go ahead.

8 DIRECT EXAMINATION (Resumed)

9 BY MR. PATON:

10 Q Mr. Hood, in light of the last question by the  
11 Applicant, has this -- you do business on a regular basis  
12 with Mr. Budzik, is that correct?

13 A (WITNESS HOOD) Yes, I do.

14 Q Has this event had any effect on your relations  
15 with Mr. Budzik?

16 A (WITNESS HOOD) It definitely has not helped my  
17 relation with Mr. Budzik. In that sense, I imagine it has  
18 in that it's caused me to be a little more suspicious  
19 of the information that I get. Again, I'm trying to give  
20 him the benefit of the doubt, but I can't help but be a  
21 little leery because I am at a loss to explain the  
22 circumstances associated with my receiving that information.

23 MR. PATON: That is all my questions, Judge  
24 Bechhoefer.

25 CHAIRMAN BECHHOEFER: Mrs. Stamiris?

CROSS EXAMINATION

BY MS. STAMIRIS:

Q Mr. Hood, I believe that you testified that you didn't have any specific recollection of a phone call from Mr. Budzik after the March 3rd, 1982, meeting on the subject of loose sands at the service water pump structure, is that correct?

A (WITNESS HOOD) Yes, I believe I have replied that if such a call was made, I cannot recall it.

Q Do you remember your reaction to hearing -- no, first I need to ask, am I correct in assuming that you first learned of it from Mr. Kane who did receive the telephone call from Mr. Musenheimer on March 12th?

A (WITNESS HOOD) Yes.

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1 Q Do you remember your reaction when you got that  
2 information from Mr. Kane?

3 MR. STEPTOE: Objection. What relevance does that  
4 have?

5 MR. MARSHALL: Exception. I think he can answer  
6 that question.

7 MS. STAMIRIS: I think it would help us clarify,  
8 you know, what different people had in their minds at  
9 different times.

10 MR. STEPTOE: What different people had in their  
11 minds at different times is not an adjudicatory issue.

12 MS. STAMIRIS: What Mr. Hood had in his mind on  
13 March 12 I think is specific.

14 CHAIRMAN BECHHOEFER: I think what he could  
15 answer is when he found that out what actions did he take  
16 at that point.

17 MS. STAMIRIS: Well, that is different than what  
18 I want to ask, and I still want to ask --

19 CHAIRMAN BECHHOEFER: I'm not sure, the way you  
20 asked the question, whether it's an appropriate question.

21 MS. STAMIRIS: Why wouldn't it be appropriate  
22 to find out how he reacted; like, for instance, if he  
23 remembers being surprised in any way at that point in time  
24 or how he did -- I didn't want to put words in his mouth,  
25 so I asked him does he remember how he reacted when he first

1 got that information from Mr. Kane on March 12th, 1982.

2 MR. STEPTOE: It's not relevant.

3 CHAIRMAN BECHHOEFER: I think the word reacted  
4 is a little bit too indefinite.

5 You may answer if you were surprised to get that  
6 information, and I would like to know what you did when  
7 you did get it or first found out about it.

8 WITNESS HOOD: As I think about it, I think it  
9 was the first time that I realized that there was a problem  
10 in that area. It was the first time that it connected to  
11 me, as best I can recall.

12 I felt the information was significant, and I  
13 felt it was significant enough to tell the Board about it,  
14 and I did so.

15 BY MS. STAMIRIS:

16 Q Then, I think the rest of Judge Bechhoefer's  
17 question -- well, did you do anything else by way of  
18 responding to that information in addition to notifying  
19 the Board?

20 A (WITNESS HOOD) Could you repeat that, please?  
21 I'm not sure I followed it.

22 Q Did you do anything else in response to the  
23 information received by Mr. Kane on March 12th in addition  
24 to notifying the Board, as you have testified?

25 A (WITNESS HOOD) Do you mean -- can you give me a

1 time frame? Like right away, or just at any time?

2 Q Well, you know, without making it too broad,  
3 what did you do in the next three days, for instance, following  
4 that information presented to you on March 12th?

