

NUCLEAR REGULATORY COMMISSION

ORIGINAL

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station)

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DOCKET NO. 50-322-OL

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

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In the Matter of :
LONG ISLAND LIGHTING COMPANY : Docket No. 50-322-CL
(Shoreham Nuclear Power Station) :

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4350 East-West Highway
Bethesda, Maryland
Wednesday, November 3, 1982

The hearing in the above-entitled matter
convened, pursuant to notice, at 9:00 a.m.

BEFORE:

LAWRENCE BRENNER, Chairman
Administrative Judge

JAMES CARPENTER, Member
Administrative Judge

PETER A. MORRIS, Member
Administrative Judge

1 APPEARANCES:

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On behalf of Applicant:

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C O N T E N T S

1							CROSS
2	<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>	<u>ON BOARD</u>
3							
4	Edward J. Youngling and						
5	Arthur R. Muller (Resumed)						
6	By Mr. Dynner		12,767				
7	By Judge Morris					12,792	
8	By Judge Brenner					12,794	
9	By Mr. Dynner						12,800
10	By Mr. Dynner		12,802				
11	(<u>Afternoon Session..12,856</u>)						
12	Edward J. Youngling and						
13	Arthur R. Muller (Resumed)						
14	By Mr. Dynner		12,856				
15	By Judge Brenner					12,877	
16	By Mr. Dynner		12,885				
17	RECESSES:						
18	Morning - 12,801						
19	Noon - 12,855						
20	Afternoon 12,897						
21							
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JUDGE BRENNER: Good morning.

We have no matters unrelated to quality assurance and quality control. I don't know if the parties have any matters.

(No response.)

JUDGE BRENNER: All right. Turning to that subject, then, with respect to the witnesses for ISEG, I-S-E-G, we would like Mr. Kubinek to be here with Mr. McCaffrey and Mr. Alexander. We would like to receive their updated professional qualifications as soon as practicable. That is, for Mr. McCaffrey and Mr. Kubinek.

Picking up where we left off yesterday, LILCO's objection at page 12739 is overruled. The witnesses, when we get to them in a moment, can answer whether the input of the vice president of engineering would be significant in LILCO's evaluation of the performance of the quality assurance manager. That was the question that was objected to, and there were a series of questions leading up to it.

And the witness' answer let naturally, in our opinion, to the question that the County asked, and it is a question that can be answered by the witnesses to the extent they feel they can answer it.

1 On the other subject which we got into,
2 triggered in part by my question as to whether there is
3 a missing witness, namely the quality assurance manager,
4 we believe the question of the organizational freedom or
5 organizational reporting lines certainly is within the
6 contention and squarely within section A of contention
7 13, alleging, after the introductory remarks on the
8 contention, that there is a failure to address at a
9 minimum each of the criteria in Appendix B in sufficient
10 detail to enable an independent reviewer to determine
11 whether and how all of the requirements of Appendix B
12 will be satisfied.

13 Criterion Roman I of Appendix B deals with
14 organizational freedom. We can't tell precisely what
15 the lines of organization are intended to represent
16 between the operational QA engineer, Mr. Muller, and the
17 other officials above him. If you compare the charts in
18 the QA manual and in the FSAR, they are apparently not
19 fully consistent, at least not without a better
20 explanation.

21 So it is a subject within the contention.
22 LILCO appeared to recognize that itself in including
23 information on the organization and talking about the
24 freedom of reporting in that description. It is not
25 just a bland description, and that appears at page 5 in

1 the testimony and also at pages 193 to 197. Beyond what
2 appears there, page 197 refers to the QA manual, which
3 is where we have been.

4 As to whether or not we need another witness,
5 we will pass on that for now and we will see what
6 questions these witnesses can answer as to the reporting
7 chain and see where it goes from there. But I am sure
8 somewhere along the way, somebody will explain or ask
9 about all of the different dotted, dashed and whatever
10 lines in Figure 17.2.1-1 of the FSAR, which is dated
11 February 1982, as compared to the dotted, alternating
12 dots and dashes, dashes and solid lines in Exhibit 1.1
13 of section 1 of the quality assurance manual, which is
14 attachment 4 to the LILCO testimony, and also Exhibit
15 1.2, which is an organizational table on the quality
16 assurance organizations, and section 1 of the QA
17 manual.

18 And we're talking particularly about the lines
19 stemming from Mr. Muller's position of operating quality
20 assurance engineer. One line is called "review and
21 audit," one line is called "communication and
22 coordination," one line is called "authority." This is
23 from Exhibit 1.1.

24 Exhibit 1.2 only has two lines, one of them
25 being "authority," the other being "communication and

1 coordination." And Figure 17.2.1-1 has more categories
2 than I care to read into the record at this time. And
3 the extent of the overlap or distinction between those
4 categories is not immediately apparent.

5 So we are going to get into it.

6 MR. ELLIS: Judge Brenner, I made a judgment
7 that this panel with Mr. Kelly could answer the
8 questions. I still think that judgment is correct.
9 However, if the Board -- or if that judgment turns out
10 to be incorrect, if the Board wants me to put Mr.
11 Gerecke on the panel I would be glad to do so.

12 JUDGE BRENNER: Well, we will see where the
13 questions go. You are free to decide on your own also.
14 By the time we feel that you're missing somebody, it
15 might be too late for you, although we will attempt to
16 be timely in any problems we have, as we have been
17 throughout the case.

18 But we have warned, silence on our part does
19 not mean acquiescence that we've got all the information
20 we need. You're going to get one party's perspective on
21 his reporting responsibilities to a party above him.
22 Whether or not we need the party above him's
23 perspective, I don't know, and particularly since Mr.
24 Gerecke was part of the larger panel anyway, in going
25 through the charts Mr. Kelly is not in Mr. Muller's

1 reporting chain or any of those lines.

2 And so, obviously then this is reiterating
3 what you stated yesterday, Mr. Ellis. The area you had
4 in mind for Mr. Kelly was not this area, and I
5 understand that better having had the chance to look at
6 things.

7 Incidentally, our reaction, although I've used
8 the charts as a handy summary, does not stem solely from
9 the charts. We have looked at the FSAR's and the SER's
10 and the testimony. So I don't mean to imply that
11 because the chart doesn't say everything in the chart
12 that is a problem. But the other explanatory materials
13 does not fully give the picture in our mind. It might,
14 but we need the help of a witness to pull it together.
15 We will see.

16 But you know, the objection you made
17 yesterday, although we've overruled it, has some
18 validity. It wasn't a frivolous objection. Your point
19 was, it is hard for the witness who is at the lower end
20 of the rating chain, so to speak, to be able to answer
21 fully as to what the input would mean for the official
22 further up in the rating chain. And I think you have a
23 point there.

24 We've overruled it because we think, as I
25 said, these witnesses can answer it to the extent they

1 can. But that is where you might have that problem of
2 the different perspective.

3 MR. ELLIS: That could be a problem that even
4 Mr. Gerecke couldn't cure.

5 JUDGE BRENNER: That's true, but he covers two
6 of these fancy lines, at least, none of which are the
7 solid authority line, but we want to explore that
8 distinction. We have not gone further than whether or
9 not he could cure it, but we may come to that.

10 All right. I have been long-winded in terms
11 of the particular objection and the particular problem
12 we discussed yesterday, because we wanted the parties to
13 keep things in mind as we went through this, and that is
14 why I have given as much explanation as we feel we can
15 so far.

16 And we can pick up with the cross-examination
17 at this point. You could re-ask the question that was
18 objected to, if you want, Mr. Dynner. That would be a
19 good starting point, I guess.

20 I don't know if you have the transcript. I
21 can re-ask it if you want.

22 MR. DYNNER: If you would, please.

23 Whereupon,

24 EDWARD J. YOUNGLING

25 ARTHUR R. MULLER,

1 the witnesses on the stand at the time of recess,
2 resumed the stand and, having previously been duly sworn
3 by the Chairman, were examined and testified further as
4 follows:

5 JUDGE BRENNER: Gentlemen, yesterday you
6 discussed that the vice president, engineering, would
7 have input but not necessarily the sole say in the
8 performance evaluation of the quality assurance
9 manager. And the question is whether the input of the
10 vice president, engineering, would be significant in the
11 overall LILCO evaluation of the performance of the
12 quality assurance manager.

13 WITNESS YOUNGLING: The input of the vice
14 president, nuclear, would be significant in his
15 performance evaluation, yes.

16 (Panel of witnesses conferring.)

17 WITNESS YOUNGLING: I'm sorry, that's vice
18 president, engineering.

19 JUDGE BRENNER: We're talking about the
20 quality assurance manager.

21 WITNESS YOUNGLING: Yes, sir.

22 CROSS-EXAMINATION -- CONTINUED

23 BY MR. DYNNER:

24 Q As we resume the questioning, in order to
25 assist all of the parties here it might be helpful if we

1 turn to section 1 of the QA manual and specifically to
2 Exhibits 1.1 and 1.2, which set forth respectively the
3 LILCO organization for quality assurance in Exhibit 1.1
4 and the quality assurance organization in Exhibit 1.2.

5 And you might also at the same time turn to
6 the FSAR 17.2 package that was distributed yesterday,
7 and specifically to Figure 17.2.1-1.

8 A (WITNESS YOUNGLING) Excuse me, Mr. Dynner. I
9 still didn't get a copy of the chart.

10 Q Mr. Ellis will help you.

11 (Document handed to witnesses.)

12 Q That figure is also an organizational chart of
13 the quality assurance for LILCO.

14 MR. ELLIS: Excuse me, Mr. Dynner. The
15 exhibit you referred to, is that pages 12 and 13 of
16 section 1?

17 MR. DYNNER: That is correct.

18 JUDGE BRENNER: Let's put the dates in the
19 record at this point also, for convenience, because I
20 raised this question also yesterday. The date for the
21 FSAR figure that you just identified is February 1982,
22 and it bears the notation "Revision 25." Is that the
23 most up to date version of the FSAR chart? Let me ask
24 the witnesses if they know.

25 (Panel of witnesses conferring.)

1 WITNESS YOUNGLING: Yes, that is the most up
2 to date version, Revision 25, as far as we know, yes.

3 JUDGE BRENNER: And the dates on the charts in
4 the QA manual just identified are both 6/1/82,
5 Revision 0.

6 WITNESS MULLER: Yes, that is the latest
7 revision to the QA manual.

8 JUDGE BRENNER: All right. Mr. Dynner.

9 BY MR. DYNNER: (Resuming)

10 Q If we can look for a moment at the
11 organizational chart on page 12 of the QA manual, which
12 is Exhibit 1.1. There is a block shown approximately in
13 the upper middle part of the page labeled "Manager, QA
14 Department." Is that the entity that we have referred
15 to from time to time here as the QA manager?

16 A (WITNESS MULLER) Yes. And Mr. Gerecke is the
17 quality assurance department manager.

18 Q And you testified yesterday that the QA
19 manager reports to the vice president, engineering,
20 correct?

21 A (WITNESS MULLER) Yes, that is correct.

22 Q And that the vice president, engineering, is
23 in fact the immediate supervisor of the QA manager; is
24 that correct?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) Yes, structurally, he is the
2 QA department manager's immediate supervisor. That is,
3 the vice president of engineering.

4 Q You say "structurally." Is there some way in
5 which he is not his immediate supervisor?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) From an organizational
8 structure, he is the immediate supervisor.

9 Q And in every other way he is the immediate
10 supervisor, isn't he?

11 A (WITNESS MULLER) Yes, with the exception of
12 communication and coordination with the vice president,
13 nuclear. But the vice president, nuclear, is not the
14 immediate supervisor of the quality assurance department
15 manager.

16 Q Well, when you say communication and
17 coordination and tie that into supervision, are you
18 indicating that there is something more to communication
19 and coordination than what those words mean in Webster's
20 dictionary?

21 A (WITNESS MULLER) No. There is only
22 communication and coordination.

23 Q Well, let's explore that a bit. There is a
24 solid line leading on this chart from the manager, QA
25 department, to the vice president, engineering, and the

1 legend for that chart opposite the solid line indicates
2 the word "authority." There is then a line comprised of
3 dashes and dots intermittently leading from the manager
4 of the QA department to the vice president, nuclear, and
5 that line is entitled in the legend "communication and
6 coordination."

7 Now, could you tell us, speaking first about
8 the line entitled "authority," what does the word
9 "authority" mean?

10 (Panel of witnesses conferring.)

11 A (WITNESS MULLER) As described in section
12 1.2.3 of the QA manual, the vice president, engineering,
13 has been delegated the overall responsibility for
14 establishing the QA program policies, goals and
15 objectives, and for providing assurance that the QA
16 program requirements are effectively implemented. The
17 vice president has assigned the quality assurance
18 responsibilities to the manager, quality assurance
19 department.

20 Q Specifically what authority does the vice
21 president for engineering exercise over the QA manager?

22 (Panel of witnesses conferring.)

23 A (WITNESS MULLER) Within the corporate
24 structure, Mr. Gerecke has been assigned those duties by
25 the vice president of engineering.

1 Q I'm sorry, perhaps you misunderstood my
2 question. I wasn't asking what responsibilities that
3 the QA manager has or where he derives them, but what is
4 the authority that the vice president for engineering
5 has over the QA manager as indicated by this line
6 entitled "authority."

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) The vice president,
9 engineering, has given Mr. Gerecke the authority to
10 carry out that program.

11 Q And what does "authority" mean?

12 A (WITNESS MULLER) Mr. Gerecke is responsible
13 for implementing that program.

14 Q Is he responsible to the vice president for
15 engineering?

16 A (WITNESS MULLER) Yes, he is.

17 Q Can the vice president for engineering fire
18 the QA manager?

19 (Panel of witnesses conferring.)

20 A (WITNESS YOUNGLING) The vice president of
21 engineering I would presume would have a very strong
22 input into that situation, yes.

23 Q You would presume, but do you know or are you
24 guessing?

25 A (WITNESS YOUNGLING) I'm not guessing, no.

1 But I don't have the full cognizance of the total
2 workings of that level of the corporation.

3 Q So what is the basis for your presumption?

4 A (WITNESS YOUNGLING) Just from the normal
5 corporate scheme of supervision, an officer of the
6 company, the authority of an officer of the company.

7 Q What documents establish the authority of
8 officers of LILCO?

9 (Panel of witnesses conferring.)

10 A (WITNESS YOUNGLING) The corporation has in
11 place a set of policies and procedures dealing with the
12 operational aspects of the corporation, setting policy
13 in various areas for the functioning of the
14 corporation.

15 Q Have you read those documents?

16 A (WITNESS YOUNGLING) I have read certain
17 selected sections of them, yes.

18 Q Can you identify those that you read and those
19 that you haven't read?

20 A (WITNESS YOUNGLING) Not without having the
21 document, reviewing the document, no.

22 Q Does the vice president for engineering have
23 the authority to give the QA manager a raise in salary?

24 A (WITNESS YOUNGLING) The vice president of
25 engineering would, under my understanding of those

1 procedures, have a significant input into that
2 structure, yes.

3 Q Who else would have a significant input into
4 the decision as to whether to give the QA manager a
5 raise in salary?

6 A (WITNESS YOUNGLING) I would imagine that the
7 structure all the way up to the president of the company
8 would be involved in the overall scheme of raises for a
9 particular year, deciding as to how much money was
10 available for raises and so forth.

11 (Counsel for Suffolk County conferring.)

12 Q Do you know whether the president of the
13 company has contact with the QA manager from day to day
14 to evaluate his performance personally?

15 A (WITNESS YOUNGLING) No, I cannot answer that
16 question.

17 Q So when you say that the vice president for
18 engineering would have an impact on whether or not the
19 QA manager were to be given a raise in salary, can you
20 identify whether anyone else would have an impact and
21 what their impact would be in evaluating the QA
22 manager's performance?

23 (Panel of witnesses conferring.)

24 A (WITNESS YOUNGLING) Based upon my earlier
25 testimony where I mentioned that all the way to the

1 president of the company, there would be an impact on
2 everyone all the way down to the lowest level in the
3 corporation. Each one of those people along the line
4 would have a certain degree of impact as to the
5 availability of money and raise.

6 Q Well, I think the question that I was trying
7 to get at, Mr. Youngling, was whether anyone aside from
8 the vice president of engineering was in a position
9 directly to evaluate the performance of the QA manager
10 in terms of giving him a raise in salary. Is there any
11 such person?

12 (Panel of witnesses conferring.)

13 A (WITNESS YOUNGLING) Again, as I testified
14 earlier, because of the effect of people above, to a
15 certain extent the people above the vice president of
16 engineering could have an impact in determining the
17 amount of money available for a raise for any person in
18 the organization below, of which the QA manager is one
19 of those people.

20 Q I asked you about evaluation of performance, I
21 think. And could you tell me this: Do you know whether
22 the vice president for engineering fills out some kind
23 of performance evaluation form or files a performance
24 evaluation report on the QA manager?

25 A (WITNESS YOUNGLING) The corporation does have

1 a procedure that does call for the completion of a
2 performance evaluation at a regular interval for each
3 employee, yes.

4 Q And who fills out that evaluation for the
5 manager of the QA department?

6 A (WITNESS YOUNGLING) As I remember the form,
7 the immediate supervisor is charged with the
8 responsibility of filling out that form.

9 Q And that would be the vice president for
10 engineering, wouldn't it?

11 A (WITNESS YOUNGLING) In the case of Mr.
12 Gerecke, yes.

13 Q And do any other persons fill out evaluation
14 forms for the QA manager?

15 (Panel of witnesses conferring.)

16 A (WITNESS YOUNGLING) I am aware that the forms
17 do have additional signature blocks, additional input
18 space for other people to provide input. In Mr.
19 Gerecke's situation I am not aware as to whether those
20 additional spaces are used or not.

21 Q And do you know -- you're not aware of they're
22 used. My question is, are you aware what individuals or
23 what persons in the structure of the company would fill
24 out those blocks if they were used?

25 A (WITNESS YOUNGLING) I'm not aware of a set

1 procedure as to who can or cannot use those additional
2 blocks and input.

3 Q Let me try to make this easy and shift to
4 numbers instead of words for a moment. If you had to,
5 based upon your knowledge of the personnel procedures of
6 the company, if you had to estimate just a ballpark
7 number, a percentage, what is the percentage that you
8 would place on the importance of the vice president,
9 engineering's evaluation of the QA manager as compared
10 to anybody else?

11 Would the importance of his evaluation be 10
12 percent or 90 percent or what?

13 (Panel of witnesses conferring.)

14 A (WITNESS YOUNGLING) I cannot comment as to
15 the percentage weighting that the vice president of
16 engineering would apply in that particular position,
17 since I am not filling that position.

18 Q In that particular position, can you comment
19 as to what weight is given to an evaluation report by an
20 immediate supervisor in the organization in general?

21 A (WITNESS YOUNGLING) As I testified earlier,
22 the immediate supervisor has a significant input.
23 Significant, would carry a large percentage.

24 Q 80 percent, 95 percent, 40 percent? What do
25 you mean by "significant"?

1 A (WITNESS YOUNGLING) Significant. I can't
2 evaluate it.

3 Q I'm sorry, I thought engineers liked numbers
4 instead of words, and I was wrong. I apologize.

5 Let me ask you this. Does the vice president
6 for engineering have the authority to give the QA
7 manager a bonus?

8 (Panel of witnesses conferring.)

9 A (WITNESS YOUNGLING) I'm not aware of any
10 bonus programs within the corporation. We are strictly
11 on a salary basis.

12 Q Well, if it is not a bonus program, are there
13 from time to time bonuses given to officers or employees
14 who perform exceptionally well?

15 A (WITNESS YOUNGLING) The only bonuses that I
16 am aware of having been given is bonuses for safety
17 suggestions, and safety suggestions are really the ones
18 that come to mind. I'm not aware of any others.

19 (Panel of witnesses conferring.)

20 A (WITNESS YOUNGLING) I'm sorry. Mr. Muller
21 reminds me of an additional point. Managers are not
22 entitled to bonuses for safety suggestions. Only
23 contract employees are.

24 (Board conferring.)

25 Q Let me direct your attention now also to

1 Figure 17.2.1-1 of the FSAR, and this is the LILCO
2 organization for quality assurance chart, revision 25,
3 dated February 1982. And on this chart in the middle it
4 again shows the manager, QA department, and it shows a
5 solid line again running -- it appears to be running to
6 the vice president, engineering; is that correct?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) That is correct.

9 Q And the legend for that solid line in this
10 case states, "functional and administrative authority";
11 is that correct?

12 A (WITNESS MULLER) Yes, that is what the legend
13 states.

14 Q Now, could you describe for us the difference
15 between authority indicated in the Exhibit 1.1 chart to
16 the QA manual and the description, functional and
17 administrative authority, indicated in the figure
18 attached to the FSAR?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) The solid line in the FSAR,
21 functional and administrative authority, implies
22 authority. The administrative authority deals with the
23 corporate structure as far as sick leave policy, that
24 type of thing. Functional is as far as the engineering
25 -- or the vice president of engineering is responsible

1 for the implementation of the QA program. He has
2 delegated that function to the QA manager.

3 Q When you say the vice president for
4 engineering has delegated the QA function to the QA
5 manager, do you mean that he does not retain any QA
6 function himself?

