

NUCLEAR REGULATORY COMMISSION

ORIGINAL

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station)

DOCKET NO. 50-322-OL

DATE: November 5, 1982

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AT: Bethesda, Maryland

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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  
5th Floor Conference Rm.  
Bethesda, Maryland  
Friday, November 5, 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:

2 On behalf of Applicant:

3 ANTHONY F. EARLEY, Esq.  
4 T. S. ELLIS III, Esq.  
5 Hunton & Williams  
6 707 East Main Street  
7 Richmond, Va. 23212

8 On behalf of the Regulatory Staff:

9 BERNARD BORDENICK, Esq.  
10 Nuclear Regulatory Commission  
11 Washington, D.C.

12 On behalf of Suffolk County:

13 LAWRENCE COE LANPHER, Esq.  
14 ALAN DYNNER, Esq.  
15 Kirkpatrick, Lockhart, Hill,  
16 Christopher & Phillips  
17 1900 M Street, N.W.  
18 Washington, D.C. 20036

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## C O N T E N T S

1  
 2 WITNESSES:                      DIRECT   CROSS   REDIRECT   RECROSS   BOARD  
 3 Arthur R. Muller and  
 4 Edward J. Youngling (Resumed)  
     By Mr. Dynner    13,114

5  
 6    (Afternoon Session..13,189)

7 Arthur R. Muller and  
 8 Edward J. Youngling (Resumed)  
     By Mr. Dynner    13,196

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## E X H I B I T S

12

13 <u>NUMBER</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
14 Suffolk County 76		13,268

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17 RECESSES:

18

Morning - 13,147

19

Noon - 13,188

20

Afternoon - 13,233

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## P R O C E E D I N G S

(9:00 a.m.)

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JUDGE BRENNER: We are ready to begin. The county, just before we went on, told me they had some preliminary matters and we can deal with those now.

MR. LANPHER: Judge Brenner, the first matter I would like to ask for some guidance on is given the change in the designation of order of testimony; namely, the QA panel for the county going after the LILCO panel, I think it is appropriate to obtain a designation of the documents that will be used in cross examination of Mr. Hubbard, and I would ask that that be done as soon as possible.

JUDGE BRENNER: Yes. How soon can LILCO do that?

MR. ELLIS: Judge, we I think want to reconsider some aspects of our cross examination of Mr. Hubbard. Could we do it, say, by the end of next week?

JUDGE BRENNER: Well, he will get on as early as November 16th; we think more likely the 17th or maybe even a day or so later than that. But even if we deal with the likely date of the 17th, I would think early on Friday the 12th would be all right.

MR. LANPHER: Judge Brenner, we were required

1 to do it, at least give a preliminary list, more than a  
2 week ahead of time.

3 JUDGE BRENNER: You didn't in all cases, but  
4 that would be more optimum.

5 MR. LANPHER: We want to get some people  
6 reviewing materials as early as possible. It's going to  
7 make it very difficult if we don't get any designation  
8 until Friday the 12th. And so I would just ask that the  
9 Board reconsider that. I think an earlier designation  
10 would be appropriate.

11 JUDGE BRENNER: All right. Let's get a  
12 preliminary list on the 10th that we won't hold you to.  
13 And then a more refined list on the 12th, and then if  
14 there are any changes thereafter, as soon as you know.

15 MR. ELLIS: Yes, sir.

16 MR. LANPHER: I would assume the same goes for  
17 the staff.

18 JUDGE BRENNER: Yes Now, the same rules apply  
19 to them as apply to the county. If there are any  
20 particular documents that they need some element of  
21 surprise or something like that, they don't have to tell  
22 you all documents. But it's going to be essentially  
23 all, absent a particular reason.

24 MR. LANPHER: And I assume that also includes  
25 portions of documents?

1 JUDGE BRENNER: Yes. That is in a thick  
2 document, they should tell you which portion they will  
3 use.

4 MR. LANPHER: Yes. A second matter, Judge  
5 Brenner, is that I guess we are contemplating three,  
6 maybe four days of LILCO redirect of its panel. I would  
7 like to ask that if there are particular documents that  
8 are going to be used in that redirect, that we get some  
9 advanced notice of that so that we can have them ready  
10 and review them. It will make it significantly easier  
11 to follow up with recross as soon as possible thereafter  
12 if we have gotten some idea of what is going to be used  
13 in redirect so we can have it available and be ready to  
14 go with recross as soon as redirect is over.

15 JUDGE BRENNER: You're talking about documents  
16 other than the ones already used?

17 MR. LANPHER: That's right.

18 JUDGE BRENNER: Is there any problem with that?

19 MR. ELLIS: Judge, I haven't made a decision  
20 as to what additional documents we will use. May I have  
21 a moment, please?

22 (Counsel for LILCO conferring.)

23 We have not yet made a decision whether there  
24 are going to be any additional documents. When we do, I  
25 can assure the Board and Mr. Lanpher we will let them

1 know in advance. To the extent that we can, we will  
2 also tell them what transcript page numbers we are going  
3 to be using on a particular day.

4 I think what I'm going to try to do, Judge  
5 Brenner, is maybe the night before prepare a list of  
6 them, a list of the transcript page numbers so that the  
7 Board has it and the parties have it for the following  
8 day, if we're going to go to a particular page and line  
9 number in the transcript for a redirect question. And  
10 if we're going to use a document in redirect, I will try  
11 to give advance notice of it. But I have got to say  
12 that I have not made decisions on those documents yet,  
13 if any.