5 A. (WITNESS HOOD) Other than notifying the Board?

6 Q Yes.

7 A. (WITNESS HOOD) I'm trying to recall the things  
8 that I did in that time frame.

9 One thing I did was conclude the results of  
10 writing the meeting summary I was working on.

11 Q Well, Mr. Hood, do you believe that as a result  
12 of the information you received on March 12th from Mr. Kane  
13 regarding the sand lens near the service water structure  
14 that the NRC proceeded to take further actions at some  
15 later time to assure that proper health and safety standards  
16 were being taken into consideration in this matter?

17 A. (WITNESS HOOD) Well, the thing that did happen  
18 after that is we ultimately received the results of the --  
19 I believe there were drawings from Consumers that -- in  
20 what I understand constitutes the Afifi study, and that  
21 came in, and I believe Mr. Kane received that. And, as I  
22 recall, we had an audit scheduled about that time, and I  
23 believe that it was at the audit that the results of that  
24 study were given to Mr. Kane.

25

Kane.

1 So, from that point of view, we evaluated the  
2 data.

3 Q Okay, Mr. Kane or Mr. Hood, do either of you  
4 have any knowledge of when the drawings Mr. Hood just  
5 referred to as constituting the Afifi study -- do you  
6 have any knowledge as to when those drawings were made?

7 A (WITNESS KANE) I was asked a similar question  
8 about firsthand knowledge, and that is definitely, and  
9 I would say no but -- but to be provided the drawings  
10 that we were provided, or at least that had been indi-  
11 cated were mailed on March 12th to Dr. Hadala, that work,  
12 looking at all those borings and identifying what blow  
13 counts were loose and what blow counts were required to  
14 give an acceptable margin of safety, that work would,  
15 in my estimation, have taken days to do, so it had to  
16 be repaired before March 12th.

17 Q In your estimation?

18 A (WITNESS KANE) Yes.

19 A (WITNESS HOOD) Ms. Stamiris, may I supplement  
20 a previous response?

21 Q Certainly.

22 A (WITNESS HOOD) You asked me what our immediate  
23 actions were after that too, like you said, help to assure  
24 health and safety to the public.

25 Q Right.

1           A       (WITNESS HOOD)   An additional thing that we  
2 on the Staff had done is that prior to the March 3rd  
3 meeting we had had Dr. Hadala performing a review for  
4 the Staff to determine the loose sands zone to evaluate  
5 liquefaction potential, and he had done so, but he had  
6 done so on the assumption of the control of ground water  
7 to Elevation 595 across the broad areas of the site.

8                       That means that Dr. Hadala, in his review,  
9 did not focus on the loose sands zones that might exist,  
10 say, above Elevation 610, which is the control point  
11 limit.

12                      Excuse me; not the control point limit, the  
13 liquefaction potential limit, which you're trying to  
14 avoid by controlling to Elevation 595.

15                      So, at the March 3rd meeting, when it became  
16 obvious to the Staff that this was not -- that it was not  
17 the Applicant's plan to control ground water levels to  
18 Elevation 595, this meant that the exclusion of the  
19 regions above Elevation 610 was not appropriate.

20                      The thing the Staff did do was to ask Dr.  
21 Hadala to take another look based on what we then under-  
22 stood the Applicant's plan to be.

23                      And, of course, Dr. Hadala also was to receive  
24 the results of the Afifi study --

25                      Q       And that was mentioned --

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A (WITNESS HOOD) -- and to perform an evaluation based on those matters.

Q And that was mentioned at the March 3rd, 1982 meeting that, indeed, Dr. Hadala intended to go back and review his evaluation of the boring logs in this regard?

A (WITNESS HOOD) Yes, it was.

Q Thank you. All right, Mr. Kane, I want to ask you what your thinking was on March 3rd, 1982, so I'll preface my question by telling you that. And, Mr. Kane, although you testified in response to Mr. Steptoe that on March 3rd, 1982 you had no firsthand knowledge of an Afifi report or an evaluation, what I want to ask you is, on March 3rd, 1982, did you have the impression that there was such an evaluation or study in existence by Dr. Afifi at that time?