7 A (WITNESS MULLER) He is responsible for the
8 implementation of the overall program as stated in the
9 QA manual.

10 Q How would he exercise his functional authority
11 over the QA manager? Would he give him orders, for
12 example?

13 (Panel of witnesses conferring.)

14 A (WITNESS YOUNGLING) The vice president,
15 engineering, would be the source for implementation of
16 the functional goals out of his office as he
17 establishes, plus the implementation of the policy as
18 established by the corporation. Those goals and those
19 functional attributes can cover the full realm of the
20 implementation of sick leave policy all the way through
21 to the most technical aspects, which in this particular
22 case deal with the implementation of the quality
23 assurance program.

24 Q Does your answer indicate that the vice
25 president for engineering, in exercising his functional

1 authority over the QA manager, can give orders or
2 directions to the QA manager?

3 (Panel of witnesses conferring.)

4 A (WITNESS YOUNGLING) In the sense of any
5 corporate structure, the superior to his subordinate
6 would of course from time to time give orders and
7 directions. I think that is a part of the policy
8 structure and the functioning of a corporation.

9 Q So that the functional authority indicates the
10 right to direct the functions of the subordinate, and
11 what then does the administrative authority involve?

12 (Panel of witnesses conferring.)

13 A (WITNESS YOUNGLING) As I testified earlier,
14 the administrative authority would deal with the
15 implementation of the day to day policies of the
16 corporation dealing in such things as sick leave
17 performance, vacation allowances, and similar type
18 administrative activities associated with the workings
19 of a functional organization.

20 Q And would the authority to fire and to
21 evaluate the performance and to give raises be an
22 administrative authority or a functional authority?

23 (Panel of witnesses conferring.)

24 A (WITNESS YOUNGLING) That would be an
25 administrative authority or an administrative policy.

1 Q Now, I asked you previously what the
2 difference was between the terms "functional and
3 administrative authority" as used in the legend on the
4 figure attached to the FSAR, and the term "authority" as
5 used to describe the solid line on Exhibit 1.1 to the QA
6 manual, which is also an organizational chart. Is there
7 any distinction between those two?

8 MR. ELLIS: Objection. Asked and answered.

9 JUDGE BRENNER: Well, we've kind of been all
10 around it quite a bit. Do you think you're going to get
11 a different answer?

12 MR. DYNNER: I'm sorry, Judge Brenner, I did
13 not believe that the witnesses answered that question.

14 JUDGE BRENNER: All right, let's get the
15 answer for the first time, depending upon who's right.

16 (Panel of witnesses conferring.)

17 WITNESS YOUNGLING: The legend on Figure
18 17.2.1-1 of the FSAR figure, the solid black line,
19 "functional and administrative authority," and the
20 legend on the QA manual, Exhibit 1.1, the solid line,
21 "authority," are one and the same.

22 BY MR. DYNNER: (Resuming)

23 Q Thank you.

24 Now, if we look for a moment at the
25 organizational chart attached to the FSAR, we see

1 another line, which is a combination of solid line
2 interspersed by dashes, running from the QA manager to
3 the vice president, nuclear; is that correct?

4 A (WITNESS YOUNGLING) Are the number of dashes
5 one or two?

6 Q It is a line which consists, as I see it, of a
7 dash, a long line and a dash, a long line and a dash.

8 A (WITNESS YOUNGLING) How about if we say that
9 would be the single dash line as opposed to the double
10 dash?

11 Q Fine.

12 JUDGE BRENNER: Mr. Dynner, it's your time,
13 but I think there's a more efficient area in terms of
14 what we're interested in in operational QA and I will
15 suggest it to you, and you don't have to follow it. You
16 can stay where you are if you want.

17 But on operational QA, what you're asking may
18 or may not be material depending upon the connections or
19 lack thereof between the QA manager and Mr. Muller as
20 the operating QA engineer. And you have spent 45
21 minutes now in the chain above the QA manager, which may
22 or may not be material to operational QA, depending upon
23 what we establish.

24 And there are things we do want to know about
25 those lines between the manager of the QA department and

1 Mr. Muller. So I don't know why you are probing where
2 you are without first probing in the other area. But it
3 is your four days. This all may be a waste of time if
4 there is a cutoff between the other chain.

5 (Counsel for Suffolk County conferring.)

6 BY MR. DYNNER: (Resuming)

7 Q Now, when you used the word in your testimony
8 that the QA manager reports to the vice president for
9 engineering, does that term "reporting to" indicate that
10 the office to which the subordinate reports has
11 functional and administrative authority over that
12 individual?

13 MR. ELLIS: Do you have a specific case in the
14 testimony, Mr. Dynner, that you could refer to?

15 JUDGE BRENNER: He doesn't need a place in the
16 testimony for that. Let's get an answer. We've been
17 dealing with "reporting to" all morning.

18 MR. ELLIS: Well, it may be a narrower context
19 in the testimony in some places, and just to say
20 blanketly that it's all throughout the testimony I don't
21 think is fair or accurate.

22 JUDGE BRENNER: Take a look around page 5, and
23 then look again between pages 193 to 197.

24 MR. ELLIS: Thank you, Judge Brenner.

25 JUDGE BRENNER: Is that the part you had in

1 mind, Mr. Dynner?

2 MR. DYNNER: Yes, Judge Brenner.

3 (Panel of witnesses conferring.)

4 JUDGE BRENNER: Did the witnesses need the
5 question again?

6 WITNESS MULLER: Yes, please.

7 BY MR. DYNNER: (Resuming)

8 Q The question basically is, when you testified
9 that someone reports to someone, does that mean that
10 they have both functional and administrative authority
11 over that person?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) In the case of the FSAR and
14 the QA manual, the solid line means administrative and
15 functional authority.

16 Q Yes. Does it also mean that he reports to the
17 person above him?

18 (Panel of witnesses conferring.)

19 A (WITNESS YOUNGLING) The administrative
20 authority relates to the overall corporate
21 organizational chart. The dark line indicates that the
22 manager of quality assurance department has functional
23 and administrative authority, reporting to the vice
24 president of engineering, as indicated on the chart.

25 Q Now, if I can direct your attention to the

1 organizational chart attached to the QA manual, which is
2 Exhibit 1.1. That shows, doesn't it, a solid line
3 running from the operating QA engineer up to the plant
4 manager; is that correct?

5 A (WITNESS MULLER) Yes, that is correct.

6 Q And you testified that a solid line represents
7 both functional and administrative authority, and
8 therefore it carries with it the right to fire, hire --
9 excuse me -- fire and evaluate the performance and other
10 administrative functions, and the plant manager carries
11 out that authority over the OQA engineer; is that
12 correct?

13 (Panel of witnesses conferring.)

14 A (WITNESS YOUNGLING) As I testified earlier,
15 as in the case of the vice president, engineering, the
16 plant manager would have a significant input into the
17 performance evaluation of the subordinates under him.
18 He would have a significant input into the need for that
19 person's services within the corporation.

20 JUDGE BRENNER: Excuse me. We always give the
21 panel a lot of flexibility as to who answers, but I'm
22 just curious at this point. Why isn't Mr. Muller
23 answering that question, since we're talking about the
24 man at the other end of his solid chain?

25 WITNESS YOUNGLING: I'm sorry, Judge Brenner.

1 I chose to answer the question on the basis that it was
2 a more overall question relative to the corporation and
3 it would seem to be more in tune with the general
4 guidelines that I stated for the vice president,
5 engineering.

6 JUDGE BRENNER: Okay. I guess I took the
7 question as being more focused. Well, the question was
8 proceeding along an organized line from the general down
9 to this particular line. I'm not criticizing you. As I
10 said, I was curious more than anything else, and you
11 answered my question.

12 I would like to hear Mr. Muller's view on it
13 also.

14 WITNESS MULLER: Mr. Youngling and I had
15 discussed this earlier and we're not 100 percent sure
16 that the plant manager can actually fire the operating
17 QA engineer. He would have a very large input into
18 that, but I'm not sure he could actually fire me without
19 the -- without taking everything through the vice
20 president, nuclear.

21 JUDGE MORRIS: If I may, let me interject a
22 question.

23

24 JUDGE MORRIS: Mr. Muller, do you view your
25 job as any different from the other persons who report

1 to the plant manager, who on this organizational chart
2 have solid lines drawn between them? Or, to put it
3 another way, does the plant manager have the same
4 authority over you as he would have over those other
5 people?

6 JUDGE BRENNER: Mr. Youngling, for example? I
7 hope I didn't confuse you with that. I take it Mr.
8 Youngling would be one of the chief engineers, at least
9 until startup would be accomplished.

10 WITNESS YOUNGLING: No, Judge Brenner, I
11 report directly to the vice president of nuclear. I
12 don't report to the plant manager.

13 JUDGE BRENNER: Okay. Well, we will come back
14 to Judge Morris' question in a second. But I recall
15 from your resume, I thought that at times prior to fuel
16 load, as designated by somebody -- and I forget who does
17 the designation -- you then report to the plant
18 manager.

19 WITNESS YOUNGLING: That was an error that was
20 corrected in the resume.

21 JUDGE BRENNER: I'm sorry about that. Strike
22 what I said and let's go back to Judge Morris'
23 question.

24 JUDGE MORRIS: Mr. Muller, let me repeat it.
25 If we look at Exhibit 1.1, there are several boxes that

1 report to the plant manager, for example the manager of
2 technical support, the chief engineer, the Review of
3 Operations Committee, and yourself, the operating QA
4 engineer.

5 They all have solid lines. There is no
6 distinction between the line that goes from your box to
7 the plant manager than from the others to the plant
8 manager. My question is, does that imply correctly that
9 the plant manager's authority with respect to you is
10 identical to that with the others?

11 WITNESS MULLER: Yes.

12 JUDGE MORRIS: Thank you.

13 BY MR. DYNNER: (Resuming)

14 Q It might be helpful for us for a moment to
15 turn to Exhibit 1.2, which is the quality assurance
16 organization chart. It is a little clearer. Now, we
17 have, as we can see on this chart, clearly the lines
18 indicating authority, which you've testified means both
19 functional and administrative authority, running from
20 the vice president, engineering, to the manager of the
21 QA department on the right-hand side of the chart, and
22 an identical solid line indicating both functional and
23 administrative authority running on the left-hand side
24 of the chart from the vice president, nuclear, down to
25 the plant manager and then to the operating quality

1 assurance engineer.

2 Now, my question is, yesterday you testified
3 that the vice president, nuclear, had cost and
4 scheduling responsibilities with respect to the plant.
5 My question today is whether the plant manager has cost
6 and scheduling responsibilities with respect to the
7 plant.

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) The plant manager has
10 responsibilities for cost and scheduling, as well as a
11 paramount responsibility for the safe operation of the
12 plant.

13 Q Let me direct your attention for a moment to
14 page 5 of your testimony. As indicated on that page,
15 you testified that originally the QA manager reported to
16 the nuclear projects manager, but an organization change
17 was made in July 1973 requiring that he report to the
18 vice president, engineering. "This change was made in
19 order to assure the independence of the QA organization
20 from project management, which has direct responsibility
21 for the cost and scheduling of the Shoreham construction
22 program." And then it goes on.

23 Are you familiar with the circumstances under
24 which that change was made in 1973?

25 (Panel of witnesses conferring.)

1 Q Let me strike that question and ask you a
2 simpler one.

3 JUDGE BRENNER: Do you want to give them a
4 hint if you have something in mind?

5 BY MR. DYNNER: (Resuming)

6 Q Let me strike that question and ask a simpler
7 one. Do you stand by your testimony on page 5?

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) That was in part what I was
10 going to say, anyway, that yes.

11 Q You do?

12 A (WITNESS MULLER) Yes.

13 Q Thank you.

14 JUDGE BRENNER: On page 5 you're talking about
15 the construction QA organization, is that right?

16 WITNESS MULLER: That is correct.

17 JUDGE BRENNER: Was there an adjudication
18 right around that time in 1973 that dealt with the
19 appropriate organization for construction QA under
20 Appendix B, if you know?

21 (Panel of witnesses conferring.)

22 WITNESS YOUNGLING: Judge Brenner, I'm not
23 fully familiar with the details of that process, no.

24 BY MR. DYNNER: (Resuming)

25 Q Do you believe that the --

1 JUDGE BRENNER: I did not mean an adjudication
2 in the Shoreham case. So your answer is the same?

3 WITNESS YOUNGLING: Yes, sir.

4 JUDGE BRENNER: Okay. I just wanted to
5 clarify that.

6 (Counsel for Suffolk County conferring.)

7 MR. DYNNER: Judge Brenner, if you have any
8 follow-ups now, I plan to shift on to the next area in
9 my cross-examination plan.

10 JUDGE BRENNER: Judge Morris is going to
11 follow up a little bit now. That's not to preclude
12 questions we might have later. We want to take a look
13 at something else.

14 BOARD EXAMINATION

15 BY JUDGE MORRIS:

16 Q Gentlemen, I think you can perceive the
17 problem that some of us in this room have, namely of
18 understanding the independence of the OQA during the
19 operating phase of Shoreham as reflected as a
20 requirement in criterion 1 of Appendix B of Part 50.
21 And it is not clear from just looking at dashed lines
22 and solid lines the distinction between administrative
23 direction and functional direction as I perceive it,
24 namely directing how the activities should be carried
25 out.

1 There is one possible clue to this which
2 hasn't been put in the record yet, and I will direct
3 your attention to the quality assurance manual,
4 paragraph 1.2.22, the title of which is "operating
5 quality assurance engineer." In that paragraph I will
6 direct your attention to the third sentence, which
7 reads:

8 "In the event that the plant manager and the
9 operating QA engineer differ significantly with regards
10 to a quality matter, they shall refer the matter to the
11 QA manager for resolution."

12 Is it your understanding that this is the
13 current and future policy of LILCO?

14 A (WITNESS MULLER) Yes, it is the current and
15 future policy within LILCO.

16 Q And Judge Brenner points also to page 196 of
17 your testimony, at the top of the page, the conclusion
18 of that paragraph. Is it your position that that is
19 essentially the same thing?

20 A (WITNESS MULLER) Yes, that means the same
21 thing, that the plant manager and operating QA engineer,
22 if they have a difference, I have the option of going to
23 the QA manager to resolve that problem. And LILCO
24 corporate policy also allows me to go to the vice
25 president, nuclear, or the vice president of engineering

1 if I still have further problems. That is a corporate
2 policy. It is not in the QA manual.

3 Q Is that corporate policy written down
4 somewhere?

5 (Panel of witnesses conferring.)

6 A (WITNESS MULLER) That is in the policy and
7 procedures guide which has been in effect for many
8 years.

9 JUDGE MORRIS: Well, I won't pursue this any
10 further at this time, but I wanted to interject that
11 thought, so that you would have it in mind in this
12 discussion as we go along.

13 BY JUDGE BRENNER:

14 Q Just to follow up for a moment, looking at all
15 the charts in combination, the only lines we see on the
16 charts between your position, Mr. Muller, and the
17 manager of the QA department are either communication
18 and coordination or review and audit.

19 Now, with respect to this right to refer a
20 matter, your right to refer a matter to the QA manager
21 for resolution if you differ significantly with the
22 plant manager, do you deem that to come within any of
23 those functions on the chart, or is this something else
24 which isn't included within the chart?

25 A (WITNESS MULLER) No, that is part of the

1 communications cycle.

2 (Panel of witnesses conferring.)

3 Q Would that be true, then, anywhere I saw this
4 "communication and coordination" line between different
5 officials on this chart? The reason I ask is that's not
6 my idea of the definition of communication, at least not
7 the primary definition.

8 (Panel of witnesses conferring.)

9 Q Well, for example, would the manager of the QA
10 department go to the vice president, nuclear, if he has
11 a difference, a significant difference with the vice
12 president of engineering? Because there is that
13 communication and coordination line between the manager
14 of the QA department and the vice president, nuclear.

15 (Panel of witnesses conferring.)

16 A (WITNESS MULLER) Yes, he could do that. And
17 I think the line highlights the coordination effort
18 within the corporation. OQA has normal communications
19 with the QA department as far as audit reports, annual
20 reports, NDE reports. We are required to send all of
21 these documents to the QA department. That is part of
22 the communications and coordination.

23 Coordination also involves the audit program.
24 But what has been stated in the manual as far as the
25 OQAE can go to the QA department manager in the case of

1 a difference between myself and the plant manager is
2 something extra.

3 Q All right. Staying with that, then, as
4 pointed out in Judge Morris' questions and your answers
5 on section 1.2.22, the QA manual, and also pages 195
6 over through the top of 196 of your testimony, does that
7 mean that the QA manager can overrule the plant manager
8 on something affecting you that you had a difference on
9 with the plant manager?

10 (Panel of witnesses conferring.)

11 Q I'm trying to explore what resolution exists
12 at the QA manager level in the event of a dispute.

13 A (WITNESS MULLER) The QA manager also
14 communicates and coordinates with the vice president,
15 nuclear, to which the plant manager reports. So he does
16 have recourse in a matter like that to go above the
17 plant manager.

18 Q Well, you can go to the vice president,
19 nuclear, yourself, you told us; is that right?

20 A (WITNESS MULLER) I can according to corporate
21 policies. This is the more formal QA policy.

22 Q Well, what does the QA manager do for you that
23 you can't do yourself, then?

24 (Panel of witnesses conferring.)

25 A (WITNESS MULLER) The QA department provides

1 an independent audit program of the operational QA
2 program at the plant. The QA manager also can go to the
3 vice president of engineering for further resolution and
4 bring with him further opinions concerning the operation
5 of the plant.

6 Q So you would go to the manager of the QA
7 department -- and remember, the assumption is you have
8 got a significant dispute with the plant manager. You
9 would go to the manager of the QA department in order to
10 get a line in to, so to speak, the vice president of
11 engineering?

12 A (WITNESS MULLER) That is the formal procedure
13 which I would follow, yes.

14 Q I still don't understand the QA manager's
15 authority in the situation we've postulated, other than
16 as a door opener for you. What does he do on his own to
17 resolve the dispute? Can he just tell the plant
18 manager, no, you're wrong, plant manager?

19 A (WITNESS MULLER) The QA manager has stop work
20 authority, and I also have stop work authority.

21 Q So are you implying that unless and until the
22 plant manager would escalate your decision, you've had
23 your way, so to speak, in a stop work situation because
24 of your stop work authority?

25 A (WITNESS MULLER) If the situation went that

1 far, yes. And I think I described yesterday that the
2 plant manager will not sign an OCA procedure unless he
3 has the concurrence of the QA department manager.

4 Q But the plant manager has functional and
5 administrative authority over you, as we've discussed,
6 correct?

7 A (WITNESS MULLER) Yes, he does.

8 Q Well, how does that affect your ability to say
9 stop work while the plant manager is insisting that he
10 needs certain work or a system to keep things going, and
11 he believes that matters should not be stopped or a
12 system should not be tagged out or something like that?
13 He's your boss.

14 A (WITNESS MULLER) I think the plant manager is
15 also aware of the technical operating aspects of the
16 plant and the technical specification limits, the
17 licensing conditions and the federal regulations.

18 Q Well, he's not a bad guy. He thinks he's
19 doing the right thing. He just thinks you're wrong and
20 he says, don't take that system out, I need it.

21 (Panel of witnesses conferring.)

22 Q What is your protection in order to support
23 your stop work authority when it is your boss you're
24 disagreeing with?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) My protection is the QA
2 department manager and communications with the QA
3 department manager and the vice president, nuclear.

4 Q What sort of input does the QA department
5 manager have into your performance evaluations?

6 A (WITNESS MULLER) Indirectly, the QA manager
7 has quite a bit of input into my performance evaluation
8 through the audit program. The QA department provides
9 independent audits of my program. If there are findings
10 against my program, the plant manager will certainly
11 evaluate my administration of the program and the
12 program itself.

13 We also have ISEG performing audits and we
14 have the NRB performing audits. So indirectly my
15 performance is evaluated from the quality assurance
16 department, ISEG, and the NRB. I have three people
17 looking over my shoulder, and I feel I have sufficient
18 independence based upon that and the stop work
19 authority.

20 Q In addition to how you fare on audits, does
21 the manager of the QA department have a more direct
22 input into your performance evaluation? Does he have to
23 initial or coordinate or comment on the evaluation after
24 it's initially prepared by the plant manager?

25 A (WITNESS MULLER) He would be able to input if

1 the plant manager requested an input from the QA
2 department manager.

3 Q But I infer from that that he would not
4 automatically have an input?

5 A (WITNESS MULLER) I don't think that is a part
6 of the normal evaluation program.

7 JUDGE BRENNER: Okay, thank you.

8 QUESTIONS ON BOARD EXAMINATION

9 MR. DYNNER: I would like to ask a couple of
10 questions, if I may, prompted by the Board questions.

11 BY MR. DYNNER: (Resuming)

12 Q Mr. Muller, has in fact to your knowledge, has
13 the OQA engineer ever gotten into a dispute on a quality
14 matter with the plant manager, his immediate supervisor,
15 and gone to the QA manager for a resolution of that
16 dispute?

17 A (WITNESS MULLER) Not that I am aware of.

18 Q Now, you testified that the plant manager has
19 functional and administrative authority over you, the
20 OQA engineer. Is it your honest belief that in carrying
21 out your responsibilities, if a matter came up over
22 which there were a slight disagreement, that you would
23 try to resolve that with the plant manager first, or
24 would you go to the QA manager?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) It would depend upon the
2 significance of the disagreement. But I would not
3 hesitate to go to the quality assurance department
4 manager if I was not fully happy with the response or
5 the resolution.

6 JUDGE BRENNER: Could you give us one moment,
7 please.

8 (Board conferring.)

9 JUDGE BRENNER: We don't have any other
10 questions at this point. As long as we've caused you to
11 pause this much, perhaps this would be a good time for a
12 break, and we will return at 10:40.

13 (Whereupon, at 10:25 a.m., the hearing in the
14 above-entitled matter was recessed, to reconvene at
15 10:40 a.m. the same day.)

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1 (10:40 a.m.)

2 JUDGE BRENNER: We're ready to proceed.

3 MR. DYNNER: Judge Brenner, for your
4 information, what I'm going to do is move to paragraphs
5 D and E of the cross plan and probably combine the two.

6 CROSS-EXAMINATION -- CONTINUED

7 BY MR. DYNNER:

8 Q Gentlemen, you are familiar, are you not, with
9 the County's contention 13B, which you address in your
10 testimony beginning on page 210?

11 (Panel of witnesses conferring.)

12 A (WITNESS MULLER) Yes, we are.

13 Q And that contention, as you've testified on
14 page 210, is not one which you agree with, and you refer
15 there to the corrective action of the FSAR; is that
16 correct?

17 MR. ELLIS: Just so the record is clear, they
18 referred to that among other things in the pages of
19 testimony.

20 BY MR. DYNNER: (Resuming)

21 Q I'm referring you to page 210.

22 (Panel of witnesses conferring.)

23 Q Do you see page 210, gentlemen?

24 A (WITNESS MULLER) Yes. I need a few more
25 moments to go through the remainder.

1 Q I'm just asking you about whether in fact on
2 page 210 you refer to the FSAR section 17.2.16,
3 corrective action, in one of your responses to the
4 contention. Is that correct?

5 (Panel of witnesses conferring.)

6 A (WITNESS MULLER) Corrective action is one of
7 the mechanisms to provide for adequate identification,
8 reporting and analysis of equipment failures discovered
9 at Shoreham.

10 Q Well, that is part of the sentence in the last
11 sentence on page 210, which begins "FSAR section
12 17.2.16, corrective actions, requires that conditions
13 adverse to quality are promptly identified, reported and
14 corrected." That is the sentence that you read
15 partially; is that correct?

16 A (WITNESS MULLER) I was reading from the
17 contention.

18 Q Well, I referred you to page 210. Could you
19 look at page 210, please, of your prefiled testimony.

20 A (WITNESS MULLER) That is where I am.

21 JUDGE BRENNER: Could I interject? I think
22 all of this started because Mr. Muller was about to say
23 he wanted to read the rest of the answer on 211. That
24 is my guess. Is that right or wrong? You said you
25 wanted to look at something else before, Mr. Muller.

1 WITNESS MULLER: Yes, I wanted to look at the
2 complete section.

3 JUDGE BRENNER: Of the FSAR?

4 WITNESS MULLER: No, of the prefiled
5 testimony.

6 MR. DYNNER: My only question is, does your
7 testimony --

8 JUDGE BRENNER: Wait a minute.

9 MR. DYNNER: I'm sorry.

10 JUDGE BRENNER: Go ahead and look at it. You
11 can have a minute to go ahead and look at what you want
12 to look at.

13 (Panel of witnesses conferring.)

14 JUDGE BRENNER: I'm doing this with the
15 thought that it may assist the efficiency of your next
16 questions, Mr. Dynner, even though your immediate
17 question has been answered.

18 WITNESS MULLER: Mr. Dynner, could you repeat
19 the question?

20 JUDGE BRENNER: I think he's going to go to
21 another question.

22 We can read page 210 and you didn't have to
23 ask that question.

24 BY MR. DYNNER: (Resuming)

25 Q And it refers us to FSAR section 17.2.16, and

1 I would like you now to turn to section 17.2.16 of the
2 FSAR, which was an awkward way for me to get there.

3 JUDGE BRENNER: Well, I think you were being
4 courteous to the witnesses in giving the transition, so
5 I will be more charitable than you were to yourself.

6 BY MR. DYNNER: (Resuming)

7 Q And would you also, for your convenience, if
8 you have before you -- put before you, please, 10 CFR
9 Part 50, Appendix B, and specifically criterion Roman
10 numeral XVI of that appendix.

11 (Pause.)

12 Q Now, gentlemen, you testified that you believe
13 that the QA program, including the FSAR, meets all
14 regulatory requirements of the NRC, including the
15 requirements of 10 CFR Section 50.34(b)(6)(ii) that we
16 explored yesterday. And in essence, as you will recall,
17 that regulation requires the FSAR to say how the
18 requirements of Appendix B will be carried out.

19 The contention that the County has made in 138
20 essentially contends that section 17.2.16, at least,
21 does not provide how the requirements of Appendix B will
22 be carried out. And I'm going to ask you whether, in
23 reviewing now section 17.2.16, you believe that that
24 section of the FSAR does adequately say how the
25 requirements of criterion 16 of Appendix B will be

1 carried out.

2 A (WITNESS MULLER) If I may have a few
3 moments.

4 (Panel of witnesses conferring.)

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1 A (WITNESS YOUNGLING) The section referenced
2 criterion 16 dealing with corrective action. The
3 description in the FSAR is a description of the program
4 to carry out those corrective action steps at Shoreham.
5 Corrective action is carried out through a series of
6 implementing procedures at various levels within the
7 various organizations responsible for the operation and
8 engineering of the Shoreham station.

9 In particular, within the plant staff
10 procedures, the procedures dealing with the maintenance
11 work request program dictate specific procedures
12 relative to the steps to be taken, relative to
13 corrective action as a result of failures of equipment
14 or malfunction of equipment.

15 In addition, within other organizations within
16 the nuclear program, there are procedures amongst the
17 meter and test department dealing with corrective
18 actions, non-conformances for the control of measuring
19 and test equipment, G010262.

20 (Panel of witnesses conferring.)

21 In addition, procedure number 16.01 within the
22 Nuclear Engineering Department deals with correction
23 action steps. Those are some of the examples of
24 existing procedures within the organization to carry
25 those out.

1 Q Yes, Mr. Youngling, and my question to you and
2 Mr. Muller is whether in your view, specifically Section
3 17.2.16 of the FSAR, which is Revision 25 of February
4 1982 which I think you said yesterday you believe is the
5 latest revision of the FSAR, whether that particular
6 section of the FSAR adequately says how the applicable
7 requirements of criterion 16 of Appendix B will be
8 satisfied. That section itself, is my question.

9 A (WITNESS YOUNGLING) The section as presented
10 in the FSAR does adequately address the program as to
11 how it will be carried out, absolutely.

12 Q Fine. Now let's take a look at this Section
13 17.2.16. In this section, a reference is made to an
14 evaluation of deficiencies. Where in this section does
15 it say how the deficiencies will be evaluated? And I'm
16 speaking about the reference in the second paragraph of
17 this section, line 3.

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) The implementing procedures
20 to provide that evaluation are some of them that Mr.
21 Youngling mentioned. And in addition, certain QAPs at
22 the site.

23 Q So that it is procedures that tell you how to
24 evaluate and not this section of the FSAR? Is that
25 correct?

1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) The FSAR provides a program
3 in which the deficiencies will be evaluated. The
4 implementing procedures provide the detail.

5 Q so your testimony --

6 A (WITNESS YOUNGLING) I would like to add to
7 that.

8 Q I'm sorry.

9 A (WITNESS YOUNGLING) That the FSAR is a
10 hierarchy document. There is no way that we can put all
11 of that information in this particular paragraph dealing
12 with the mechanism for the evaluation. Those are very
13 detailed procedures. It isn't practical nor is it
14 necessary to provide that detail. Those procedures are
15 in place and are available to provide the guidance that
16 needs to be inputted into the evaluations, so that the
17 evaluation of the deficiency can be made.

18 Q So as I understand your testimony, this
19 section of the FSAR does not itself say how the
20 requirements will be carried out, but references
21 procedures. And it also, I note, references Section 16
22 of the LILCO QA Manual, and presumably it is the manual
23 and the procedures that tell you how to satisfy the
24 applicable requirements of criterion 16 in detail. Is
25 that correct?

1 (Panel of witnesses conferring.)

2 A (WITNESS YOUNGLING) Again, as I testified
3 earlier, the FSAR, the QA program defines the hierarchy
4 and says that there will be an evaluation. The exact
5 details as to the mechanism of that evaluation are
6 contained in the supporting documents.

7 Q Well, I'm trying to speed this up by cutting
8 through some things and that's I asked you initially,
9 when I asked you where in this section does it say how
10 the evaluation will be carried out, you referred to the
11 fact that the procedures say how, and I asked you then
12 whether -- and I'm sorry, I don't mean to re-ask the
13 question but I don't understand your answer fully. I
14 asked you whether it is the procedures that say how the
15 evaluation will be carried out.

16 (Panel of witnesses conferring.)

17 A (WITNESS YOUNGLING) The Appendix B criteria
18 require that action be taken against the failure or
19 malfunction or deficiency. Part of those actions, as
20 presented by LILCO in the FSAR, is an evaluation.
21 However, it is not required that specific details be
22 provided. Those are provided through the implementing
23 documents and those documents are in place and available.

24 Q Mr. Youngling, my question is: does it say,
25 in this section of the FSAR, how the evaluation is

1 carried out and performed? Or instead, does it say the
2 procedures tell how the evaluation is carried out?

3 A (WITNESS YOUNGLING) The sentence as written
4 here says the procedures provide for an evaluation of
5 the deficiencies.

6 Q So it is the procedures that tell you how to
7 carry out the evaluation and not this section of the
8 FSAR. Is that correct?

9 A (WITNESS YOUNGLING) As I stated before, the
10 FSAR is a hierarchical document and requires that the
11 evaluation be made and that procedures be in place to
12 tell the people how to evaluate the condition.

13 Q And are these procedures, even though they are
14 not written out right here in Section 17.2.16, are they
15 nonetheless considered to be a part of the FSAR?

16 A (WITNESS YOUNGLING) This reference to
17 procedures in this particular section of the FSAR, as in
18 other sections of the FSAR, we will make numerous
19 references to procedures to perform this, procedures to
20 perform that. Those procedures will be developed or are
21 developed and are available for review.

22 A (WITNESS MULLER) I would like to add that some
23 of those procedures would also have to provide for --
24 during the evaluation they would have to provide for --
25 if it was the case of a repair or a rework, they would

1 require document control and other sections of the QA
2 Manual to be applied during the evaluation.

3 Q But do those procedures form a part of the
4 FSAR, or are they simply referred to in the FSAR?

5 A (WITNESS MULLER) They are part of the program
6 referred to in the FSAR.

7 Q And does that mean that they are not a part of
8 the FSAR itself?

9 (Panel of witnesses conferring.)

10 A (WITNESS YOUNGLING) The procedures are not
11 physically part of the FSAR. However, the FSAR makes a
12 commitment that procedures will be in place to provide
13 for the evaluation of the deficiency, including the
14 non-conformance reports, et cetera, as written in that
15 sentence.

16 Q Let me try to clarify my question. I know
17 that the procedures are not physically a part of the
18 FSAR because they are not printed out here in this
19 section dealing with the corrective action. What I'm
20 trying to get at is whether these procedures are
21 something that is simply referred to in the FSAR as
22 another place you have to go to to find out how to carry
23 out the evaluation, or whether those procedures, by some
24 device, are incorporated into and made a part of the
25 FSAR.

1 A (WITNESS YOUNGLING) The procedures are not
2 physically part of the FSAR. The FSAR commits to the
3 program; the procedures implement that program, as I
4 mentioned earlier. The FSAR and the other documents are
5 hierarchical documents and they provide a basis for the
6 program.

7 Q If the procedures are not a part of the FSAR,
8 then the FSAR itself does not, in fact, say how the
9 evaluation, for example, will be carried out and
10 performed, does it?

11 (Panel of witnesses conferring.)

12 A (WITNESS YOUNGLING) The paragraph that we are
13 looking at on page 17.2.4 describes the program and the
14 necessary ingredients of that program to meet the
15 commitment of the Appendix B 16 criteria. That is, the
16 procedures call for an evaluation. The evaluation will
17 make a determination; the evaluation will provide a
18 report, the report will go to station and off-site
19 management, the report will state the cause of the
20 condition, the corrective action to be taken. And the
21 paragraph provides the necessary ingredients, the
22 necessary overall plan or approach to performing the
23 evaluation.

24 (Counsel for Suffolk County conferring.)

25 Q Now, Mr. Youngling, let me try to clarify this

1 a little bit further. If we look at 17.2.16 of the FSAR
2 once again, the first paragraph, the second sentence
3 says, "Section 16 of the LILCO QA Manual describes the
4 QA program requirements for corrective action and
5 control thereof." The next sentence, "The program
6 provides for a corrective action system implemented
7 through the use of approved written procedures." Then
8 it goes on and says, "The procedures provide for an
9 evaluation."

10 Now, as I read this, in the English language
11 what this section does is refer you to Section 16 of the
12 LILCO manual for a description of the program. It then
13 says the program is implemented by written procedures,
14 and then it describes in rather summary form what some
15 of the procedures provide for. Do you read it
16 differently than I'm reading it?

17 A (WITNESS YOUNGLING) The words as stated there
18 and as you summarized are essentially saying the same
19 thing that I also have been saying. In addition, in
20 other portions of the FSAR we make commitments to have
21 procedures to shut the reactor down, to start the
22 reactor up. We don't write in the FSAR that first we
23 have to start the condensate system up and then we do
24 this and then we do that and then we make this source
25 check and then we bring the reactor critical and so

1 forth and so on. There are very detailed implementing
2 procedures.

3 There is never an intention that the FSAR
4 would provide that kind of detail, nor is it required by
5 the Regulatory Guide 1.70, nor by Appendix C. The
6 procedures that I mentioned are available for review,
7 and they do give exacting, implementing guidance.

8 Q Yes, and now I would like to ask you to answer
9 my question, which is -- I will repeat it -- is it true
10 that this section of the FSAR does not say how the
11 criteria in Appendix B will be satisfied, but rather,
12 refers to a LILCO QA Manual and to procedures which say
13 how those criteria will be carried out?

14 A (WITNESS YOUNGLING) It is not true that this
15 section does not provide -- I have a double negative
16 there. Let me start over again. As written, this
17 procedure does -- this FSAR section does provide the
18 guidance for the program; it does provide the necessary
19 ingredients. So yes, it is true that it does provide
20 the necessary description of the program.

21 Q My question to you was not whether it provides
22 the necessary description of the program. My question
23 to you, and I will repeat it because it has not yet been
24 answered: Does Section 17.2.16 itself say how the
25 requirements of criterion 16 of Appendix B will be

1 satisfied? Or does it instead refer to a LILCO manual
2 and to procedures which say how those requirements will
3 be performed?

4 A (WITNESS YOUNGLING) It does say how the
5 program will be carried out. It will be carried out
6 through an evaluation that will have the ingredients
7 listed. The procedures detailing the actions to perform
8 those evaluations will implement it.

9 (Counsel for Suffolk County conferring.)

10 Q So, it is your testimony that it does say how
11 the requirements of criterion 16 will be satisfied?

12 A (WITNESS YOUNGLING) Yes.

13 Q And where does it say in Section 17.2.16 who
14 performs the evaluation of deficiencies?

15 (Panel of witnesses conferring.)

16 A (WITNESS YOUNGLING) The program is for the
17 Shoreham Nuclear Power Station of the Long Island
18 Lighting Company. The organizations involved in the
19 program, in the nuclear program, that have to live with
20 the requirements of the Appendix B criteria for
21 corrective action have in place the procedures or will
22 have in place the procedures to perform these corrective
23 actions and requirements, as stipulated here in the FSAR.

24 Q And where does it say in this section how
25 non-conformance reports are to be filled out and under

1 what circumstances?

2 A (WITNESS MULLER) That would be within the
3 implementing procedure of the organization that
4 initiates the corrective action report, or
5 non-conformance report. For example, DQA Section has a
6 corrective action request; we have a procedure that
7 describes how to fill that out.

8 Q And where does it say in this section how the
9 need for corrective action is determined?

10 (Panel of witnesses conferring.)

11 A (WITNESS MULLER) Okay. The program requires,
12 and upon determination of significant conditions adverse
13 to quality, prompt corrective action be initiated to
14 preclude repetition. The organization initiating the
15 report determines the need for corrective action through
16 their procedures, their implementing procedures.

17 Q Through the procedures?

18 A (WITNESS MULLER) That is correct.

19 Q And where does it say in this section of the
20 FSAR how the cause of conditions significant to quality
21 will be determined?

22 (Panel of witnesses conferring.)

23 A (WITNESS MULLER) Mr. Dynner, could you repeat
24 the question?

25 MR. DYNNER: Would you reread the question,

1 please?

2 (The reporter read the record as requested.)

3 (Panel of witnesses conferring.)

4 WITNESS MULLER: The cause is determined as
5 part of the evaluation that was made.

6 BY MR. DYNNER (Resuming):

7 Q Where does it say that in this section? Could
8 you point to the specific words in this section that say
9 that?

10 A (WITNESS YOUNGLING) In the paragraph 2 of the
11 section, 17.2.16, the second sentence describes the
12 evaluation. The remainder of the paragraph deals with
13 the necessary ingredients that need to be part of that
14 evaluation. One of which is the cause mechanism.

15 Q Well, I'm going to go back again -- well, I
16 will go on to another question. Where does it say in
17 this section how the reports that are referred to will
18 be prepared, and to whom will they be filed?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) The implementing procedures
21 provide that information.

22 Q Thank you.

23 A (WITNESS YOUNGLING) I would like to add to
24 that. As stated in the fifth line, they provide for the
25 reporting to LILCO station and off-site management a

1 clear indication that the non-conforming evaluation will
2 be presented to responsible station and off-site
3 management.

4 Q And the word "they" at the beginning of that
5 sentence refers to what?

6 (Panel of witnesses conferring.)

7 A (WITNESS YOUNGLING) "They" refers to the
8 evaluation that is described in the beginning of the
9 paragraph, which is committed to and which is carried
10 out through implementing procedures that are in place at
11 the detailed level.

12 Q Is it possible that the word "they" refers to
13 the subject of the immediately-preceding sentence which
14 is the procedures? The procedures provide for... and
15 then the next sentence says, they provide for.

16 A (WITNESS YOUNGLING) The procedures are
17 describing the evaluation. The evaluation is the key
18 ingredient of the paragraph. The evaluation is made and
19 the attributes cited in the paragraph will be done as
20 part of that evaluation. In other words, an evaluation
21 will be performed and the results of that evaluation are
22 going to be made known. They are not just going to be
23 put in a drawer.

24 Q In order to determine how that evaluation will
25 be made, we have to refer to the procedures, don't we?

1 A (WITNESS YOUNGLING) If you are asking as to
2 how the report will be shipped and to the exact people
3 that it will go to, that would be contained in the
4 implementing procedures. However, the paragraph states
5 that station and off-site management people will be
6 highlighted as to the evaluation and the evaluation
7 results.

8 Q They will be highlighted? Could you refer me
9 to the specific language that you are talking about,
10 please?

11 A (WITNESS YOUNGLING) As I testified earlier,
12 the fifth line beginning with the sentence, "They
13 provide for the reporting to LILCO statio and off-site
14 management the cause of the conditions significant to
15 the quality and the corrective action taken."

16 (Counsel for Suffolk County conferring.)

17 Q And where in this section of the FSAR does it
18 explain how prompt corrective action will be initiated?

19 A (WITNESS MULLER) That is, once again, in the
20 implementing procedures.

21 Q Thank you.

22 A (WITNESS YOUNGLING) However, I would like to
23 add to that that the commitment is made in the FSAR that
24 prompt corrective action will be taken to the condition
25 identified.

1 Q And where is that commitment made, please?

2 A (WITNESS YOUNGLING) The sentence beginning on
3 about the eighth line, the conditions adverse to
4 quality. "The program requires that upon determination
5 of significant conditions adverse to quality, prompt
6 corrective action be initiated to preclude repetition."
7 Thus, an essential ingredient of the program will be
8 prompt corrective action.

9 Q That is saying what the program requires;
10 correct?

11 A (WITNESS YOUNGLING) The program to implement
12 the requirement of 10 CFR 50, Appendix B, Criterion 16.

13 Q But this section -- where in this section does
14 it say how prompt corrective action will be taken?

15 A (WITNESS YOUNGLING) Part of the evaluation
16 will be the identification of the type of corrective
17 action to be taken. That will be part of the evaluation.

18 Q Now, this section of the FSAR refers to a
19 number of procedures. I think they referred to, among
20 other things, approved, written procedures. Are some of
21 these procedures QAPs or QAPSSs?

22 (Panel of witnesses conferring.)

23 A (WITNESS YOUNGLING) The procedures referenced
24 in the paragraph required to implement the commitments
25 include not only QA site procedures and QA Department

1 procedures, but also, procedures within the nuclear
2 power station or station procedures as we call them,
3 nuclear engineering procedures; meter and test
4 department procedures are some other examples.