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MR. STEPTOE: Objection. That has already been asked and answered yesterday.

MS. STAMIRIS: I don't believe I asked Mr. Kane that question.

MR. MARSHALL: Or Mr. Hood either.

MR. STEPTOE: In fact, she did. Transcript page --

MS. STAMIRIS: Oh, yesterday?

MR. STEPTOE: -- 12162.

MS. STAMIRIS: Would you please read the question and answer?

MR. STEPTOE: The question from Mrs. Stamiris to Mr. Kane was:

"Okay, I'd like to ask you, Mr. Kane, when you were at this meeting and heard Applicant's people release certain conclusions of the Bechtel geotechnical report, as Mr. Hood has testified, did you make the assumption at that time, on March 3rd, that those people had read the study and that they were -- I mean, maybe you don't know for sure, but do you think that probably those people who were relating the conclusions had read the geotechnical study which they were referring to?"

Then there's an objection, and Mrs. Stamiris says:

1 "No, I'm asking him what was in his mind on  
2 March 3rd, 1982. I don't believe that's  
3 speculation."

4 And another objection, and the Judge rules that:

5 "I think the question should probably be  
6 reworded to the extent that did anyone at the  
7 meeting from Consumers or Bechtel act as if they  
8 had either received the study or had gone through  
9 the study, either state or act as if they had  
10 benefit of the study.

11 "WITNESS KANE: Yes, it was my impression  
12 Mr. Budzik was aware of the results of the study  
13 and was indicating to us the conclusions of that  
14 study."

15 MS. STAMIRIS: It might have been much quicker  
16 to get an answer from Mr. Kane on this.

17 MR. MARSHALL: Two witnesses have been precluded  
18 from the room today.

19 BY MS. STAMIRIS:

20 Q All right, did Mr. Kane also -- or, Mr. Kane,  
21 do you remember whether you gave the basis for your  
22 impression beyond anything that Mr. Steptoe has just read?

23 MR. STEPTOE: Judge Bechhoefer, the basis for an  
24 impression?

25 MS. STAMIRIS: Yes, the basis for an impression.



1 MR. STEPTOE: The question itself from Judge  
2 Bechhoefer, as reworded, was were they acting as if they  
3 had received the study or gone through the study.

4 It really is speculative.

5 MS. STAMARIS: All right.

6 BY MS. STAMIRIS:

7 Q Okay, Mr. Kane, did you then receive that impression  
8 on March 3rd, 1982 on the basis of the way the Consumers  
9 people were acting and what they were saying?

10 MR. STEPTOE: Objection; asked and answered.

11 MS. STAMIRIS: Okay. If it's yes, I'll -- I just  
12 want to make sure that --

13 MR. STEPTOE: That was the answer.

14 MS. STAMIRIS: You know, when you say asked and  
15 answered, in what you just read?

16 MR. STEPTOE: Yes.

17 MS. STAMIRIS: Okay. I'll drop it.

18 CHAIRMAN BECHHOEFER: Okay.

19 BY MS. STAMIRIS:

20 Q Mr. Kane, in your recollections of what took place  
21 on March 3rd, 1982, did Consumers Power Company indicate in  
22 any way to you or other members of the NRC Staff that they  
23 were not provided complete information at this time, that  
24 this was on some preliminary basis or that they had not --  
25 I want to go back and ask my first question. Did they in

1 any way indicate to you that they were not providing complete  
2 information at this time?

3 A. (WITNESS KANE) I did not have the impression  
4 they were not furnished complete information at that time,  
5 and the firmness in Mr. Budzik's position made me feel that  
6 the study was completed.

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Q So you don't remember any statements by Mr. Budzik or others to the effect that we have not made a final analysis at this time but, on the basis of what we know now, this is what we feel?

MR. STEPTOE: Judge Bechhoefer, relevance.