5 Q All right. If I were in the QA Department or
6 the QQA Section and I looked at this FSAR, it doesn't
7 specifically identify those procedures, does it?

8 A (WITNESS YOUNGLING) Again, I have to
9 reiterate, Mr. Dynner, that the FSAR is not the detailed
10 document that is used by the people on a day-to-day
11 basis to perform their job functions. A man working in
12 the QA Department or a man working in the station or
13 working in the Nuclear Engineering Deptment is
14 responsible to be familiar with the QA program, be
15 familiar with the FSAR, but most importantly, he has to
16 be familiar with the documents pertaining to his job
17 function.

18 There are procedures in place to deal with
19 corrective action steps within each of those
20 organizations that I've mentioned. Those are the key
21 documents for day-to-day performance to implement the
22 commitments made here in the FSAR.

23 Q But the FSAR does give us some guidance,
24 doesn't it, because the second sentence says that the
25 program requirements for corrective action are described

1 in Section 16 of the LILCO QA Manual. Is that correct?

2 A (WITNESS YOUNGLING) Again, as I testified
3 earlier, there is a hierarchy in the documents. The
4 FSAR represents one level, the OQA manual represents a
5 second level, the implementing procedures within the OQA
6 Department or the Quality Department represent
7 implementing procedures for the quality people. Then
8 there are also implementing procedures within each of
9 the organizations required to perform underneath the
10 quality program.

11 Q Can I ask you to turn to Section 16 of the QA
12 Manual, please? It is entitled Corrective Action. Now,
13 this is Section 16 of the QA Manual and it is Revision 0
14 and dated June 1, 1982, and it was identified as an
15 exhibit yesterday, I believe. Exhibit 76 in that
16 package. I'm sorry, I take that back. I was talking
17 about a QAP. This is Section 16 of an attachment. It
18 is in the QA Manual, which is Attachment 4 to the LILCO
19 testimony. I apologize.

20 JUDGE BRENNER: None of us has ever gotten
21 these section numbers throughout these long hearings,
22 except three or four times a day.

23 (Laughter.)

24 BY MR. DYNNER (Resuming):

25 Q Gentlemen, can you tell me whether this

1 Revision 0 dated June 1, 1982 is the latest revision of
2 this section of the manual?

3 A (WITNESS MULLER) It is the latest revision.

4 A (WITNESS YOUNGLING) I would like to add there
5 that this is the latest revision of the Quality
6 Assurance Manual as it pertains to the operation phase
7 of the Shoreham station. There are quality assurance
8 manual commitments for the construction phase to
9 implement the corrective action requirements of Appendix
10 B. I don't want you to think that we didn't have
11 corrective action steps during the construction phase.

12 C It is understood by everybody that we're now
13 dealing with the operational QA program. I won't
14 comment on what my beliefs are as to the construction
15 and design phase.

16 Now, the LILCO QA Manual, Section 16 is
17 referred to in the FSAR as setting forth a program for
18 corrective action, isn't it? I should say, as
19 describing the QA program for corrective action. Is
20 that correct?

21 (Panel of witnesses conferring.)

22 A (WITNESS MULLER) That is what the FSAR says,
23 that is correct.

24 Q Now, in your judgment, does the Section 16 of
25 the QA Manual state how all of the requirements of

1 criterion 16 of Appendix B of 10 CFR Part 50 will be
2 fulfilled?

3 (Pause.)

4 A (WITNESS MULLER) The Quality Assurance Manual,
5 Section 16 sets the program requirements for corrective
6 action. It also notes that procedures shall provide for
7 the identification and documentation of conditions
8 adverse to quality and provide for the evaluation and
9 close-out or corrective action, performance of the
10 corrective action and verification of that corrective
11 action through the procedures.

12 Q Now, I'm going to ask --

13 A (WITNESS YOUNGLING) I would like to say that
14 the QA Manual provides the next level of detail for the
15 implementation of the program, and as with the FSAR, it
16 now puts the responsibility onto the user organizations
17 or other organizations within the nuclear program to
18 have in place the detailed implementing procedures.
19 Again, the intent is not to put that kind of detail into
20 a document such as the Quality Assurance Manual.

21 Q So that if you look back for a moment at the
22 corrective action section of the FSAR, 17.2.16, where
23 does it say in that section how to identify an equipment
24 failure?

25 A (WITNESS YOUNGLING) An FSAR document in no way

1 can it ever tell us how to identify an equipment failure
2 to that level of detail. That is far too fine a level
3 for this configuration. We can go all the way down to
4 the explanation of how do you determine that a packing
5 on a valve is leaking too much. The FSAR cannot provide
6 that kind of guidance. In fact, probably no procedure
7 can provide the particular guidance on that particular
8 situation. There are judgmental factors, too, that are
9 within the capability of the people performing the work.

10 Q If the FSAR can tell us how an equipment
11 failure is identified, where does it tell us in Section
12 16 of the QA Manual how an equipment failure is
13 identified?

14 (Panel of witnesses conferring.)

15 A (WITNESS MULLER) The FSAR, once again, does
16 not provide the detailed implementation procedures that
17 one would use to identify equipment malfunctions. If an
18 operator is in a plant and noticed that a piece of
19 equipment didn't work he has an implementing procedure
20 that he must follow, and it starts out with a
21 maintenance work request. He fills out the form noting
22 that this piece of equipment is defective.

23 The evaluation would take place after going
24 through an administrative cycle and proper signatures
25 and would determine what is wrong. The corrective

1 action would be taken. Well, the evaluation would be
2 approved, the corrective action would be taken and the
3 work would be completed.

4 Q My question -- I'm sorry, my question was
5 where in the Section 16 of the Manual does it say how an
6 equipment failure would be identified, and you prefaced
7 your answer by talking about the FSAR. Was that
8 inadvertent or did you mean to say Section 16?

9 A (WITNESS MULLER) Section 16.

10 Q Thank you. Let me refer you a moment to
11 Section 16.3.1 and 16.3.2. Now, those sections appear,
12 don't they, to require certain organizations of LILCO to
13 prepare written procedures, 16.3.2 says the procedures
14 shall provide for identification, among other things, of
15 failures, abnormal occurrences, non-conformances, et
16 cetera. Isn't that correct?

17 (Panel of witnesses conferring.)

18 A (WITNESS YOUNGLING) The Quality Assurance
19 Manual, in the steps that you have referenced, requires
20 that the organizations involved in corrective action
21 activities have in place written procedures. Part of
22 those procedures have to be for the identification and
23 documentation of conditions. In the case of the plant
24 staff, there are procedures that meet that requirement.
25 In the case of the meter and test department, there are

1 procedures that meet that requirement. Those are
2 procedures dealing with that particular aspect of the
3 operation.

4 Q So if I could stick to my example of an
5 equipment failure, in order to find out how to identify
6 an equipment failure you go to certain procedures. Is
7 that correct?

8 A (WITNESS YOUNGLING) How to identify and
9 highlight a failure, yes. How to identify and see a
10 condition as being adverse, that can be a very obvious
11 situation or it could be a very subtle situation, and
12 the mechanisms for performing that rely upon the man's
13 training, his experience level, his knowledge of the
14 plant, his knowledge of detailed operating procedures.
15 But there is no way that we can put in place all of that
16 into the written word.

17 A lot of that is in the man's judgment, as I
18 mentioned, with the valve packing. So we can go from
19 the very obvious, the machine is not running, or to the
20 very subtle situation which might be something in a
21 shade of grey. The point is once the man has identified
22 that a condition exists, in his mind, he has a procedure
23 as to how to identify that so that someone can start a
24 procedure to make the evaluation committed to in the
25 FSAR as to whether corrective action steps have to be

1 taken.

2 Q Now, Mr. Muller, let me ask you this. If you
3 will refer, please, to Section 16.3.1 of the QA Manual,
4 there is a sentence that says, "Responsible
5 organizations shall delineate their corrective action
6 programs in written procedures." What is meant by the
7 term "responsible organizations"?

8 A (WITNESS MULLER) These are organizations that
9 are involved in activities that may require corrective
10 actions such as the plant staff.

11 Q Now, we're dealing here with a very precise
12 document, a quality assurance manual that sets forth,
13 according to the FSAR, the QA program. And I'm asking
14 you to identify responsible organizations in this
15 precise document, not, please, to give me just one
16 example. But if I were looking at this manual as
17 presumably, people in the OQA engineer section do, and I
18 wanted to apply the program so I had to know how am I
19 going to apply this program, what do I do, the first
20 question I have to answer in 16.3.1 is what are the
21 responsible organizations. Can you please identify them
22 with particularity?

23 (Panel of witnesses conferring.)

24 A (WITNESS MULLER) Section 1 of the QA Manual
25 delineates the organizations involved in the QA program.

1 A (WITNESS YOUNGLING) Those organizations would
2 be required to have procedures defining the actions to
3 be taken for corrective action, if they are involved in
4 activities that require corrective actions, would be the
5 responsibility of either the OQA Department for off-site
6 organizations or the OQA Department for on-site
7 organizations to audit those organizations to make sure
8 they have procedures in place if they were involved in
9 corrective actions.

10 Q Now, Mr. Muller, you are the OQA engineer and
11 I asked you to please particularize what are the
12 particular responsible organizations referred to in
13 Section 16.3.1, and you referred me to Section 1. Could
14 you tell me which are the organizations in Section 1 of
15 the QA Manual that you referred to that are the
16 responsible organizations required to prepare written
17 procedures under Section 16?

18 (Panel of witnesses conferring.)

19 A (WITNESS YOUNGLING) We have gone through the
20 document quickly --

21 Q Excuse me, I'm sorry to interrupt. But as I
22 understand it, Mr. Muller is the operating quality
23 assurance engineer and he is responsible for the
24 implementation of this OQA Manual of the QA program
25 onsite, and I would like very much in this instance to

1 ask him to respond to these questions, if you don't mind.

2 MR. ELLIS: No objection.

3 WITNESS MULLER: I was going to respond that
4 many of the organizations do report offsite; they do not
5 report onsite.

6 JUDGE BRENNER: Well, you can both respond if
7 you think it's necessary, but we will get your response
8 first, Mr. Muller.

9 WITNESS MULLER: Starting with page 3 of 13,
10 Section 1 of the QA Manual, Purchasing Department,
11 Shoreham Construction and Engineering.

12 BY MR. DYNNER (Resuming):

13 Q Could you refer me to the paragraph number?

14 A (WITNESS MULLER) Section 1, page 3 of 13,
15 Section 1.2.4.

16 Q That is entitled Vice President, Purchasing
17 and Stores, correct?

18 A (WITNESS MULLER) I'm sorry, it would be the
19 Purchasing Department. They are listed later on in the
20 procedure. In the manual, I'm sorry. Strike 1.2.4.
21 Shoreham Construction and Engineering. 1.2.6.

22 Q Excuse me, that is entitled Manger, Shoreham
23 Construction and Engineering?

24 A (WITNESS MULLER) That would be the
25 organization that would be responsible for those

1 procedures.

2 Q So it is not the manager. You are using
3 Section 1 to refer to the departments rather than to the
4 organization of offices here. Is that correct?

5 A (WITNESS MULLER) That is correct.

6 Q Thank you. So the first one was the
7 Purchasing and Stores Department in 1.2.4?

8 A (WITNESS MULLER) Purchasing is listed in
9 paragraph 1.2.14.

10 Q I'm sorry, I misunderstood you. Go ahead,
11 please.

12 A (WITNESS MULLER) The Shoreham Construction and
13 Engineering Department, the Shoreham Nuclear Power
14 Station which is the plant staff. Nuclear Engineering
15 Department, Nuclear Operations Support, the Engineering
16 Department. The Departments of Engineering, Design,
17 Planning, Systems Engineering and Electrical
18 Engineering, Environmental Engineering Department, Power
19 Engineering Department, Purchasing Departments which I
20 have already mentioned, Meter and Test Department,
21 Special Services Department. And that would be it. And
22 they would only have procedures if they were involved in
23 the corrective action process.

24 Q Where does it say that, please?

25 A (WITNESS MULLER) We were talking about

1 responsible organizations.

2 Q And you listed these all as responsible
3 organizations, and as I read 16.3.1, if it is a
4 responsible organization it shall delineate its
5 corrective action program in written procedures. Isn't
6 that correct?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) Was your question the overall
9 program or the departments that would require -- or, the
10 specific organizations that would require the corrective
11 action procedures?

12 Q Well, I asked you to identify with
13 particularity what are the responsible organizations
14 that are referred to in Section 16.3.1, and you, I
15 think, did so and then you qualified it by saying that
16 they would only prepare these procedures under certain
17 conditions and I asked you where it said that. Now do
18 you want to perhaps clarify your qualification?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) One example would be Special
21 Services Department. They do not have corrective
22 action; they do not perform.

23 Q So would you like to delete that from the list
24 that you gave me before about what are the responsible
25 organizations referred to in 16.3.1?

1 A (WITNESS YOUNGLING) Mr. Dynner, I would like
2 to get back to you on it. If you're looking for that
3 kind of a detailed analysis I think we would have to
4 take the time to look at that in a little longer time
5 period. I mentioned to Mr. Muller that Special Services
6 is just an organization that provides maintenance
7 mechanics to the plant to perform maintenance during
8 peak overhaul periods. They would work under the plant
9 staff's procedures.

10 Now, if you're looking for that kind of detail
11 we would have to take a little more time to do that.

12 Q That is fine. I am trying to -- well, strike
13 that.

14 I noticed that you omitted in your listing of
15 responsible organizations that have to delineate
16 corrective action procedures the DQA Section. Was that
17 an inadvertent oversight on your part, Mr. Muller?

18 A (WITNESS MULLER) That, along with the Quality
19 Assurance Department.

20 Q Yes. And in fact, if we were to --

21 JUDGE BRENNER: Wait a minute. I didn't
22 understand the answer. That was an inadvertent
23 omission, both of those? Or are you just confirming
24 that you didn't include it?

25 WITNESS MULLER: I did not include the

1 operational QA section on the QA Department by error. .

2 BY MR. DYNNER (Resuming):

3 Q And to shortcut this, we might look, if you're
4 going to interpret your Section 16 here, to Section 16.2
5 entitled Responsibilities, and perhaps that section
6 might enable you to more quickly identify the
7 responsible organizations that are referred to. Would
8 that help you?

9 (Panel of witnesses conferring.)

10 A (WITNESS MULLER) Many of the organizations
11 that I mentioned are involved in such activities.

12 Q Well, I am trying to get at whether because
13 the terms "responsible organizations" are used often in
14 the QA Manual, whether in fact in each case the
15 responsible organizations we are talking about aren't
16 identified in each of the sections of the QA Manual
17 under the section termed Responsibilities. Is that
18 correct?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) The responsibility section
21 notes that LILCO organizations involved in those
22 activities are responsible within the program. The
23 requirements are that the responsible organizations
24 delineate their activities in written procedures.

25 Q So that the organizations identified under the

1 Responsibilities section are the ones that are referred
2 to in the term "responsible organizations." Is that
3 what you are testifying?

4 A (WITNESS MULLER) That is a such as -- that is
5 not an all-inclusive list. That just gives examples of
6 the activities.

7 Q Now, Mr. Muller, you are responsible, aren't
8 you, for implementing this section of the QA manual as
9 it relates to quality assurance onsite. Is that correct?

10 A (WITNESS MULLER) For the plant staff, yes.

11 Q And when you, in carrying out that
12 responsibility that you have as the OQA engineer, when
13 you read Section 16.2.1 which presumably lists the
14 organizations that have to prepare procedures that I
15 believe are going to be verified and audited by your
16 section in part, that listing really only gives you
17 examples, doesn't it, because it says LILCO
18 organizations and suppliers performing activities such
19 as engineering, design, et cetera, as you pointed out.
20 Is that correct?

21 (Panel of witnesses conferring.)

22 A (WITNESS MULLER) For the OQA Section the
23 guidance is there. The plant staff is involved in those
24 activities. The plant staff is the responsible
25 organization, and the plant staff does have their

1 procedures.

2 Q How do you define plant staff, and where is it
3 defined in this manual? That's two questions.

4 MR. ELLIS: No objection.

5 (Laughter.)

6 (Panel of witnesses conferring.)

7 WITNESS MULLER: The plant staff is actually
8 the Shoreham Nuclear Power Station; that is, the
9 department name, and is headed by the Manager of the
10 Shoreham Nuclear Power Station.

11 BY MR. DYNNER (Resuming):

12 Q So that the plant staff, under the plant
13 manager, prepares its own corrective action program in
14 written procedures; is that correct?

15 A (WITNESS MULLER) That is correct.

16 Q And the DQA Section prepares its own
17 corrective action procedures; is that correct?

18 A (WITNESS MULLER) That is correct.

19 Q And each one of these other -- I'm sorry, did
20 I interrupt you? Did you want to finish your sentence?

21 A (WITNESS YOUNGLING) Yes, we would.

22 Q Go ahead, please.

23 (Panel of witnesses conferring.)

24 A (WITNESS MULLER) They do have the corrective
25 active measures in place. We perform audit surveillance

1 and inspection of those activities.

2 Q Yes. And could you identify for me what are
3 the QA procedures that delineate the corrective action
4 program for the OQA Section?

5 A (WITNESS MULLER) For the OQA Section, it's
6 QAPS 16.1 entitled Operational Quality Assurance
7 Corrective Action.

8 Q Are there any others?

9 (Panel of witnesses conferring.)

10 A (WITNESS MULLER) Do you mean within the OQA
11 Section or within the plant?

12 Q Within your OQA Section, are there any other
13 OQA procedures with respect to corrective action besides
14 QAPS 16.1?

15 (Panel of witnesses conferring.)

16 A (WITNESS MULLER) That is the only procedure
17 specifically relating to corrective action.

18 Q Is QAPS 16.2 relevant to corrective action?

19 (Panel of witnesses conferring.)

20 Would it help you, I think, if you had that
21 QAPS 16.2 in front of you? It is entitled Operational
22 Quality Assurance Trend Analysis and it deals with,
23 among other things, analysis and reporting to management
24 of possible adverse quality trends. Would that assist
25 you?

1 (Panel of witnesses conferring.)

2 JUDGE BRENNER: Mr. Dynner, while they are
3 considering their answer, why don't you stop when it is
4 convenient, and we've got one or two things we want to
5 say and then we will break for lunch.

6 MR. DYNNER: Yes, sir.

7 WITNESS MULLER: Mr. Dynner, QAPS 16.2 is a
8 supporting document to keep management appraised of the
9 total QA program. Corrective action activities are only
10 part of QAPS 16.2. Some of the other --

11 BY MR. DYNNER (Resuming):

12 Q Could you repeat my --

13 MR. ELLIS: I don't think he was done yet.

14 WITNESS MULLER: Some of the other input into
15 QAPS 16.2 is deficiency reports, audit reports, NRC
16 inspection reports, licensee event reports.

17 BY MR. DYNNER (Resuming):

18 Q My question was, as I recall, and it's been
19 sometime, as to whether QAPS 16.2 was a procedure that
20 was relevant to corrective action, and your answer is
21 yes, it is relevant. Is that correct?

22 A (WITNESS MULLER) In part.

23 Q You're saying it's relevant to other things
24 also, but it certainly is relevant to corrective
25 action. Is that correct?

1 A (WITNESS MULLER) Yes, it is. It is a summary
2 document for the whole QA program at the site.

3 Q Are there any other procedures of the OQA
4 Section which you head that are relevant to carrying out
5 the requirements of the QA program for corrective action?

6 JUDGE BRENNER: Let me jump in at this point.
7 I thought we were talking about Contention 13B, which
8 alleges the introduction as not having a sufficient
9 description in the FSAR, and then on to Subsection B,
10 failure to provide for the adequate identification,
11 reporting and analysis of all equipment failures
12 discovered during operation and maintenance at Shoreham
13 and other operating BWR stations with similar equipment.

14 Now suddenly, in the last few questions, if
15 not before, we have jumped to "corrective action" which
16 is one of the broadest phrases I can think of in
17 describing the QA program. And that, I think, is part
18 of the reason you got the answer you got on procedure
19 16.2. And now you've asked another question on
20 corrective action and I have got to tell you I can't
21 think of a document related to QA offhand that doesn't
22 relate, in one fashion or another, to corrective
23 action. So I want to stay focused on this reporting of
24 equipment failures, if that is presumably what we are
25 about here.

1 MR. DYNNER: Judge Brenner, if I may respond,
2 my line of questioning has been entirely relevant and
3 consistent with Contention 13B. That contention which
4 addresses the issue of the identification, reporting and
5 analysis of deficiencies is, in fact, --

6 JUDGE BRENNER: It doesn't say deficiencies.
7 I'm sorry to interrupt but I want to stay on track.
8 Deficiencies also is a very broad term. We're talking
9 about equipment failures.

10 MR. DYNNER: Of equipment failures. That is
11 correct. It deals with the issue of identification,
12 reporting and analysis of equipment failures.

13 I think the testimony of these witnesses
14 showed, as I started out this line of questioning with
15 reference to page 210 of their testimony where they
16 referred to the FSAR dealing with corrective action. I
17 went from that FSAR dealing with corrective action and
18 criterion 16 of Appendix B to Section 16 of the QA
19 Manual which deals with the corrective action that would
20 be taken in the case of an equipment failure, as my
21 example.

22 JUDGE BRENNER: That's not an example. That's
23 the contention.

24 MR. DYNNER: It is a contention which, with
25 all respect, also is addressed in SC 13A, which

1 addresses all of the criteria of Appendix B and states
2 that the program does not say whether and how all of the
3 requirements of Appendix B will be satisfied.

4 I am using 13B as a way of getting into not
5 only that contention, but it is also relevant to 13A.
6 And I have taken the witnesses through this line of
7 questioning from their own statement, the FSAR, on
8 criterion 16, the QA Manual, Section 16 dealing with
9 corrective action, and I have now asked them to identify
10 procedures of the DQA Section that deal with corrective
11 action, which are required by Section 16 of the QA
12 Manual to be prepared by the DQA Section.

13 The witness identified Section 16.1. I was
14 attempting to see whether there were any other sections
15 that deal with the issue of corrective action as
16 addressed by the requirements of Section 16 of the QA
17 Manual. Perhaps I've been pushing too hard on that
18 issue, and I apologize, but I think that my line has
19 been relevant.

20 JUDGE BRENNER: That was going to be my next
21 subject. But before we get to that, we discussed at the
22 time these contentions were admitted and when we were
23 attempting to get them specified, and they were never
24 specified to the extent we deemed appropriate finally,
25 that they were admitted pretty much by agreement with

1 the important caveat that the generality or
2 particularity of the contention would govern the
3 generality or particularity of what we would require at
4 the hearing.

5 An example of that in the sense of generality
6 is 13A. Read literally, it is talking about whether or
7 not the FSAR addresses each of the criteria in Appendix
8 B in sufficient detail to enable an independent reviewer
9 to determine whether those requirements, and how those
10 requirements would be satisfied. That is so general
11 that the focus of that litigation is: where in the FSAR
12 does it say that. What does it say. And whether or not
13 you think that is sufficient.

14 While the witness thinks it is sufficient, you
15 can explore in your questions whether the basis for the
16 witness's belief is right or not. But we're not going
17 to take that Contention 13A read broadly, which would
18 mean there are no QA contentions. We can talk about
19 everything in the QA program, because if you read it in
20 the sense you're reading it, as an entree to just saying
21 I want to talk about each and every criterion in
22 Appendix B, then there are no QA contentions. We are
23 just sitting here jawing about the QA program in
24 general. And we're not going to do that.

25 13B -- this is a poorly-drafted contention, in

1 my opinion, also. 133 can similarly be tied to the
2 introductory language if just read literally, where in
3 the FSAR it describes. However, it has the advantage,
4 along with the other subsets C and D of this contention,
5 to have focused on a particular subject matter as
6 opposed to all of the criteria. And taking that into
7 account, we have been more liberal in the cross
8 examination we have allowed so far and will continue to
9 allow of being able to explore how the QA program does
10 or does not deal with those matters.

11 That is, we haven't jumped in and said ah-ha,
12 you've talked about what is in the FSAR; that is the end
13 of the contention. We don't want to hear about all of
14 these other documents on the program. We could have
15 done that but we're not doing that because the
16 particularity of those subsets is sufficient to put the
17 parties on notice as to what is being litigated. And
18 the testimony to some extent addresses it, and we
19 certainly knew what the subject of inquiry would be, and
20 we are allowing you to delve into that in the detail
21 that you see fit to find out, overall, what their QA
22 situation is with respect to subparts B, C and D. But
23 you don't get that same leeway on A because all it says
24 is the whole QA program. And that is the difference.

25 I'm going through this summary for you because

1 this relates back to the conference of parties, I
2 believe, in March. And we had that discussion then.
3 The county improved some of the other contentions by
4 having an appendix to it, to Contention 12 particular,
5 as I recall. You can't point to 13A every time you want
6 to talk about everything in the QA program. That is my
7 message. So if you're going into all of these other
8 documents I want it focused on 13B, if you're talking
9 about reporting deficiencies and failures.

10 To the extent you have a disagreement, the
11 county has a disagreement as to what detail need be in
12 the FSAR as to each of the criteria, which is 13A, -- a
13 lot of what you asked about this morning also related to
14 that in the context of reporting of deficiencies -- you
15 can argue, you can ask him questions about that and then
16 argue in your findings as to whether or not you think
17 that is sufficient or not, or why you think the witness
18 is saying it somewhere else is deficient, why you don't
19 think it is somewhere else even if the witnesses say it
20 is somewhere else.

21 And I am bridging into my next subject of
22 maybe you have been beating it too hard. I think yes,
23 indeed, you have been beating it too hard into the
24 ground, to be precise. Let me back up a little. The
25 dispute of Contention 13 ready narrowly -- and I told

1 you we wouldn't read it narrowly as to B, C and D, --
2 but read narrowly as to A is simply a dispute of how
3 much detail need be in the FSAR under 50.34 (b)(6), Sub
4 ii. It is an area that was perfectly suited in our
5 minds for stipulations of fact of what is in the FSAR,
6 what is in the QA Manual, what is in the procedures.

7 And then you asked some followup questions.
8 Instead of sitting here for an hour and a half so far
9 asking the witnesses to give their view of what is in
10 those documents, we can read them as well as you can.

11 We asked the parties, I believe, in the
12 strongest terms short of an order, we really begged them
13 to come up with stipulations of fact, and it was
14 particularly this type of contention that we had in
15 mind. I don't know how many times we asked. It hasn't
16 been done. I don't know why it hasn't been done. It
17 wouldn't have ended the need for oral examination, and
18 I'm repeating this for your benefit, Mr. Dynner, because
19 I don't think you were here most of the times and
20 perhaps none of the times when we brought this up.

21 But you would have certainly had most of your
22 examination since the mid-morning break, which is
23 approximately an hour and a half, set out and then you
24 could have asked the follow-up questions as to what this
25 tells you and what that tells you. You could have posed

1 almost all of your questions, in effect, as stipulations
2 and they would have said this is here, this is there,
3 and you could have asked the follow-up questions in
4 dispute.

5 You ended up fencing with the witnesses, even
6 in the absence of a stipulation, beyond the level
7 necessary to demonstrate on the record, as is your right
8 and, I'm sure, as you want to do in support of your
9 contention of what level of detail is in the FSAR and
10 what level is elsewhere, and then you can argue about it
11 later. It is in part an interpretive finding.
12 Presumably, we only need questions and answers to give
13 us factual information.

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1 I know there is a line which is very difficult to
2 define, especially when you're dealing in areas where
3 you have expert witnesses, as to what is factual and
4 what is interpretive. But I think you went way beyond
5 the need and if part of your object is to show this
6 Board for our benefit as to what is contained in these
7 documents in evidence, many of your questions were
8 repetitive in that regard. And I'm not saying they were
9 precisely the same wordings, but you went beyond what
10 you needed to do in order to get your higher level of
11 questions, which is: how can you operate the program
12 given this level of detail in these documents. And
13 that, I think, is where you want to go.

14 So I just want you to handle your timing
15 better. You've got F, G, H, I and J and K. I don't
16 understand fully what you intend to do under all of
17 them, but I understand some of what you intend to do
18 under some of them. And I assure you it would have been
19 more valuable for us to hear more about F and G in the
20 context of 13B than it was to ask over and over again
21 what does this say, what does that say, does this mean
22 that, does this mean this.

23 I also think the witness's answers could have
24 been somewhat shorter than they were. I don't think
25 they were the worst examples of long answers, by any

1 means. But we understand your views on the hierarchy of
2 the documents and you don't have to tell us every time.
3 The questions in general have been directed well in the
4 sense that you can give a short answer, sometimes a yes
5 or no and not always, but certainly a concise answer and
6 then the explanation after.

7 A cross examiner is entitled to try to
8 establish a record that he can write findings from.
9 When you give only the explanation without the answer
10 one has to infer as to what the answer would be given
11 that explanation. A careful lawyer has to answer the
12 followup; does that mean yes, does that mean no. And
13 Mr. Dynner has been doing that, and he is correct in
14 doing that because he has to write his findings, and he
15 can't take just the whole explanation and then write a
16 finding: it appears from this long explanation what the
17 witness was really saying in response to my question was
18 yes. That is not the kind of finding you prefer to
19 write. You prefer to write the finding that the witness
20 testified in response to this question, yes.

21 Now, you can give the explanation also, and he
22 can include part of the explanation in his finding, or
23 the party, your counsel, filing its findings can point
24 out in juxtaposition to the county's findings that there
25 was an explanation along with that answer.

1 But Mr. Dynner is going to have to keep asking
2 the followup question unless you give the answer along
3 with your explanation in the first instance. So let's
4 try to avoid the need for Mr. Dynner to have to say does
5 that mean yes, does that mean no, does that mean maybe.
6 Tell him the first time, and then give your explanation
7 along with it.

8 I'm trying to be helpful.

9 MR. DYNNER: May I respond to your comments,
10 Judge Brenner?

11 JUDGE BRENNER: Yes. This is in the -- I'm
12 trying to be helpful rather than disruptive. We could
13 say nothing and be content with the fact that you have a
14 time period on your, a time period that we think has
15 been very reasonable and it is not just this week; it
16 has been a five-week time period, and how that was
17 divided up is the county's business.

18 But I am concerned. We wanted to give you a
19 reading as to this one subject. If it is just for our
20 benefit, or if it, in part of what you are doing is for
21 our benefit, we have got the message as to what is in
22 the FSAR on 133. And get more quickly to the
23 significance rather than fencing with the witnesses as
24 to their interpretation of it. And yes, you can respond.

25 MR. DYNNER: With respect to the scope of my

1 cross examination, I would like some clarification as to
2 your comments. I chose to conduct cross examination in
3 this instance that we have begun the latter part of this
4 morning with respect to questions covering Contention
5 13B. There are over 50 pages of testimony that was
6 filed by LILCO's witnesses on the operational phase of
7 quality assurance, and I have not drifted outside the
8 scope of that prefiled testimony nor do I intend to do
9 so.

10 That prefiled testimony does, in fact, go well
11 beyond the scope of the narrowly-read or, as you
12 characterized them, broadly-read contentions in 13B and
13 13C, and spread out very quickly and easily into matters
14 such as testing, inspection and other kinds of criteria
15 of Appendix B, which are dealt with in that testimony.
16 And I feel that the cross examination ought not to be
17 limited to a particular contention but ought to be able
18 to refer to the prefiled testimony of the witnesses.

19 That is not to say that my intention is to do
20 so. I am trying, given what I regard as very difficult
21 time constraints placed on my cross examination by the
22 Board, to put forth the material that I think will be
23 helpful and is significant as early as possible. And I
24 think I have done that, and I'm sorry that the Board or
25 Judge Brenner has not found that to be as useful as I

1 had hoped.

2 JUDGE BRENNER: We all talked about it, in
3 case you are curious, although I didn't have to tell you
4 that.

5 MR. DYNNER: Then the Board. I think the
6 cross examination has been difficult. In my view, in
7 part because of long periods taken by the witnesses in
8 responding to simple questions and long answers given by
9 them. And I have tried to move this along in a
10 professional manner, which experienced counsel is aware
11 of.

12 I will endeavor in this afternoon's proceeding
13 to speed up the process with the Board's assistance, and
14 to cover areas that I hope will be of use to the Board.

15 JUDGE BRENNER: I agree that you're entitled
16 to probe areas of the direct testimony. It did not
17 appear to us that you were doing that, especially with
18 your last few questions. If you ask the witness give us
19 all the other documents on corrective action, that was
20 merely pointing out in my view -- and this is my view --
21 that the use of a phrase like that leads to an
22 inordinately long list of things. And I don't think you
23 meant that in the fullest scope, as that term is
24 sometimes used in QA matters.

25 MR. DYNNER: Judge Brenner, I hope the

1 transcript will show that my question was directed to
2 procedures which were established by the QQA Section
3 under Section 16, and the one referred to is 16.1. In
4 fact, 16.1 refers to other QAP procedures which are part
5 of the corrective action process. I was attempting to
6 assist the witnesses in identifying those, and I won't
7 make that mistake again.

8 JUDGE BRENNER: You see, you were keyed into
9 Section 16 in your head, but I think you asked about
10 corrective actions. And I don't want to try to restate
11 testimony but there was some to the effect that
12 notwithstanding some of the categorizations under the
13 criteria of Appendix B, you also have other things that
14 interrelate. So when you use a broad term, you may be
15 thinking that that term only means criterion 16, but
16 that may not be the case.

17 You did follow up after in asking about a
18 particular procedure because it had a 16 number and that
19 is why you thought it fit your answer. And I'm guessing
20 now.

21 In addition, I want to state --and I've said
22 this before -- these comments are never intended to
23 reflect upon the ability of counsel. It has been my
24 experience, having been on both sides of litigation,
25 that it is sometimes hard for counsel to know when they

1 have made their point. It is not a matter of criticism;
2 in fact, quite the contrary. Careful counsel will go
3 overboard in making the point on behalf of that
4 counsel's client. So from time to time, we try to give
5 you a reading as to when we think you've made your point.

6 It is not a criticism of the manner of
7 questioning or the ability or how well counsel is doing
8 for the client. You can't know what has sunk in, if we
9 just sit here mute all day. And I never liked that when
10 boards and judges used to do that to me. And we just
11 try to help in this sense, and it is truly meant in that
12 sense and not the way it might be taken without the
13 explanation I've just given. So don't take it that way.

14 But, we like to stay interested and intensely
15 focused on things we need to know, and when we think
16 things are starting to get repetitive, not necessarily
17 in the sense of the exact same question but certainly
18 the subject being well-plumbed, we like to point that
19 out. If you didn't have the time limit, I might have
20 said move on to something else, as judges and boards are
21 wont to do. Because you have the time limit, I'm not
22 doing that.

23 All right, let's take a break for an hour and
24 a half until 2:00 o'clock.

25 (Whereupon, at 12:35 p.m., the hearing in the

1 above-entitled matter was recessed for lunch, to
2 reconvene at 2:00 p.m. the same day.)

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1 AFTERNOON SESSION

2 (2:05 p.m.)

3 JUDGE BRENNER: All right, we are ready to
4 continue the examination.

5 MR. DYNNER: Yes, Judge Brenner. Before I
6 resume, I wonder if we might get a status report on the
7 delivery of the Torrey Pines report which was referred
8 to yesterday.

9 MR. ELLIS: I don't have any information on
10 that. I will have to check upstairs. He asked me, Mr.
11 Dynner asked me earlier about that and I told him I
12 didn't know and I would have to check upstairs. But I
13 will at the break.

14 Whereupon,

15 EDWARD J. YOUNGLING and

16 ARTHUR R. MULLER,

17 the witnesses on the stand at the time of recess,
18 resumed the stand and, having been previously duly
19 sworn, were examined and testified further as follows:

20 CROSS EXAMINATION -- Resumed

21 BY MR. DYNNER:

22 Q Now, gentlemen, when we left off before the
23 break we were discussing Section 16 of the QA Manual,
24 which has to do with corrective action, and you had just
25 identified QAPS 16.1, hadn't you, as the procedure that

1 is referred to -- the Section 16.3 prepared by the OQA
2 Section with respect to this section of this manual. Is
3 that correct?

4 (Panel of witnesses conferring.)

5 A (WITNESS MULLER) I think you'd better go over
6 that again, Mr. Dynner. I'm slightly confused now.

7 MR. DYNNER: I wonder if you could reread the
8 question.

9 (The reporter read the record as requested.)

10 WITNESS MULLER: That procedure is one of the
11 procedures written in response to Section 16 of the QA
12 Manual.

13 BY MR. DYNNER (Resuming):

14 Q And are there others?

15 A (WITNESS MULLER) Yes, there are. I thought
16 that was the question pending originally.

17 Q And would you identify them for us?

18 A (WITNESS MULLER) Within the corrective action
19 process, other OQA procedures may apply. The audit
20 procedure, 18.1, or QAPS 18.1; the surveillance
21 procedure, QAPS 10.5; the inspection procedure, QAPS
22 10.3; the maintenance work request review procedure,
23 QAPS 10.4; and possibly, QAPS 4.1 on procurement.

24 Q And do I understand that under Section 16 of
25 the corrective action -- of the QA Manual, that each

1 organization referred to in 16.3.1 prepares its own
2 procedures that are required there?

3 A (WITNESS MULLER) Yes.

4 Q Is there any document which sets forth the
5 central requirements to which each one of these
6 procedures must conform?

7 A (WITNESS MULLER) The central document is the
8 QA Manual.

9 Q So the QA Manual states what the procedures
10 must contain for each organization. Could you identify
11 where that is required?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) In Section 16 of the manual,
14 requirements are responsible organizations shall
15 delineate their corrective action programs in written
16 procedures. Section 5 of the QA Manual requires that
17 organizations initiate and control these procedures.

18 Q Is there any cross reference or particular
19 identification in the QA Manual to these various
20 procedures?

21 A (WITNESS MULLER) The specific procedure
22 numbers are not listed. The requirement is there for
23 each responsible section to develop its own procedures.

24 Q Thank you. Would you look at 16.3.5 of
25 Section 16. It is on page 2, and there, the manual

1 speaks of corrective action and of preventive action.

2 A (WITNESS YOUNGLING) Would you please repeat?

3 Q In there, the manual speaks of corrective
4 action and of preventive action. Where is the term
5 preventive action defined?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) The preventive action is the
8 action taken to prevent -- yes, the preventive action is
9 action taken to prevent reoccurrence.

10 Q Is that your definition of the term preventive
11 action?

12 A (WITNESS MULLER) That is my interpretation.

13 Q Is the term defined anywhere in Section 16?

14 A (WITNESS MULLER) No, it is not.

15 Q Is the term corrective action defined anywhere
16 in Section 16?

17 A (WITNESS MULLER) No, it is not.

18 Q Could you tell me what is your interpretation
19 of the distinction between preventive action and
20 corrective action, if any?

21 A (WITNESS MULLER) The corrective action could
22 include preventive action.

23 Q Anything else?

24 A (WITNESS MULLER) Part of the preventive action
25 would be the corrective action; the corrective action

1 could be the actual physical activity taken to correct
2 the deficiency.

3 Q How do the terms preventive action and
4 corrective action differ from a term that is used in
5 other places that I have seen in the testimony and in
6 the manual called the disposition of the deficiency or
7 disposition of a non-conformance?

8 A (WITNESS MULLER) The disposition would include
9 the preventive and corrective actions.

10 Q Now supposing we had an equipment failure.
11 What actions would be taken to do a disposition of that
12 failure?

13 (Panel of witnesses conferring.)

14 A (WITNESS MULLER) The steps involved would be
15 the identification of the problem, evaluation of the
16 problem which would include identification of the
17 corrective action and the identification of any
18 corrective actions that may be needed to be taken. It
19 would also include verification of corrective actions.

20 MR. ELLIS: May I have that answer read back?

21 (The reporter read the record as requested.)

22 WITNESS MULLER: I would like to go over that
23 again as far as identify the corrective action, evaluate
24 the corrective action. Evaluate the process, identify
25 the corrective action required, identify any preventive

1 actions required, and include verification of the
2 corrective action.

3 JUDGE BRENNER: Let's go off the record.
4 (Discuss off the record.)

5 JUDGE BRENNER: Let's go back on the record.
6 BY MR. DYNNER (Resuming):

7 Q Gentlemen, does Section 16 define the term
8 "followup action" which is used in Section 16.3.4?

9 A (WITNESS MULLER) Followup action would be the
10 testing required to verify that the corrective action
11 is, in fact, implemented. And it could include audit
12 surveillance or inspection by a QA group.

13 Q And does Section 16 say that?

14 A (WITNESS MULLER) Section 16 provides the
15 guidelines which the user procedures must follow.

16 Q My question is whether 16 defines followup
17 action as used in Section 16.3.4.

18 A (WITNESS YOUNGLING) I would like to add that
19 the followup action that is being mentioned here is also
20 saying we have had a failure on a safety-related
21 component; we want to make sure that we look after that
22 failure in a timely manner and make the evaluation and
23 insure that everything is brought to proper completion
24 in a timely and complete fashion.

25 Now, that can be done through followup

1 mechanisms within the plant organization and the
2 management structure, and in addition, that can be done
3 through surveillance activities or audits of the quality
4 arm.

5 JUDGE CARPENTER: Mr. Youngling, in the spirit
6 of conversation we had just before the lunch break, I
7 believe the county had just asked a question which
8 called for a relatively straightforward yes or no answer
9 by Mr. Muller and you proceeded with what you felt was
10 pertinent. And I'm not discouraging you from doing
11 that, but it is making for a very awkward record, and
12 it's going to be very hard when we read this to find the
13 answers to the questions that are being asked when they
14 are lost in those long speeches.

15 I hope I'm making my point. There was a
16 question asked which could have gotten a very direct,
17 brief answer, and we don't have that yet. And I think
18 the county is under a time limit that we have put on
19 them, and we have to balance the lengthy answers with
20 the time limit.

21 JUDGE BRENNER: I said to Judge Carpenter off
22 the record and I will say it on the record now, he is
23 being nice; he is trying to discourage you. I don't
24 know if you want to ask the question again or not.

25 MR. DYNNER: May I have the question read,

1 please?