CHAIRMAN BECHHOEFER: I think it's relevant. I'm not sure it isn't the same question.

MR. STEPTOE: Well, in light of the previous testimony.

CHAIRMAN BECHHOEFER: I think he can answer that.

BY THE WITNESS:

A (WITNESS KANE) I do not remember any statements along those lines.

BY MS. STAMIRIS:

Q Do either of you remember any statements by Consumers Power Company people when you spoke to them on March 12th, Mr. Kane, or in conversations thereafter which indicated to you that they believed that they had made some significant omission on March 3rd, 1982?

MR. STEPTOE: Objection.

CHAIRMAN BECHHOEFER: Isn't that what the memo says?

MS. STAMIRIS: Well, all right.

BY MS. STAMIRIS:

Q I guess what I want to ask is did there seem to be

1 -- you know, was there any apology or explanation for that  
2 omission from the March 3rd, 1982, meeting?

3 A. (WITNESS KANE) There was no apology or -- or  
4 an omission, and --

5 Q. Or omission or explanation?

6 A. (WITNESS KANE) Or explanation.

7 Q. Okay.

8 A. (WITNESS KANE) When I received the phone call on  
9 March the 12th I was surprised, and I was surprised, first  
10 of all, that there was going to be a replacement, and,  
11 secondly, in the manner that it was being presented to me,  
12 and that was -- it was sort of like "Oh, by the way, we're  
13 going to remove the pipes."

14 Q. Mr. Kane, in your recollections of what took place  
15 on March 3rd, 1982 at this meeting, what was your understanding  
16 at that time as to why the Applicant sought to limit their  
17 dewatering design to two areas, being the Deisel Generator  
18 Building and the railroad bay area?

19 MR. STEPTOE: Objection, if that goes to questioning  
20 the Applicant's mental processes.

21 If it's questioning the purpose of the meeting, I  
22 believe it has already been testified to.

23 MS. STAMIRIS: I asked him what he thought the  
24 purpose was, because we've already had testimony and, I  
25 believe, before, even repeated with Mr. Kane and Mr. Hood,

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1 that indeed the Applicant was seeking agreement from the  
2 Staff, and I wanted to know why he thought they were seeking  
3 that agreement to limit to two areas.

4 (Discussion had off the record.)

5 CHAIRMAN BECHHOEFER: Mr. Kane has already made  
6 a statement to that effect.

7 We'll sustain the objection. I'm not sure, I  
8 think the purpose of the meeting was spelled out.

9 MS. STAMIRIS: Well, can I talk about testimony?  
10 I mean, I want to refer you to something. The reason I'm  
11 asking this question, and the reason I feel it's very  
12 important has to do with the prior testimony of Mr. Budzik.

13 Now, am I supposed to keep quiet about that in  
14 front of Mr. Kane and Mr. Hood at this point in time? Or  
15 can I say it or should I come to the Board and tell you  
16 privately?

17 MR. STEPTOE: Judge Bechhoefer, what these  
18 witnesses think of the prior testimony of other witnesses  
19 is irrelevant.

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irrelevant<sup>1</sup>

2 Now, if there's some information that they have  
3 to contribute that would require some kind of hypothetical  
4 question, that's all right.

5 I also note the lateness of the hour now, and  
6 I would hope that we can get through this and Mrs. Stamiris  
7 can focus her questions on really important matters.

8 CHAIRMAN BECHHOEFER: I think your last ques-  
9 tion probably -- well, I don't think it adds very much.

10 MS. STAMIRIS: All right. May I explain that --

11 CHAIRMAN BECHHOEFER: And I don't think you  
12 should refer to the prior testimony --

13 MS. STAMIRIS: Okay, I won't ask.

14 CHAIRMAN BECHHOEFER: -- because these witnesses  
15 are supposed to be testifying on their own knowledge,  
16 so that --

17 MS. STAMIRIS: Right. Okay, I won't. I want  
18 to say that it is extremely important, is my last ques-  
19 tion, and I would like to be able to explain to the  
20 Board privately, then, why it is it's as important as it  
21 is to make this distinction that I'm going towards. And  
22 it will be tailored.

23 MR. STEPTOE: Just ask the question.

24 CHAIRMAN BECHHOEFER: Just ask the last question.

25 MS. STAMIRIS: Okay.

BY MS. STAMIRIS:

1           Q       Mr. Kane, in view of your previous statements  
2 that your understanding of the meeting was that Consumers  
3 Power Company was seeking agreement from the NRC Staff  
4 that only the Diesel Generator Building and the railroad  
5 bay area needed to be dewatered, what did you think was  
6 the purpose of their seeking that agreement from the  
7 NRC Staff?

8           A       (WITNESS KANE) One point. This meeting was  
9 on dewatering, and this was not the sole purpose. This  
10 was the one we started out with.

11                       What was my understanding of what Consumers was  
12 seeking -- why Consumers was seeking agreement for  
13 identifying those two areas, I think it was in recognition  
14 that dewatering already had -- some of it had been  
15 installed. We were trying to wrap up things, like agree  
16 on the areas, specific areas to be dewatered. And it's  
17 my recollection that this was not the first time that  
18 we had brought to Consumers' attention that we have to  
19 reach an agreement on the areas to be dewatered, the ones  
20 that you're going to commit to keeping the water down to  
21 595.

22                       So I think what Consumers was raising in this  
23 issue, they were asking us do we agree now that these are  
24 the only two areas.

25                       That's what I think they were hoping to

1 accomplish.

2 Q And, just as a follow-up to --

3 A (WITNESS HOOD) Mrs. Stamiris, I think maybe  
4 I should ask to add to that.

5 Q Okay, please.

6 A (WITNESS HOOD) I have a recollection also  
7 that at that time we were having hearings, the OM hear-  
8 ings, and I believe the Applicant had an interest in  
9 trying to bring the dewatering issue to a hearing as  
10 well -- at least I learned that from subsequent events --  
11 and that may or may not have been a factor. I don't know.

12 But I certainly became aware, at least from  
13 subsequent events, that they wanted to bring the issue  
14 up, and I believe it was the dewatering issue, into the  
15 hearing.

16 I certainly became aware of that, I believe, on --  
17 if not earlier, I certainly became aware of that by March  
18 the 12th, when I participated in the phone call with  
19 the Board, yourself and others.

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others

1 Q Did either of you understand or believe at the  
2 March 3rd meeting that one of the things that you were moving  
3 towards in the -- with the information presented by the  
4 Applicant and what was being sought, that one of the things  
5 that you were moving towards was the proper and adequate  
6 installation of the -- implementation of their dewatering  
7 system?

8 A. (WITNESS KANE) It is my understanding that was  
9 one of the purposes of the meeting, to be moving towards  
10 that, yes.

11 A. (WITNESS HOOD) I would agree with that.

12 Q Had the NRC not specifically asked for further  
13 studies prior to giving their approval? Did you get any  
14 indication by the actions or statements of Consumers  
15 people at that meeting as to whether, absent any objection  
16 from the Staff, they felt ready to proceed with implementation  
17 of the dewatering system on the basis of the information  
18 they presented that day?

19 MR. STEPTOE: I'll object to that question. It  
20 seems to be a hypothetical question.

21 To the extent it has any content at all, it has  
22 already been covered.

23 MR. PATON: Judge Bechhoefer, I think, in light  
24 of the fact that Mr. Hood does this type of business with  
25 the Applicant over the years, that he could be fairly asked and

1 that he could be called on to respond.

2 (Discussion had off the record.)

3 MR. STEPTOE: What is the relevance, Judge  
4 Bechhoefer, at this point?

5 CHAIRMAN BECHHOEFER: Well, I think the only  
6 relevance is whether the Staff thought they were giving  
7 approval for implementation or --

8 MR. STEPTOE: Well, Mr. Hood answered that question  
9 yesterday and today. He stated that this is part of working  
10 towards approval and implementation a couple of minutes ago.  
11 He also stated yesterday that it was not -- that meeting  
12 itself was not a specific approval of a specific remedial  
13 action at that time.