2 (The reporter read the record as requested.)

3 WITNESS MULLER: The term followup is not
4 defined in Section 16 of the QA Manual.

5 MR. DYNNER: Thank you.

6 BY MR. DYNNER (Resuming):

7 Q In the interest of speeding up this process
8 and consistent with some of Judge Brenner's remarks this
9 morning, I am going to attempt to ask you in very short
10 form hopefully some questions about other sections of
11 the FSAR. We spent some time this morning reviewing
12 Section 17.2.16 of the FSAR. Now, you correct me if I'm
13 wrong, but as I understood your testimony with respect
14 to that section on corrective action, you testified that
15 the QA program is hierarcical I believe was your word,
16 and I think what you said with respect to that section
17 is that while that section of the FSAR does not in
18 itself say how the requirements of criterion 15 of
19 Appendix B will be satisfied, it does refer to
20 procedures in the QA Manual which, in your judgment, do
21 say how the requirements of criterion 16 will be
22 satisfied. Is that an accurate statement?

23 A (WITNESS YOUNGLING) Not the QA Manual or the
24 procedures, but the QA Manual.

25 Q Could you clarify that answer for me, please?

1 A (WITNESS YOUNGLING) I believe you said the
2 next document down from the FSAR that would give the
3 guidance would be the QA procedures. It would be the QA
4 Manual.

5 Q Other than that correction, my statement was
6 accurate? Is that correct?

7 A (WITNESS YOUNGLING) As I followed your
8 statement, yes.

9 Q Now, in order to shortcut -- and I don't have
10 the intention which was apparently or possibly perceived
11 by the Board this morning of trying to take you through
12 every single one of the subsections of 17.2 of the FSAR
13 which deal with the criteria of Appendix B of 10 CFR
14 Part 50. In order to shortcut all of that, is it fair
15 to say, and do you agree, that the other sections
16 beginning with, and for convenience start with, Section
17 17.2.3 of the FSAR entitled Design Control and going
18 through Section 17.2.18, is it fair to say that if I
19 were to question you on each of those sections of the
20 FSAR in the way that I did this morning with regard to
21 their respective criteria which bear the numbers that
22 are designated as the last number in the sequence --
23 that is to say, the design criteria 17.2.3 -- would
24 relate to criterion 3 of Appendix B, is it fair to say
25 that your answer with respect to each one of those

1 sections of the FSAR would be substantially the same as
2 it was with respect to Section 16?

3 That is to say that if you take as an example
4 Section 17.2.3 of the FSAR on design control, that your
5 testimony would be that while that section does not in
6 itself state all of the requirements -- excuse me --
7 state how all of the requirements of criterion 3
8 entitled Design Control of Appendix B would be met, that
9 it refers to procedures, and a section of the manual
10 which does describe how those requirements will be
11 satisfied?

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1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) My answer is yes, the
3 implementing procedures would not be specifically
4 identified in each section of the FSAR.

5 JUDGE BRENNER: I'm sorry to do this, but
6 could I get that read back?

7 (The reporter read the record as requested.)

8 JUDGE BRENNER: Back to you, Mr. Dynner.

9 BY MR. DYNNER: (Resuming)

10 Q Can I direct your attention now to QAPS 16.1,
11 which you referred to earlier?

12 JUDGE BRENNER: Okay, for the record we've got
13 that in County Exhibit 76 for identification.

14 BY MR. DYNNER: (Resuming)

15 Q And just for the record, so that we know we're
16 talking about the same document, it is Revision 2 of
17 QAPS 16.1, with an effective date of 11/30/81.

18 A (WITNESS MULLER) That is correct.

19 Q And is that the latest current copy of that
20 procedure?

21 A (WITNESS MULLER) Yes, it is.

22 Q Do you believe that this procedure is clearly
23 stated, specific and unambiguous?

24 A (WITNESS MULLER) Yes.

25 Q And it is entitled "Operational Quality

1 Assurance Corrective Action," and in paragraph 4.1 there
2 is a reference made to reference 2.1, which is
3 identified as the LILCO quality assurance manual. The
4 statement says that it "requires that significant
5 conditions adverse to quality be promptly subject to
6 measures which assure that the cause of the condition is
7 determined and that corrective action is taken to
8 preclude repetition."

9 Is there any more specific reference to what
10 section of the QA Manual that that statement
11 represents?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) This procedure does refer to
14 section 16 of the QA Manual.

15 Q It is your testimony that in fact it refers to
16 section 16, but it does not in the text refer to section
17 16, does it?

18 A (WITNESS MULLER) The reference section does
19 not specifically state section 16 of the QA Manual.

20 Q So that in reading this -- and the point I'm
21 trying to get to, if you will help me, is that in
22 looking at this operating QA procedure you would have to
23 know that it was section 16 of the manual that is
24 referred to because it doesn't say so, is that right?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) One may have to go to other
2 sections of the QA Manual to implement the corrective
3 action process.

4 Q But it is not possible, is it, by looking at
5 QAPS 16.1 to determine what other sections of the manual
6 that one would have to go to, is it?

7 A (WITNESS MULLER) No, but the personnel that
8 use this procedure do know where to go.

9 Q And that reference to the manual states that
10 the manual or the unidentified section thereof required
11 measures which assure that the cause of the condition is
12 determined. Do you know which section of the manual has
13 such a requirement?

14 (Panel of witnesses conferring.)

15 A (WITNESS MULLER) Mr. Dynner, what section of
16 the QAPS are you in?

17 Q 4.1.

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) Yes, the requirements
20 section 16.3 provides that guidance.

21 Q And in your view what part of 16.3 says that?

22 (Panel of witnesses conferring.)

23 A (WITNESS MULLER) The entire section provides
24 the requirements for our procedure.

25 Q Well, as I read this section, I don't see

1 anywhere in which that section requires that the cause
2 of a condition be determined, and I'm asking you to
3 identify where it does so require it specifically.

4 A (WITNESS MULLER) In order to identify the
5 preventative action, you have to know what the cause
6 is.

7 Q Yes, but where does it require the
8 determination of the cause of the condition?

9 (Panel of witnesses conferring.)

10 A (WITNESS YOUNGLING) Mr. Dynner, in the
11 procedure in section 5.2.2, the CAR mechanism, the
12 corrective action request mechanism, does require that
13 the cause of the deficient condition be documented on
14 the CAR mechanism.

15 Q I'm sorry, would you give me the reference
16 again?

17 A (WITNESS YOUNGLING) In QAPS 16.1, section
18 5.2.2, the CAR mechanism requires the identification of
19 the cause of the deficient condition.

20 Q Now, Mr. Youngling, I could have my question
21 reread, but I'm going to try to repeat it myself. I
22 asked you where section 4.1 makes a reference to the QA
23 Manual, and not to another procedure. It says the QA
24 Manual, which you have identified as section 16 of the
25 QA manual, is the reference which requires that measures

1 which assure that the cause of the condition is
2 determined.

3 And my question was, where in section 16 of
4 the QA Manual does it say that, and your initial answer
5 was the whole thing says it. And I asked you to be more
6 specific within the confines of section 16 of the QA
7 Manual.

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) That is paragraph 16.3.5,
10 states that significant conditions adverse to quality,
11 that the causes and preventative actions taken shall be
12 thoroughly documented and reported to appropriate levels
13 of management for review and assessment.

14 Q So that to you the word "documenting" and the
15 word "determining" is the same; is that correct?

16 (Panel of witnesses conferring.)

17 A (WITNESS MULLER) The cause of the
18 nonconformance is determined and documented on the CAR
19 form.

20 Q Thank you. Now, if I can turn your attention
21 to paragraph 4.2. I have had a great deal of trouble
22 figuring out what paragraph 4.2 means. Would you kindly
23 tell me how you interpret paragraph 4.2 of QAPS 16.1?

24 MR. ELLIS: Let me just say for the record
25 that I object to the editorial comments of counsel.

1 JUDGE BRENNER: It was not an editorial so
2 much as a lead-in to his question, and as a
3 cross-examiner he is entitled to do that. He didn't say
4 no one could understand it. He said he couldn't
5 understand it, and that's okay.

6 (Panel of witnesses conferring.)

7 WITNESS MULLER: Reference 2.2 refers to the
8 OQA nonconformance control procedure. When a
9 nonconformance control is generated and disposition is
10 not followed, we consider that a condition adverse to
11 quality, and under those circumstances we would initiate
12 a CAR.

13 Reference 2.3 refers to the audit procedure.
14 If we audit an organization, transmit to them a finding,
15 they respond to that finding and fail to commit to the
16 requirements of the finding, we would then initiate a
17 CAR.

18 WITNESS YOUNGLING: I would also like to add
19 to that, that CAR would be used for the timely follow-up
20 of actions to ensure that the closeout of the corrective
21 action does occur in a timely manner.

22 JUDGE BRENNER: I guess we should note, and I
23 don't think it has been previously, that a CAR is a
24 corrective action request, is that right?

25 WITNESS MULLER: That is correct, for the

1 operational QA organization.

2 BY MR. DYNNER: (Resuming)

3 Q Well, in the second sentence of paragraph 4.2,
4 it begins by saying, "This procedure generally is
5 intended to be used," et cetera. What does that
6 sentence refer to?

7 A (WITNESS MULLER) That sentence refers to
8 references 2.2 and reference 2.3

9 Q But those references are with respect to audit
10 and nonconformance control, aren't they?

11 A (WITNESS MULLER) Yes, they are.

12 Q Well then, the sentence wouldn't make sense,
13 would it, because then it would say that the
14 nonconformance and audit procedures are generally
15 intended to be used when the audit or nonconformance
16 control systems have not achieved the desired action?

17 (Panel of witnesses conferring.)

18 A (WITNESS MULLER) This procedure does make
19 sense to me. I know that when we have an audit
20 deficiency that has not been corrected or improperly
21 corrected, we would initiate a CAR. The same for a
22 nonconformance report.

23 Q Which procedure deals with initiating the
24 CAR?

25 A (WITNESS MULLER) The procedure QAPS 16.1.

1 Q So the term "this procedure" might refer to
2 this QAPS 16.1, might it not?

3 (Panel of witnesses conferring.)

4 A (WITNESS MULLER) I think I understand your
5 question now. When we say "this procedure" we mean QAPS
6 16.1.

7 Q Thank you. Now, as I understand what you've
8 explained then, is that the first thing that you do is
9 go to what is referred to as reference 2.2, the QAPS
10 16.1, entitled OQA nonconformance control, and you also
11 use what is referenced here as 2.3, which is QAPS 18.1,
12 the audits.

13 And this procedure for QAP 16.1 -- I'm sorry,
14 QAPS 16.1 -- is intended to be used when the audit or
15 nonconformance control procedures haven't worked; is
16 that correct?

17 A (WITNESS MULLER) It is not that the audit or
18 nonconformance control procedures haven't worked. A
19 disposition has been provided that has not been followed
20 properly.

21 Q Yes. The exact language is that "they have
22 not achieved the desired action." I am sorry.

23 Now, when this paragraph says that this
24 procedure generally is intended to be used, how do you
25 know when it is and when it's not?

1 A (WITNESS MULLER) That's within the judgment
2 of the operating QA engineer.

3 Q And does the operating QA engineer issue any
4 interpretations of this procedure which would enable the
5 personnel under his jurisdiction to understand what to
6 do here?

7 A (WITNESS MULLER) He doesn't have to. The QA
8 people are trained, and if they have any questions they
9 will talk with the OQAE.

10 Q When you say they're trained, they're trained
11 so that they know what the word "generally" means here,
12 is that your testimony?

13 A (WITNESS MULLER) They are trained so that --
14 they are trained in the use of the QAP procedures as
15 part of their normal training.

16 Q Now, as I understand your testimony, in order
17 to meet the requirement for assuring the cause of a
18 condition adverse to quality is determined and ensuring
19 that corrective action is taken to preclude repetition,
20 as stated in paragraph 4.1, generally the first thing
21 that happens is that that problem or that condition is
22 addressed by reference 2.2, which is QAPS 15.1, and that
23 is what you've testified that paragraph 4.2 says; is
24 that correct?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) No, that is not correct.
2 The CAR does not have to be generated just because a
3 nonconformance report doesn't meet the proper corrective
4 action. We could write it, once again, on an audit
5 finding or going to paragraph 5.1, we have criteria for
6 issuing CAR's which include failure to respond to audit
7 reports within the audit time, failure to make timely
8 corrections as required by an audit report, repeated
9 deficiencies which occur even though nonconformance
10 reports correct each event, failure to make timely
11 corrective action on a nonconformance report, or
12 significant conditions adverse to quality that may or
13 may not be reportable pursuant to the requirements of
14 reference 2.4.

15 Q Didn't you testify that paragraph 4.2 says in
16 the second sentence that, while this procedure for the
17 issuance of a CAR may be used independently, that
18 generally -- the word is in the text -- that generally
19 this procedure for the issuance of CAR's is "intended to
20 be used when the audit or nonconformance control systems
21 have not achieved the desired action"?

22 So wouldn't you look first to see whether the
23 nonconformance control system had achieved the desired
24 action?

25 A (WITNESS MULLER) Yes, we would.

1 Q And that procedure is identified as QAPS 15.1,
2 is it not?

3 A (WITNESS MULLER) Yes, it is.

4 Q May we turn to that for a moment? That is
5 also contained in the County's Exhibit 76.

6 JUDGE BRENNER: Mr. Dynner, you are still
7 probing the interpretation or bounds, if any, on
8 "generally," right?

9 MR. DYNNER: Judge Brenner, I am going into
10 the entire issue of how corrective action is taken with
11 a specific example of an equipment failure, but not
12 limited to equipment failure necessarily, because the
13 testimony was beyond that one example that LILCO
14 furnished.

15 JUDGE BRENNER: I wasn't very clear. You were
16 asking questions about the meaning of section 4.2 in
17 QAPS 16.1 and what that means with respect to when it
18 would be used as a follow-up to the other two procedures
19 in reference 2.2 and 2.3 and when it might be used
20 independently. And I'm just inquiring if you're leaving
21 that thought, because if you are I have one or two
22 questions.

23 MR. DYNNER: What I was about to do, because
24 as I understood the witnesses' testimony, generally a
25 first step would be the nonconformance control

1 procedure, and I was going to start taking him through
2 that. So that if you were to ask your questions, I will
3 come back to QAPS 16.1. But it's fine if you want to
4 ask your questions now.

5 JUDGE BRENNER: Well, maybe it would have been
6 quicker for me to just ask, at the risk of asking
7 questions you would have asked anyway. And I don't
8 think it will take long.

9 BOARD EXAMINATION

10 BY JUDGE BRENNER:

11 Q Gentlemen, following requirements in section
12 5.1 that you just, I think, read pretty much verbatim,
13 am I correct that A through D as triggering mechanisms
14 for this procedure 16.1 would all be instances when this
15 procedure were used, when the audit or nonconformance
16 control systems did not achieve the desired action?

17 A (WITNESS MULLER) Yes, Judge Brenner, that is
18 a "shall" requirement.

19 Q So any of those four triggering mechanisms
20 would not be independent of references 2.2 and 2.3,
21 correct?

22 A (WITNESS MULLER) They would be included in
23 those two references. Those two references apply to the
24 procedures we use for nonconformance control and audit
25 control.

1 Q So if you are using section 16.1 because of
2 the triggering mechanisms in A through D, then you would
3 not be using procedure 16.1 independent of these systems
4 as you mean that term in section 4.2?

5 A (WITNESS MULLER) I will try to answer your
6 question. If we do find that an audit response or a
7 nonconformance control disposition has not achieved the
8 desired action, we would then go into the corrective
9 action procedure.

10 Q Which is 16.1?

11 A (WITNESS MULLER) Correct.

12 Q And the requirements, I repeat, the
13 requirements of section 5.1, subparts A through D, would
14 all be such instances, correct?

15 A (WITNESS MULLER) That is correct.

16 Q Looking at subpart E, the only remaining
17 triggering mechanism for procedure 16.1, it states
18 "significant conditions adverse to quality that may or
19 may not be reportable pursuant to the requirements of
20 reference 2.4." Reference 2.4 refers to station
21 technical specifications section 6.

22 Would that be a triggering mechanism for the
23 use of procedure 16.1 which would be independent of the
24 other two procedures referenced in sections 2.2 and 2.3
25 of procedure 16.1?

1 A (WITNESS MULLER) Yes, it would, Judge
2 Brenner. Section 6 of the tech specs is the
3 administrative controls.

4 Q Is that then the exception to the word
5 "generally" in section 4.2?

6 A (WITNESS MULLER) That would be one of the
7 exceptions, at the discretion of the QQAE. I could in
8 fact issue a corrective action request if I found that a
9 procedure was being violated that could cause conditions
10 adverse to quality. At my discretion I could use the
11 corrective action procedure, QAPS 16.1.

12 I would also have the choice of using the
13 deficiency report -- I'm sorry, the LDR. The LILCO
14 deficiency report is the LDR.

15 A (WITNESS YOUNGLING) Judge Brenner, could I
16 add something to that? As a receiver of these two
17 documents, LDR's and CAR's, the LDR is, if you will, the
18 first notificaton of a problem. A corrective action
19 request signifies a higher level of concern because of a
20 lack of response, as issued in the criteria.

21 So as Mr. Muller states, the first four
22 criteria, if the LDR was not carried out, the CAR would
23 follow. However, in those instances where corrective
24 action has to be taken immediately and in his judgment
25 is important, he can go directly to the CAR to get the

1 higher level of attention.

2 Q Just for clarification, the LDR is issued
3 under the QAPS 15.1, correct?

4 A (WITNESS MULLER) That is correct.

5 Q I don't know if an LDR is issued under 18.1 or
6 not.

7 A (WITNESS MULLER) No, Judge Brønner, that is
8 an audit report, an audit transmittal.

9 Q I was looking for the exceptions to the word
10 "generally," and you've told me that subpart E of
11 section 5.1 would be one of the exceptions, and I also
12 understand your testimony that it is not necessarily an
13 exception depending upon how that subpart E of section
14 5.1 is implemented, but it is one of the exceptions to
15 the word "generally" as used in section 4.2. Is that
16 right so far?

17 A (WITNESS MULLER) That is correct.

18 Q What are the other exceptions to the word
19 "generally" in section 4.2? When else would you go
20 right to the CAR without going through the procedures in
21 QAPS 15.1 or 18.1, other than subpart E of section 5.1?

22 A (WITNESS MULLER) Okay. A repetition of a
23 condition that would be adverse to quality.

24 Q Well, that is subpart C, isn't it, of section
25 5.1?

1 A (WITNESS MULLER) If the repetition had not
2 been noted on a deficiency report, it would be possible
3 for me to use the corrective action request.

4 Q And let me see if I understand it. You're
5 talking about an instance where you got repeated
6 deficiencies, not through nonconformance reports but
7 some other indication of repeated deficiencies, and in
8 that event you could go right to a CAR without going
9 through the deficiency report route?

10 A (WITNESS MULLER) That is correct. If during
11 a surveillance we noted such a condition, we would opt
12 for the CAR.

13 Q Any other exceptions to the word "generally"
14 in section 4.2?

15 A (WITNESS MULLER) I have also issued CAR's to
16 document and track I&E findings specifically against
17 startup.

18 Q Why was that? Why did you use CAR's instead
19 of deficiency reports or some other mechanism?

20 (Panel of witnesses conferring.)

21 Q I'm not looking for the details of each
22 particular instance, just the general approach, if there
23 is one.

24 A (WITNESS MULLER) I think the situation was to
25 ensure a timely response to an I&E finding.

1 Q Is it a rough analogy to think of an LDR as
2 getting a letter in the mail and a CAR as getting it as
3 a telegram with a rapid first response requirement?

4 A (WITNESS MULLER) That would be a good
5 analogy, except that the CAR's all are routed to the
6 vice president, nuclear, or at least a copy of the CAR.

7 Q In other words, to carry the analogy further,
8 they send a singing telegram to the recipient's boss or
9 somebody up in the hierarchy.

10 A (WITNESS MULLER) That is correct.

11 Q Now, when answering Mr. Dynner's questions
12 before, you talked about people working for you as being
13 trained in how to apply "generally" or how not to apply
14 this in section 4.2. Did you have in mind there their
15 ability to identify when situation section 5.1, subpart
16 B, existed or subpart C existed without prior deficiency
17 reports, or when a quick time frame was needed?

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) I'm not quite sure what
20 you're asking, Judge Brenner.

21 Q Well, Mr. Dynner wanted to know and I guess
22 now I want to know how people working for you know that
23 they should use procedure 16.1 without first exhausting
24 the procedures referenced, that is 15.1 and 18.1. And
25 we've established now, I think, what the other

1 triggering mechanisms of the routes to use 16.1 directly
2 might be.

3 And I am trying to understand how that ties in
4 with your prior answer that the people working for you
5 are trained to know when to use it.

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) As far as the audit reports
8 are concerned, the lead auditor is responsible and he is
9 trained in the audit function. He is very much aware of
10 the audit procedure. As far as the nonconformance
11 control, all the inspection personnel know that when
12 they go out to inspect to a nonconformance report and
13 the condition has not been corrected, they know enough
14 to let me know and initiate a CAR.