14 It has been covered.

15 MS. STAMIRIS: No, because what I'm going at,  
16 what my bottom line is here is how ready did Consumers  
17 Power Company seem to feel they were to move on with  
18 implementation of the dewatering system at that point in  
19 time.

20 I want to know the impressions Mr. Hood or Mr.  
21 Kane had as to whether Consumers, if the NRC Staff had not  
22 objected, seemed ready to go ahead with dewatering those  
23 two areas without any further -- I don't know if any  
24 indication was given that way.

25 CHAIRMAN BECHHOEFER: I think we will sustain that,

1 because I think what Consumers felt at that point is not really  
2 very relevant if they needed Staff approval, which --

3 MS. STAMIRIS: I didn't ask that, though. I asked  
4 whether their actions or statements indicated in any way --

5 CHAIRMAN BECHHOEFER: Well, I don't think it makes  
6 any difference.

7 I don't think that's particularly relevant, so  
8 we'll sustain that objection.

9 MS. STAMIRIS: Okay. I did have another question  
10 I wanted to ask.

11 BY MS. STAMIRIS:

12 Q Mr. Hood or Mr. Kane, do you believe -- well, I'll  
13 ask Mr. Kane first.

14 Mr. Kane, do you believe that the NRC was provided  
15 accurate and complete information on March 3rd, 1982?

16 MR. STEPTOE: That has been asked and answered.

17 MS. STAMIRIS: Not of these witnesses.

18 MR. MARSHALL: These witnesses were precluded from  
19 the room when these questions were asked.

20 MR. PATON: I think we can ask the question of  
21 Mr. Kane, unless his statement is that Mr. Kane has already  
22 answered that question. He may give a different answer.

23 MR. STEPTOE: Do we need that? Do we need to go  
24 on with this, really, based on what is in the record?

25 CHAIRMAN BECHHOEFER: I guess the panel can

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answer that, to the extent they haven't already. I think  
Mr. Hood answered it, but --

BY THE WITNESS:

A. (WITNESS KANE) I'm going to try and clarify the  
question so that I can give an answer, and that is: Do I  
believe we were given accurate information with respect to  
evaluating liquefaction and it being confined to those two  
areas?

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BY MS. STAMIRIS:

Q But, if you want to know precisely what I asked, I did say was it accurate and complete.

A. (WITNESS KANE) It has to be tied to ,the completeness aspect has to be tied to -- at the March 3rd meeting, is it complete that these are the two areas that are involved? And I would say, then, no, it was incomplete.

Q Do you believe that --

MR. STEPTOE: Mrs. Stamiris asked --

MS. STAMIRIS: It's a different question, though.

MR. STEPTOE: Excuse me. But Mrs. Stamiris said that she asked her last question five minutes ago, and she has asked her last question three or four times now.

CHAIRMAN BECHHOEFER: Please try to bring it to a close.

MS. STAMIRIS: I said once that it was the last question, and then once I said that I'm sorry, I do have another -- well, when I said question, yes, I should have said issue, because it -- but this is the last issue that I wish to explore, and I do not have many more questions.

CHAIRMAN BECHHOEFER: Please make it fairly rapid, because we're duplicating a lot of -- a lot of the questions are quite duplicative.

MS. STAMIRIS: Of what has been asked these witnesses?

1 CHAIRMAN BECHHOEFER: Yes, either yesterday or  
2 today.

3 MS. STAMIRIS: Maybe I'm forgetting yesterday.

4 BY MS. STAMIRIS:

5 Q Mr. Kane, intentionally or unintentionally -- I'm  
6 not trying to focus on that -- do you believe that the NRC  
7 Staff was -- all right, intentionally or unintentionally,  
8 absent the NRC Staff's own request for more information,  
9 do you think that the Staff was misled to some degree --

10 MR. STEPTOE: I'll object to that.

11 BY MS. STAMIRIS:

12 Q (Continuing) -- by Consumers' statements on  
13 March 3rd, 1982?

14 MR. STEPTOE: Object to it. First of all, it's  
15 a hypothetical question, because they did ask for more  
16 information. But it has also been answered in this  
17 proceeding.

18 CHAIRMAN BECHHOEFER: Right. I know it was  
19 asked and answered yesterday sometime.

20 MR. STEPTOE: I know Mr. Hood answered that.  
21 He said that the Applicant knows that the Staff does a  
22 thorough technical review, and so forth.

23 CHAIRMAN BECHHOEFER: That's right. I remember  
24 that. So we'll sustain that.

25 MS. STAMIRIS: I don't have any other questions.

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CHAIRMAN BECHHOEFER: Mr. Paton?

MR. PATON: No questions, your Honor.

MR. MARSHALL: Judge Bechhoefer, I'm not going to ask for equal time with Miss -- because the hour is late. So I'm just going to ask a couple or three questions from the panel, whichever ones can answer.

CROSS EXAMINATION

BY MR. MARSHALL:

Q One, which one set up -- or which one of the two of you set up this meeting?

A. (WITNESS HOOD) I did, Mr. Marshall.

Q Then, would you please tell me, did you take Mr. -- for some unknown reason did you manage to take Mr. Kane with you to that meeting?

A. (WITNESS HOOD) Yes, I did.

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BY MR. MARSHALL:

Q Okay. Why did you take Mr. Kane with you to that meeting?

A (WITNESS HOOD) Because he is the geotechnical expert and the discussion would include concerns of liquefaction.

Q Then let me ask you this question: This was not a meeting for a purpose strictly for hydrologists, was it?

A (WITNESS HOOD) No, and there is considerable overlap into geotechnical area.

MR. MARSHALL: That is all.

MS. STAMIRIS: I have one matter I'd like to -- I can't call it a preliminary matter out an ending matter.

I just would like to have on the record that Consumers Power Company had made a commitment to me, and I believe all the parties here, to provide the geotechnical report as to the causes of the void at Observation Well 4 on March 18 or 19, 1982, and I have not received that report.

CHAIRMAN BECHHOEFER: I would suggest that you and the Staff --

MS. STAMIRIS: All right. Me and the Staff.

MR. STEPTOE: I think that's right and we will be sending it in the mail next week.

In addition, we have provided or are providing



1 to Bechtel, I think, thermal performance studies that  
2 are referenced in our testimony or relevant to our  
3 testimony on Contention 14 to -- we provided them to Mrs.  
4 Sinclair and we will provide them to the other parties  
5 in this case. They might find them useful.

6 CHAIRMAN BECHHOEFER: Is there anything further  
7 before we adjourn -- by the way, this Panel is excused.

8 (Witnesses excused.)

9 CHAIRMAN BECHHOEFER: Is there anything further  
10 before we adjourn? We plan to be back here in this room  
11 on March 8th.

12 MR. STEPTOE: We have checked on that line using  
13 the line number and piping and instrumentation drawings.  
14 We've confirmed that it is the circulating water drain  
15 line.

16 Now, we didn't get the chance to talk to Dr.  
17 Landsman and I know he had some concerns about that. I  
18 would suggest that the Staff provide their views on  
19 the subject later by mail.

20 MR. WILCOVE: That's acceptable to the Staff.

21 CHAIRMAN BECHHOEFER: Okay. Fine. Anything  
22 further? We'll adjourn until March 8th.

23 (An adjournment was taken at 1:10  
24 p.m., to resume Tuesday, March 8,  
25 1983, in the above entitled cause.)

NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

NUCLEAR REGULATORY COMMISSION

in the matter of: CONSUMERS POWER COMPANY, Midland Plant  
Units 1 & 2

Date of Proceeding: February 18, 1983

Docket Number: 50-339 & 330 OM & OL

Place of Proceeding: \_\_\_\_\_

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Pauline James & Associates

Official Reporter (Typed)

Pauline James

Official Reporter (Signature)