15 Q Well, what about section E, though? How do
16 they know when you've got a significant condition
17 adverse to quality such that section 16.1 should be
18 implemented -- I'm sorry, procedure 16.1 should be
19 implemented, rather than procedure 15.1?

20 (Panel of witnesses conferring.)

21 Q Are there any other guidelines other than that
22 described in section 5.1, subpart E?

23 A (WITNESS MULLER) Well, I think any deviation
24 from the tech spec requirements may be significant, and
25 I also have to approve the CAR and I would also be aware

1 of the requirement. I also review the LDR's and I do
2 read the LDR's. I would also evaluate them to see
3 whether they more suitably should be a CAR.

4 Q How soon do you review the LDR's after they
5 are proposed to be issued?

6 A (WITNESS MULLER) On a daily basis.

7 Q So in the analysis, then, it would be your
8 judgment that would be applied to determine whether the
9 CAR should issue instead of an LDR, or vice versa?

10 A (WITNESS MULLER) I would have the final say.
11 The inspectors could initiate an LDR or a CAR. I may
12 suggest to them that this document or this draft may be
13 well suited as another document.

14 Q Are there further guidelines to define the
15 significant condition adverse to quality, to help you
16 apply your judgment?

17 (Panel of witnesses conferring.)

18 A (WITNESS MULLER) Judge Brenner, that would be
19 based upon my experience and knowledge, both as an
20 engineer and as an operating QA engineer.

21 Q So the answer is there are no other written
22 guidelines explaining what is meant by subpart E, is
23 that right?

24 A (WITNESS MULLER) There are no written
25 guidelines. That would be solely my judgment.

1 JUDGE BRENNER: All right, Mr. Dynner. I
2 didn't mean to take it that long, but I felt the line
3 was consistent, at least partly, with what you were
4 after.

5 MR. DYNNER: Yes, Judge Brenner, and in fact
6 you have covered a number of my questions that I was
7 going to get back to. So if I may, I will continue with
8 16.1 since the witnesses have their minds on that now.

9 CROSS-EXAMINATION -- RESUMED

10 BY MR. DYNNER:

11 Q In paragraph 5.1.C there is a reference to
12 repeated deficiencies. Are there any guidelines or
13 definitions as to what constitutes repeated
14 deficiencies, or is that a matter of judgment of the OQA
15 engineer?

16 A (WITNESS MULLER) It is a matter of judgment,
17 and it's also a matter of the evaluation of the
18 deficiencies.

19 Q And in that same paragraph there is a
20 reference to a capitalized term, "Nonconformance
21 Reports." What is a Nonconformance Report that is
22 referred to there?

23 A (WITNESS MULLER) The Nonconformance Report is
24 the LDR, the LILCO deficiency report.

25 Q Are you testifying that that is an error and

1 it should say "LILCO deficiency report"?

2 A (WITNESS MULLER) Specifically, it is an LDR.

3 Q And in subparagraph D, another one of the
4 examples given in paragraph 5.1 is the failure to make
5 timely corrective action on a nonconformance report. Is
6 that reference to a nonconformance report also intended
7 to be a reference to an LDR?

8 A (WITNESS MULLER) Yes, that is correct.

9 Q And is any guidance given or are there any
10 definitions as to what constitutes timely corrective
11 action?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) We keep track of the LDR's
14 on a computer report which gives us automatically LDR's
15 that have been open 30, 60 and 90 days. If we deemed a
16 response late, we will then issue a corrective action
17 request. If the dispositioner provides a completion
18 date and does not comply with that date, we will then
19 issue a corrective action request.

20 JUDGE BRENNER: How do you get the CAR to the
21 recipient?

22 WITNESS MULLER: The CAR is mailed to the
23 recipient, which in most cases is, well, 300 feet away
24 or possibly 500 feet away. We may carry them down,
25 also. The same with the LDR.

1 JUDGE BRENNER: By "mailed" do you mean
2 in-station mail?

3 WITNESS MULLER: In-station mail. It's
4 delivered twice a day and picked up twice a day.

5 JUDGE BRENNER: Okay.

6 BY MR. DYNNER: (Resuming)

7 Q Now, Mr. Muller, if there were an equipment
8 failure, you have testified in your prefiled testimony
9 that procedures are in existence for the analysis of
10 equipment failures and that provisions are made for the
11 cause of significant conditions adverse to quality to be
12 determined.

13 Now, drawing to your attention paragraph
14 5.2.2, there is a reference there to the CAR being
15 routed to the "action party." Who is the action party
16 that is referred to there?

17 A (WITNESS MULLER) The action party is the
18 individual who will respond to the CAR.

19 Q And in paragraph A of that subsection, he has
20 to complete in the CAR the cause of the deficient
21 condition; is that correct?

22 A (WITNESS MULLER) That is correct.

23 Q So that the procedure here at least appears to
24 be that the action party or the party in whose
25 department the equipment that failed occurred or who

1 otherwise was responsible for it --

2 A (WITNESS MULLER) Mr. Dynner, in the case of
3 an equipment failure we would not go directly to a
4 corrective action request. The plant has implementing
5 procedures for the discovery, identification and
6 evaluation of equipment failures.

7 Q Yes. My question was, as you will recall,
8 talking about the analysis of an equipment failure, and
9 I was asking you whether I'm correct in interpreting
10 5.2.2.A as saying that it is the originator or the
11 action party, as you've defined it, who writes down what
12 the cause of the deficient condition is.

13 A (WITNESS MULLER) The initiator and the action
14 party are not the same individual.

15 Q I'm sorry. The action party, as you've
16 designed it.

17 (Panel of witnesses conferring.)

18 A (WITNESS MULLER) The action party does write
19 down the cause.

20 Q Now, is there any provision for the QQA
21 section to determine the cause of the deficient
22 condition?

23 (Panel of witnesses conferring.)

24 A (WITNESS MULLER) The QQA review includes
25 verification activity and approval of the CAR, which

1 means that we would review the cause.

2 Q Would you conduct your own investigation of
3 the cause or do you mean you would simply review what
4 the action party had determined the cause to be?

5 (Panel of witnesses conferring.)

6 A (WITNESS MULLER) We would evaluate the cause
7 and then determine if verification were in fact
8 required.

9 Q And now, where in this procedure does the DQA
10 section have the responsibility for determining the
11 cause of a deficient condition, specifically, if you
12 please?

13 A (WITNESS MULLER) We do not determine the
14 cause. We evaluate the response.

15 Q Could you direct me to the section of the
16 procedure that you are referring to, please.

17 A (WITNESS MULLER) That would be section
18 5.2.3. The CAR is routed to DQA. It will review the
19 CAR.

20 Q Can you continue the sentence?

21 A (WITNESS MULLER) "To ensure the action party
22 answer addresses the action requested and that the
23 corrective action is sufficient to prevent reoccurrence
24 of the condition."

25 Q And you interpret that to mean that there is a

1 verification of the determination of the cause of the
2 deficient condition?

3 A (WITNESS MULLER) We also verify the fact that
4 the corrective action --

5 Q Could you answer my question, please.

6 A (WITNESS MULLER) As part of the review, we
7 would have to evaluate the cause that has been responded
8 to.

9 Q And if we still are looking now at paragraph
10 5.2.3, how does the QQA engineer make the determination
11 that the corrective action is sufficient to prevent
12 recurrence of the condition?

13 (Panel of witnesses conferring.)

14 A (WITNESS MULLER) If part of the response were
15 to change a procedure to prevent the reoccurrence, the
16 QQAE would verify the fact that the procedure was in
17 fact changed and was in fact implemented.

18 Q Does this procedure tell the QQA engineer what
19 he is to do in order to prevent recurrence of a
20 condition?

21 A (WITNESS MULLER) The QQAE does not prevent
22 reoccurrence. He verifies that the occurrence will not
23 occur with the disposition provided.

24 Q Let me rephrase the question. Does this
25 procedure state what the QQA engineer does in order to

1 determine that the corrective action, which is
2 presumably stated on the CAR, is sufficient to prevent
3 reoccurrence of the condition?

4 A (WITNESS MULLER) He performs a judgment or an
5 evaluation.

6 JUDGE MORRIS: Excuse me, Mr. Dynner.

7 Mr. Muller, let me see if I understand what
8 this first sentence says. As I read it, the OQA
9 engineer reviews the CAR to ensure the action party's --
10 and I assume that is a typographical error -- he assures
11 that the answer addresses the action requested and
12 assures that the corrective action is sufficient to
13 prevent recurrence of the condition, and that the OQA
14 engineer himself does not make that technical judgment;
15 is that correct?

16 WITNESS MULLER: That is correct.

17 JUDGE MORRIS: Thank you.

18 MR. DYNNER: I'm going to ask just a few more
19 questions along this line.

20 BY MR. DYNNER: (Resuming)

21 Q And in order to help you, what I'm trying to
22 get at is not what you do in practice so much as what
23 the procedures provide and what guidance you have, and
24 so that is why my questions, Mr. Muller, are continually
25 in the vein of, where does the procedure give you

1 guidance, where does the procedure say what you should
2 do. And I hope you will understand, when I ask the
3 question again it is for that reason.

4 A (WITNESS MULLER) I understand that, and in
5 our review process we do ensure that the answer, the
6 action party's answer, addresses the action requested
7 and that the corrective action is sufficient to prevent
8 reoccurrence.

9 Q And is there anywhere in this procedure or
10 other procedures guidance that tells the QQA engineer
11 what he should do in order to determine the corrective
12 action is sufficient to prevent the recurrence of a
13 condition?

14 (Panel of witnesses conferring.)

15 A (WITNESS MULLER) The action party is
16 responsible for providing the technical guidance to
17 prevent reoccurrence. The QQAE will review that and in
18 his best judgment will either agree or disagree with
19 it.

20 Q So there are no such procedures, is that what
21 your testimony is?

22 A (WITNESS MULLER) It is the judgment of the
23 QQAE, depending upon the item that had to be corrected.

24 Q Thank you.

25 Now, the next sentence down says,

1 "Verifications of completed corrective action will
2 normally be made through audit, surveillance, or review
3 of documentation." Is there anything in these
4 procedures or other procedures that would tell someone
5 what "normally" means, that is to say when this should
6 take place and when it shouldn't?

7 MR. ELLIS: Judge Brenner, this is not an
8 objection, but I don't think Mr. Dynner read it entirely
9 correctly. He added a word, and I guess it is just the
10 afternoon. He added the word "made" in his quote and it
11 is not in the language.

12 JUDGE BRENNER: I guess I missed his addition,
13 myself. It states -- this is the sentence with section
14 5.2.3 of QAPS 16.1: "Verifications of completed
15 corrective action will normally be through audit,
16 surveillance, or review of documentation."

17 And the question is, how does one trying to
18 follow this procedure know when to use the path normally
19 indicated, as opposed to some other path? How would
20 somebody know when to apply "normally" as used in that
21 sentence?

22 (Panel of witnesses conferring.)

23 WITNESS MULLER: Another possibility would be
24 inspection. It would depend upon the condition noted,
25 the corrective action taken, and the preventive action.

1 If it were a procedure type violation and the procedure
2 were changed to correct that condition, we would either
3 audit the program to verify that the procedure, the new
4 procedures, were in fact implemented or we could perform
5 a surveillance to verify that the personnel in the field
6 are in fact following that procedure.

7 In the case of a physical correction, we would
8 perform inspection.

9 JUDGE MORRIS: Mr. Muller, is this another
10 case where it would be the judgment of the QA engineer?

11 WITNESS MULLER: Yes, it would be.

12 JUDGE MORRIS: Thank you.

13 JUDGE BRENNER: Did you mean to say that if it
14 was a physical change you would normally perform an
15 inspection, contrary to the "normally" in that
16 sentence?

17 WITNESS MULLER: That is correct.

18 JUDGE BRENNER: Physical change would not
19 normally be followed up by a review of documentation, as
20 distinguished from OQA witnessing it or inspecting it
21 after?

22 WITNESS MULLER: An inspection -- well, the
23 work package would normally include inspection and
24 review of documentation, so we wouldn't perform both.

25 JUDGE BRENNER: Whenever it's convenient, Mr.

1 Dynner, we will break.

2 MR. DYNNER: Why don't we all take a breather
3 right now, Judge.

4 MR. ELLIS: Judge, before we do, we have a
5 motion that we would like to distribute now if we may.

6 JUDGE BRENNER: You can do it now or the end
7 of the day. Do you mean the one you promised
8 yesterday?

9 MR. ELLIS: Yes, sir.

10 JUDGE BRENNER: Just put it in the box. We
11 don't have to do that on the record, do we?

12 MR. ELLIS: No, sir.

13 JUDGE BRENNER: I'm not going to read it until
14 the end of the day anyway.

15 I tell you, while you're on the subject of
16 things we discussed yesterday, let me mention one thing,
17 since I see Mr. Earley is in the room also, to save you
18 having to put it in the in-house analysis. Mr. Ellis,
19 yesterday when we were discussing the time periods I
20 wanted to discuss one panel ahead of the other and did
21 so, and in the course of that confused things for the
22 moment, for which I was sorry.

23 In reviewing the transcript, it occurred to me
24 that somebody might think that I intended that the Staff
25 panel would take the stand after the LILCO panel. That

1 is not what I intended. It is my thought, unless the
2 parties tell me otherwise, that we are following with
3 the normal order of the County's witnesses taking the
4 stand after we complete LILCO's witnesses, and then the
5 Staff's witnesses testifying last. And if that is wrong
6 or inconsistent with what the parties thought, I would
7 sure like to hear about it sooner rather than later.

8 I was interested in focusing on a particular
9 time period, which is why I may have discussed the time
10 period out of sequence as to when I thought the
11 witnesses would take the stand.

12 MR. DYNNER: It's my understanding, Judge
13 Brenner, that we had expected all along that the NRC
14 Staff would follow LILCO and that we would go third.

15 JUDGE BRENNER: That is contrary to the normal
16 order in this and in any other proceeding. I'm not
17 saying it is inviolable, but I don't know if the parties
18 shared your understanding or my understanding.

19 MR. BORDENICK: Judge Brenner, the matter has
20 been discussed, at least between the County and the
21 Staff. My position, expressed to Mr. Lanpher on at
22 least one occasion, was, as you have pointed out, the
23 normal procedure is for the Staff to go last. I wasn't
24 going to press the point. I was going to leave it to
25 the Board's discretion.

1 JUDGE BRENNER: Well, if the parties can't
2 work that out we will rule. But I would hope that
3 something like that can be worked out. And one thing
4 that affects us is the uncertainty of the County's time
5 estimates, such that I want them cross-examining the
6 Staff panel last as opposed to -- so we know what the
7 time period has been for the County's panel and have
8 them completed.

9 And it also comports with the normal order of
10 parties. But it is not inviolable, and if a party has a
11 reason to vary that we will hear about it. But I urge
12 you to try to agree among yourselves first. Why don't
13 you bring it back to us in a day or two if there is
14 still a problem.

15 MR. BORDENICK: We will do that, Judge
16 Brenner. I assume Mr. Lanpher will be available today
17 or tomorrow for discussion.

18 JUDGE BRENNER: All right, let's break until
19 4:00 o'clock.

20 (Whereupon, at 3:45 p.m., the hearing in the
21 above-entitled matter was recessed, to reconvene at 4:00
22 p.m. the same day.)

23

24

25

1 JUDGE BRENNER: All right, we are ready to
2 continue the examination.

3 BY MR. DYNNER: (Resuming)

4 Q We were looking at QAPS 16.1. Let's go back
5 to that for a moment, please. Does a CAR contain on it
6 the recommendation of the corrective action which is
7 required to be taken?

8 A (WITNESS MULLER) Yes, and this is provided by
9 the action party.

10 Q So the action party determines what corrective
11 action is necessary, and is that reviewed by the DQA
12 section?

13 A (WITNESS MULLER) Yes, it is.

14 Q And then pursuant to section 5.2.4, copies of
15 the CAR are sent to the plant manager, the quality
16 assurance manager, and the vice president for nuclear;
17 is that correct?

18 A (WITNESS MULLER) That is correct.

19 Q Does this procedure provide for when the
20 copies of the CAR must be sent?

21 (Panel of witnesses conferring.)

22 A (WITNESS MULLER) The copies are sent at the
23 time of disposition.

24 Q Does this procedure provide for when the
25 copies must be sent?

1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) When we receive the
3 disposition copy, we send it immediately to the other
4 parties.

5 Q Now, you are telling me what you do, and my
6 question is, does the procedure tell you what to do?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) The procedure is followed in
9 sequence. The paragraph 5.2.4 doesn't say the exact
10 time, but it does mean that when we receive the
11 disposition original we send copies to the plant
12 manager, quality assurance manager, and VP-nuclear.

13 Q Does it say you have to do this within ten
14 days?

15 A (WITNESS MULLER) No, it does not.

16 Q Or within 60 days?

17 A (WITNESS MULLER) No, it does not.

18 Q It doesn't say that?

19 A (WITNESS MULLER) It is sent out immediately.

20 Q In fact, is that correct?

21 A (WITNESS MULLER) That is correct.

22 Q Now, if it is sent out immediately does that
23 mean that the CAR will state the corrective action that
24 is intended to be taken or the corrective action that
25 has already been taken?

1 A (WITNESS MULLER) It could be either one. If
2 the corrective action were taken immediately, it would
3 have been responded, the CAR would have been responded
4 to as that. If the completion date were given, the CAR
5 would indicate the proposed corrective action.

6 Q So that if you had a case in which there were
7 repeated, for example, repeated equipment failures such
8 that it was necessary or the OQA engineer thought it was
9 necessary to file a CAR, in some cases that CAR would
10 list corrective action that was already taken, but in
11 some cases it might state the corrective action that is
12 intended to be taken but hasn't yet occurred; is that
13 correct?

14 A (WITNESS MULLER) That may be true.
15 (Counsel for Suffolk County conferring.)

16 Q Are there any other provisions in these
17 procedures for the reporting of corrective actions taken
18 to higher management in LILCO, besides 5.2.4?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) This is the mechanism for
21 the routing and distribution of the CAR, this procedure,
22 QAPS 16.1.

23 Q And is it your testimony that, notwithstanding
24 the fact that in some cases at least the corrective
25 action reported to these levels of management may not

1 y it have been taken, that there is still no violation of
2 criterion 16 of Appendix B, which requires "the
3 identification of the significant condition adverse to
4 quality and the corrective action taken shall be
5 documented and reported to appropriate levels of
6 management"?

7 A (WITNESS MULLER) The completed CAR would also
8 be sent to upper management.

9 Q Well, the completed CAR, you've testified, may
10 only state the corrective action that is intended to be
11 taken. Didn't you say that?

12 A (WITNESS MULLER) After the verification, it
13 would once again be sent out.

14 Q Could you show me which specific paragraph in
15 this procedure that states that?

16 A (WITNESS MULLER) That is an actual practice.
17 Paragraph 5.2.4 doesn't state specifically when. Those
18 are the times when the CAR's are in fact sent out.

19 (Counsel for Suffolk County conferring.)

20 Q Now, if I could direct your attention to
21 paragraph 5.2.5, there is a statement in there which
22 says that the operating QA engineer "may decide to close
23 out the report if he feels that the major part of the
24 corrective action is done and other reporting mechanisms
25 are providing sufficient control."

1 Is there anything in these procedures which
2 gives the CQA engineer direction or guidance as to when
3 this is to be done?

4 A (WITNESS MULLER) It is the judgment of the
5 CQAE, and he may decide to schedule surveillances to
6 ensure that the corrective action is in fact closed out
7 and is not reoccurring, or he may choose the audit.

8 Q Are there any provisions concerning the
9 follow-up on corrective action in this procedure or
10 related procedures?

11 (Panel of witnesses conferring.)

12 A (WITNESS MULLER) There is a log maintained of
13 the corrective action requests, which includes its
14 status. The log assures that corrective action requests
15 are tracked and in fact closed out.

16 Q What are the procedures that tell the
17 appropriate personnel how to follow up on corrective
18 action?

19 A (WITNESS MULLER) As part of our
20 administrative surveillance, we review the status of the
21 corrective action requests and the audit report findings
22 on a monthly basis. These attributes appear on the
23 surveillance schedule.

24 Q Could you please for me more specifically
25 identify the procedure that you are referring to?

1 A (WITNESS MULLER) The surveillance procedure
2 is QAPS 10.5. Appendix 3.2 provides surveillance
3 subject, reference document, and the annual surveillance
4 schedule for administrative or scheduled and unscheduled
5 surveillances. We do in fact keep track of corrective
6 action requests and audit findings through the
7 surveillances. This is to assure that it is performed
8 on a periodic basis.

9 Q Does the surveillance procedure, QAPS 10.5,
10 refer at all to QAPS 16.1?

11 A (WITNESS MULLER) The procedure does not, but
12 the surveillance schedule that we use does. You have a
13 sample of that form.

14 Q Yes. When you say -- that is Appendix 3.2
15 that you're referring to, isn't it? And when you say
16 that it does, do you mean that it could be filled in to
17 contain that reference?

18 A (WITNESS MULLER) It has been filled in to
19 contain that reference. We have --

20 (Panel of witnesses conferring.)

21 Q Well, I have Appendix 3.2 in front of me.

22 MR. ELLIS: I don't know whether he was
23 finished or not, Judge Brenner. He may have been. I
24 just don't know. He said something and then Mr. Dynner
25 spoke.

1 JUDGE BRENNER: I don't know either. Were you
2 finished?

3 WITNESS MULLER: Yes.

4 BY MR. DYNNER: (Resuming)

5 Q I have Appendix 3.2 in front of me and it is
6 entitled "LILCO Operational Quality Assurance
7 Surveillance Schedule." And I don't see any reference
8 on this to QAPS 16.1.

9 A (WITNESS MULLER) That is a sample of the
10 form. The QQAE maintains a surveillance schedule, as
11 required by the procedure.

12 Q So you are saying that the QQA engineer could
13 fill in the reference, QAPS 16.1, on that schedule?

14 A (WITNESS MULLER) We maintain the schedule on
15 an annual basis. We prepare it in November or December
16 for the proceeding year.

17 Q Now, is there any reference in the procedure
18 QAPS 10.5, which incidentally, for the record, is part
19 of the package of procedures comprising Exhibit, County
20 Exhibit 76 -- is there any reference specifically in
21 that procedure to follow-up of corrective action or to
22 corrective action?

23 A (WITNESS MULLER) In the body of the
24 procedure, no. That reference appears on the
25 surveillance schedule.

1 Q And when you say that, you mean that it could
2 be written in on the surveillance schedule, a sample of
3 which appears as Appendix 3.2?

4 A (WITNESS MULLER) It does appear on the
5 official schedule.

6 Q Well --

7 A (WITNESS MULLER) You have a sample. You do
8 not have a copy of the official schedule that is
9 maintained by the OQAE and is not part of the
10 procedure. It is required by the procedure, but it is
11 not included in the body of the procedure.

12 Q Well, how does the personnel -- I'm sorry, did
13 I interrupt you?

14 A (WITNESS MULLER) The quality assurance
15 engineer is responsible for maintaining the surveillance
16 schedule and assuring that the surveillances are done.

17 (Counsel for Suffolk County conferring.)

18 Q Now, what procedures does LILCO have for
19 determining the cause of a series or a number of
20 equipment failures, such that it could take corrective
21 action, determine the cause and see that preventive and
22 corrective action was taken?

23 (Panel of witnesses conferring.)

24 A (WITNESS YOUNGLING) The plant staff has a
25 series of programs in place, some of which we provided

1 in our testimony on this contention. In addition, it
2 has the preventive maintenance program, which provides a
3 documented history as to the performance of each of the
4 pieces of equipment that are covered by it.

5 In addition, the surveillance program which
6 implements the technical specification requirements,
7 testing, is tracked to ensure that the specifications
8 are being met on a continuing basis. In addition, the
9 NPRDS program that we reference in our technical
10 specification is a direct offshoot from the MWR program,
11 the maintenance work request program, in that we require
12 input into the NPRDS program. Let me get the name of
13 that. That is the nuclear plant reliability data
14 system.

15 Our specific data is inputted into a broad
16 data bank for the entire nuclear industry that is
17 participating in that program, and we receive feedback
18 on the performance of not only our equipment but also
19 the other equipment of similar types in the entire
20 industry.

21 In addition, the Long Island Lighting Company
22 is a sponsor of the nuclear operations and maintenance
23 information service, which has an acronym NCMIS,
24 N-O-M-I-S, which is another feedback mechanism as to
25 maintenance problems and performance problems with

1 machinery used in the power stations.

2 Other feedback and tracking systems, of
3 course, come from NRC via bulletins and orders and
4 circulars, where we gain specific input. In addition,
5 we have in place an early warning system, which is the
6 NCTEPAD system which is sponsored by INPO, which is the
7 Institute of Nuclear Power Plant Operations. That is an
8 early warning system whereby LILCO or any of the other
9 subscribers in the industry can notify each other of
10 problems as they occur in a very quick manner, in that
11 it is through a computerized system with a readout to
12 each of the member utilities. So that we can tell
13 people when we have problems with machinery, they can
14 tell us when they have problems, or we can ask questions
15 back and forth.

16 Certainly, LILCO participates in numerous
17 industry groups, EEI groups, Edison Electric Institute
18 groups, and other societies where industry feedback is
19 obtained. So there are numerous mechanisms that provide
20 us with feedback on the trends for equipment
21 performance.

22 Q And in addition to those, does the OQA section
23 have a procedure to analyze trends?

24 A (WITNESS YOUNGLING) Not only -- I will let
25 Mr. Muller answer that, but within the plant staff there

1 are those procedures which do analyze those trends that
2 I did speak of. And in addition, I will let Mr. Muller
3 explain what he does.

4 A (WITNESS MULLER) The operational quality
5 assurance section have a trend analysis procedure which
6 does trend quality-related trends. We do not track
7 machinery-related trends. That is done on the NPRDS
8 system through the maintenance work requests.

9 Q What is the distinction between -- strike
10 that.

11 Do you regard a breakdown or equipment
12 failure, particularly when there is a series of them, as
13 not affecting quality?

14 A (WITNESS MULLER) They may affect quality.

15 Q And if they affect quality it is important,
16 isn't it, to analyze those breakdowns for trends?

17 A (WITNESS MULLER) Those breakdowns are trended
18 through the NPRDS system.

19 Q Is there a procedure for that system that you
20 could identify and direct me to?

21 A (WITNESS MULLER) The maintenance work request
22 procedure, station procedure 1201301, provides that
23 input.

24 Q And that maintenance work request procedure
25 that you just referred us to is attachment 49 to LILCO's

1 testimony, isn't it?

2 A (WITNESS MULLER) Yes, it is attachment 49.

3 Q Is there a device for this tracking mechanism
4 to be transferred to the OQA section for analysis in the
5 context of quality control?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) The feedback from the NPRDS
8 system is evaluated by the plant staff.

9 Q So there is no procedure which would permit
10 its evaluation by the OQA section; is that correct?

11 (Panel of witnesses conferring.)

12 A (WITNESS MULLER) Operational quality
13 assurance does not have a procedure for evaluating the
14 NPRDS data. That data is reviewed and evaluated by the
15 plant staff and nuclear operations support division.

16 Q Thank you.

17 A (WITNESS YOUNGLING) I would also like to add
18 that the type of data that the NPRDS feeds back is the
19 kind of data that that kind of analysis rests with the
20 technical people within the plant staff, and the NQSD
21 people operation, who are dealing with the machinery,
22 dealing with the maintenance problems dealing with the
23 tracking of their performance.

24 Q Thank you.

25 Now, if I could turn your attention for a

1 moment, if you recall when we were discussing QAPS 16.1,
2 entitled "Corrective Action," "Operational Quality
3 Assurance Corrective Action," there was a reference
4 there to QAPS 15.1 entitled "Operational Quality
5 Assurance Nonconformance Control." And in that QAPS
6 16.1 it referred to QAPS 15.1 as generally an
7 appropriate system to achieve the desired action.

8 That procedure is, I believe, in the package
9 of Exhibit 76 of the County. Have you got that in front
10 of you, gentlemen?

11 A (WITNESS MULLER) Do you mean QAPS 15.1?

12 Q Yes.

13 A (WITNESS MULLER) Yes, we do.

14 Q And my copy of that is entitled Revision 1,
15 with an effective date of 2/26/82. Is that the latest
16 up to date copy of that procedure?

17 A (WITNESS MULLER) Yes, it is.

18 Q In paragraph 1, the purpose of that procedure
19 is stated as being "for documenting, processing and
20 controlling nonconforming conditions for safety-related
21 material, parts, components, at Shoreham Nuclear Power
22 Station Unit 1."

23 Does that procedure, by virtue of that
24 purpose, intend to exclude activities and functions, as
25 opposed to material, parts and components?

1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) Mr. Dynner, I'm not sure I
3 understand the question.

4 Q All right. Let me give you an example.

5 A (WITNESS YOUNGLING) What do you mean by
6 "functions"?

7 MR. ELLIS: Just let him give the example.

8 BY MR. DYNNER: (Resuming)

9 Q My example is this. For example, an
10 inspection is an activity or an operation, something
11 that is done by people as opposed to being a material or
12 a part of a component, do you agree?

13 A (WITNESS YOUNGLING) Yes.

14 Q And my question is, as I read the purpose of
15 this procedure it seems at least in that paragraph to be
16 limited to material, parts and components, and not to
17 cover activities such as inspections. Am I correct?

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) As a result of identifying a
20 nonconforming condition for materials, parts and
21 components, a nonconformance report or an LDR would be
22 issued. If the inspection discovered that
23 nonconformance, the LDR would be issued.

24 Q Now, my question I think, Mr. Muller, went to
25 the scope of this procedure and whether this procedure

1 would cover, for example, deficient inspections as well
2 as deficient material, parts and components, speaking
3 about this particular procedure.

4 (Panel of witnesses conferring.)

5 A (WITNESS MULLER) An incorrect inspection or
6 an inadequate inspection would be documented via this
7 procedure.

8 Q So your testimony is that, despite the
9 language in the purpose clause, that it is intended to
10 and you interpret it to apply to activities such as
11 inspections; is that correct?

12 A (WITNESS MULLER) That is correct, and I'm
13 referring to paragraph 4.1.2, which states in part,
14 "Examples of nonconformance include physical defects,
15 test failures, incorrect or inadequate documentation, or
16 deviation from prescribed processing, inspection or test
17 procedures."

18 And may I add that an inspection would be part
19 of the processing during a safety-related material or
20 part or component receipt, installation, test.

21 JUDGE BRENNER: So it is not your testimony
22 that, despite the language of the purpose section, the
23 procedure provides what you've just explained in your
24 view it provides. Your testimony, rather, is in your
25 view it is consistent with the purpose section for the

1 procedure to provide what you have just stated it
2 provides; is that correct?

3 WITNESS MULLER: That is correct. Inspection
4 would be part of the processing of the safety-related
5 material, components or structures.

6 JUDGE BRENNER: Mr. Dynner, you're going to
7 have to be careful how you characterize the testimony
8 when you ask your questions. I've discouraged
9 throughout this proceeding objections of the nature that
10 the testimony is mischaracterized or not fully
11 summarized or so on, and I've discouraged it for
12 efficiency because the witnesses almost invariably can
13 clear it up.

14 But the quid pro quo in my discouraging such
15 objections, which objections technically could be made,
16 is for the questioner to be careful and try to limit
17 what you need to summarize for the purpose of the
18 question. And I suggest that sometimes you put a
19 summary of the testimony in the question which isn't
20 necessary for the question.

21 I'm not saying your summaries haven't mostly
22 been accurate or inaccurate, but you avoid the problem
23 by leaving out the summary unless it is necessary.

24 (Counsel for Suffolk County conferring.)

25 BY MR. DYNNER: (Resuming)

1 Q I would like to turn your attention now to
2 Suffolk County's contention 13C.

3 A (WITNESS MULLER) Mr. Dynner, do you have a
4 page number?

5 MR. ELLIS: It's 217.

6 MR. DYNNER: 217 is not the page that the
7 contention is contained on.

8 JUDGE BRENNER: Take a look around page 35 or
9 thereabouts. But Mr. Ellis made them aware of where the
10 testimony addresses it.

11 MR. DYNNER: Pag 35 is correct, or 36.

12 BY MR. DYNNER: (Resuming)

13 Q Now, gentlemen, you are familiar with this
14 contention because you testified starting on page 217 as
15 to your reaction to it. Without going in detail through
16 it, your testimony is that -- and I'm being careful in
17 characterizing it now --

18 JUDGE BRENNER: Good.

19 (Laughter.)

20 BY MR. DYNNER: (Resuming)

21 Q -- is that the requirements of ANSI
22 N18.7-1972, as quoted on page 217, apply in this case;
23 is that correct?

24 MR. ELLIS: I don't have any objection to that
25 characterization. I'm sure Mr. Dynner didn't mean to

1 characterize all of the testimony with that statement,
2 but I don't have any objection to that question.

3 JUDGE BRENNER: What do you mean, all of the
4 testimony?

5 MR. ELLIS: Well, the response to that
6 contention I believe goes on for quite a number of
7 pages.

8 JUDGE BRENNER: He focused him on that page.
9 I think he was pretty clear. And also, my comment about
10 characterizing the testimony is not a problem. You can
11 characterize it all you want if you're going to do it in
12 short spurts and then ask the witnesses, is that
13 correct.

14 The problem arises when you characterize it in
15 the course of leading up to another question and thereby
16 assume your characterization in the question, rather
17 than asking the witness about your characterization. So
18 what you just did now is not a problem. You are giving
19 the witnesses a chance to directly respond to the
20 characterization, as opposed to lulling them into
21 accepting your characterization for the purposes of what
22 your actual question is by the time you are done with
23 the question. They are two different situations.

24 (Panel of witnesses conferring.)

25 WITNESS YOUNGLING: MR. Dynner, I will ask you

1 to just repeat the base question again.

2 MR. DYNNER: Would you reread the question?

3 JUDGE BRENNER: Can you do it?

4 MR. DYNNER: I can do it.

5 BY MR. DYNNER: (Resuming)

6 Q I was referring you to page 217 and asking you
7 whether the ANSI standard quoted there is adopted by you
8 at this time also.

9 A (WITNESS YOUNGLING) As we testified
10 yesterday, the Long Island Lighting Company has changed
11 its commitment to ANSI N18.7 from 1972 to 1976. That
12 change was done after this testimony was prepared. We
13 would have to re-review the base document, 1976
14 document, to ensure that the quotation that is here is
15 the same. My understanding is that it is. However, I
16 would have to reverify that.

17 JUDGE BRENNER: Have you gentlemen gone
18 through your testimony to see whether it is still true
19 and correct in all respects in light of that change in
20 commitment, other than just the quote?

21 WITNESS YOUNGLING: Judge Brenner, we have not
22 done that, no.

23 JUDGE BRENNER: I think you had better do it
24 sooner rather than later. It should have been done
25 before you took the stand.

1 MR. ELLIS: Well, I don't know that he
2 understood, Judge Brenner, when he was to undertake that
3 review.

4 JUDGE BRENNER: Before he took the stand.

5 MR. ELLIS: Oh, I know. But your question
6 didn't necessarily focus him to that time period.

7 JUDGE BRENNER: I asked him if he did it yet
8 and the answer is no. That takes care of the time
9 period. I'm not berating him. I'm just commenting.

10 I guess it is more a comment to you, Mr.
11 Ellis. As long as you jumped in, I will change my
12 direction. You should have your witnesses do that. Let
13 them take a look and let us know as soon as possible.

14 MR. ELLIS: Yes, sir, I will. And we did do
15 that.

16 JUDGE BRENNER: Well, talk to him about it
17 after and maybe you could revive his present
18 recollection or refresh his past recollection.

19 BY MR. DYNNER: (Resuming)

20 Q Well, this does put us at a little bit of a
21 disadvantage in terms of proceeding on this particular
22 issue. Maybe I can switch, therefore, and in the time
23 remaining ask just a few other questions that were
24 brought up yesterday.

25 One is, gentlemen, have you now had the

1 opportunity to review Appendix C of the QA Manual, which
2 lists the various commitments of LILCO to ANSI standards
3 and reg guides in order to determine whether that list,
4 as corrected by you in testimony yesterday, is at this
5 time completely correct?

6 (Panel of witnesses conferring.)

7 A (WITNESS YOUNGLING) We reviewed that listing
8 yesterday and there are two instances where I need to
9 clarify. On page 2 of 3 of Appendix E, under Regulatory
10 Guide 1.58, the Long Lighting Company has a commitment
11 to Revision 1 of Reg Guide 1.58, dated September 1980.
12 However, that commitment must be in place six months
13 after fuel load. The Appendix E will be updated to
14 coincide with that commitment date.

15 The second clarification is on page 3 of 3 of
16 Appendix E, the very last item, ANSI 45, 445 2.23.
17 There is now an endorsing regulatory guide, Reg Guide
18 1.146, Rev 0, August 1980, which adopts that ANSI
19 standard. At the time of issuance of this document,
20 that regulatory guide had not been committed to. It is
21 now committed to. And that appendix will have that
22 regulatory guide added to it.

23 Q Thank you, gentlemen. And you will recall
24 yesterday we also reviewed the FSAP attachments which
25 listed QQA and QA procedures, and I think I asked you if

1 you would be good enough to review those to see whether
2 there were any other procedures referred to aside from
3 the one that refers to criterion 14 in the operating QA
4 procedures that had not yet been prepared.

5 JUDGE BRENNER: And your focus, if I recall,
6 was Table 7.2.5-2 of the FSAR, and the section which
7 referenced that table, which I think is section 17.2.5,
8 is that right?

9 MR. DYNNER: Yes, it was that table.

10 JUDGE BRENNER: Have the witnesses had an
11 opportunity to do that?

12 WITNESS YOUNGLING: Yes, we have, Judge.

13 (Panel of witnesses conferring.)

14 WITNESS MULLER: On page 2 of 5, at the middle
15 of the page, procedure titled "Correspondence," that
16 procedure has been deleted from the OQA Manual. Station
17 procedures concerning incoming and outgoing
18 correspondence, we now comply with. That was strictly
19 an administrative procedure. It was not required in the
20 manual for the FSAR for the Appendix B.

21 JUDGE BRENNER: So your testimony is that,
22 other than that and the one discussed yesterday, all the
23 others exist, all the other procedures noted in that
24 table?

25 WITNESS MULLER: Yes.

1 BY MR. DYNNER: (Resuming)

2 Q Can I for a moment direct your attention to
3 Appendix C of the quality assurance manual. Do you have
4 that?

5 A (WITNESS MULLER) Yes, Appendix C.

6 Q Yes. At the bottom of page 1 there is a note
7 that reads: "The procedures may be added to, revised or
8 deleted from this appendix without changing its
9 intent." Could you explain what is meant by that?

10 A (WITNESS YOUNGLING) What is meant by that is,
11 if the QQA department or the QQA section determines that
12 a particular procedure is covered by the intent of
13 another procedure or if a particular procedure is no
14 longer needed, that procedure can be deleted from the
15 listing in actuality and the manual would not have to be
16 changed.

17 Q Is the intent of the appendix to list all of
18 the current QA department procedures and QQA section
19 procedures?

20 (Panel of witnesses conferring.)

21 A (WITNESS MULLER) The appendix provides a
22 summary. The actual procedures contained within the QQA
23 Manual are in fact on the table of contents in the front
24 of the QQA Manual, procedures manual.

25 Q I'm sorry. You say that in the front of the

1 QA Manual there is a listing of procedures?

2 A (WITNESS MULLER) In the OQA procedures
3 manual, the QAPS'.

4 Q So the intent of Appendix C, once more so I
5 understand, of this listing is what?

6 A (WITNESS MULLER) To provide a summary of
7 quality assurance department procedures and operational
8 quality assurance procedures.

9 Q Is it intended to be kept up to date or not?
10 (Panel of witnesses conferring.)

11 A (WITNESS MULLER) I think that the reason why
12 the note appears is because this goes through a
13 different review cycle than the procedures. It will be
14 kept up to date, but the timing may be off. It was not
15 intended that the QA procedures and the QA Manual be
16 changed simultaneously, at least through the same review
17 cycle.

18 JUDGE BRENNER: Mr. Dynner, whenever you
19 finish these miscellaneous points we will recess. But
20 if you have some other ones that you want to clean up
21 from yesterday, that is anything else you think the
22 witnesses still owed you, we will let you do that.

23 MR. DYNNER: Fine. I just have two more
24 questions.

25 BY MR. DYNNER: (Resuming)

1 Q Can you tell me whether in fact the list of QA
2 department procedures on page 1 and the list of OQA
3 section procedures on page 2 of Appendix C are now
4 current and up to date?

5 A (WITNESS MULLER) Could we get back to you on
6 that?

7 Q Certainly.

8 MR. DYNNER: That's all I have, Judge
9 Brenner.

10 JUDGE BRENNER: Mr. Ellis, in terms of this
11 review that may have taken place or, if it didn't, will
12 take place, what triggered my comment -- and I now
13 understand what you told me, you think this was done.
14 It is certainly not apparent, unless there was change
15 made to the testimony that I missed, because the
16 testimony still references the 1972 version, and that is
17 why I inferred that. And if I was wrong, I'm sorry.
18 But let's get the confirmation tomorrow.

19 MR. ELLIS: No, I don't think you were wrong,
20 Judge Brenner. I think I was, in terms of understanding
21 who did what when. And I will check on that and get it
22 verified.

23 JUDGE BRENNER: That reminds me of something
24 that happened once with a witness, but I won't bore you
25 with an old story, and certainly not on the record, as

1 Judge Morris says. Suffice it to say, we disagreed on
2 the record and it turned out to be unseemly, since it
3 was my witness.

4 Let's break for the day and we will be back at
5 9:00 o'clock tomorrow morning.

6 (Whereupon, at 5:05 p.m., the hearing in the
7 above-entitled matter was recessed, to reconvene at 9:00
8 a.m. on Thursday, November 4, 1982.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

in the matter of: Long Island Lighting Company (Shoreham Nuclear Power
Station)

Date of Proceeding: November 3, 1982

Docket Number: 50-322 OL

Place of Proceeding: Bethesda, Maryland

were held as herein appears, and that this is the original transcript
thereof for the file of the Commission.

Ray Heer

Official Reporter (Typed)

Ray Heer

Official Reporter (Signature)