14 JUDGE BRENNER: All right, I'm willing to  
15 leave it at that on redirect. It's likely to be less of  
16 a problem in terms of volume than the cross  
17 examination. When we are dealing with redirect, when  
18 you know about a document you are going to use, let us  
19 know as soon as you can, and as soon as you know it. I  
20 won't require the transcript designations, although I  
21 think it will be helpful.

22 So if you want to use your best efforts to do  
23 that, I think that would help speed things along, also.  
24 That would be for a different reason; not the witnesses  
25 needing to have it and, therefore, less important than



1 our emphasis on what documents would be used in  
2 examination of the witnesses, particularly since on  
3 redirect it is your own witnesses. But I think it will  
4 help the efficiency of the process, so we appreciate  
5 that offer. And do it if you can.

6 MR. LANPHER: Judge Brenner, I wanted to note  
7 that yesterday the county delivered a listing of audit --

8 JUDGE BRENNER: We took care of that on the  
9 record yesterday. Maybe I misunderstood what you're  
10 going to say.

11 MR. LANPHER: I was going to ask whether there  
12 was a time when you wanted to take those up, because I  
13 would certainly personally want to be here to answer  
14 questions. And I wasn't suggesting necessarily today.  
15 Probably it makes more sense early next week.

16 JUDGE BRENNER: We set a response time. That  
17 is what I was going to tell you. We took care of it  
18 yesterday. We set a response date of November 12th.  
19 The reason I wanted a fairly tight date -- well, I had  
20 your interests in mind even though you weren't here. If  
21 you take a look at the transcript of yesterday,  
22 hopefully you will agree with what I assumed your  
23 concerns would be.

24 MR. LANPHER: I will look at that.

25 JUDGE BRENNER: And if your -- and also as you

1 will see in the transcript of yesterday, if I didn't say  
2 this explicitly I will say it now. If they have  
3 objections, in addition to filing them with us they, of  
4 course, should let you know as soon as they can because  
5 perhaps it can be worked out.

6 MR. LANPHER: Judge Brenner, I wanted to also  
7 announce that later today I will be delivering a written  
8 offer of proof of areas in the design and construction  
9 QA area that I was not able to cover. Usually, those  
10 are made orally but since I had the time outside the  
11 hearing this week, I thought it would be more efficient  
12 to just deliver it. So that will be forthcoming as soon  
13 as it's typed.

14 JUDGE BRENNER: Okay. I appreciate that.  
15 What form would it be in? The questions you would have  
16 asked?

17 MR. LANPHER: No. It will cover the  
18 substance. It is going to cover certain pattern areas  
19 that we did not get into, and it will have the summaries  
20 of the audits that we would have been using. And so  
21 rather than the precise questions, it will lay out the  
22 subject areas and the substance of what we would have  
23 been covering.

24 JUDGE BRENNER: All right. You're going to  
25 file it with everybody?

1 MR. LANPHER: Yes, I will have copies here in  
2 the early afternoon.

3 JUDGE BRENNER: Okay, very good. That will be  
4 helpful.

5 MR. LANPHER: A final matter I would like to  
6 bring up is a concern which I mentioned earlier and that  
7 is that we have still not received the staff's CAT  
8 response, the CAT inspection response. And I have  
9 talked with Mr. Bordenick about it, and the information  
10 is not entirely clear. It appears to me that it is  
11 probably still sitting on the same person's desk in the  
12 region. And I think that is going to be important  
13 information, probably in Mr. Hubbard's examination and  
14 certainly with the staff but maybe Mr. Hubbard's. And I  
15 would like to do anything that we can to get it  
16 expedited.

17 JUDGE BRENNER: I think I made that point  
18 quite strongly on the record previously. Mr. Bordenick?

19 MR. BORDENICK: Judge Brenner, let me mention  
20 several brief things in response to that. The Board did  
21 strongly indicate I think on the 20th of October that  
22 they were not very pleased with the fact that it had  
23 been delayed.

24 JUDGE BRENNER: No, I didn't say that. I  
25 think my strong point was that I hoped everybody outside

1 this hearing room is as keyed to the schedule as people  
2 inside this hearing room. So it wasn't a past  
3 criticism; it was an ascertainment of what's going to  
4 happen now. And my word weren't very strong because  
5 frankly, your response was very much in accord with our  
6 thinking at the time. So I figured it wasn't going to  
7 be a problem.

8 MR. BORDENICK: Well, at any rate, Judge  
9 Brenner, I had, through my superiors, made a strong  
10 request to have that matter expedited, and I have been  
11 repeatedly told that it was imminent. Yesterday, I had  
12 conflicting reports. I first heard that it had been  
13 signed, the letter had been signed, and a copy was on  
14 the way down. I learned later in the day, or it was  
15 reported to me later in the day that that was not the  
16 case.

17 Unfortunately, I have not had a chance yet,  
18 because we were here late yesterday evening, and  
19 frankly, this morning I had several other things to take  
20 care of, and it just sort of slipped through the  
21 cracks. I will, at the break this morning, attempt to  
22 ascertain the status of that letter, and again reiterate  
23 to those concerned the necessity to get it down here.

24 I don't know whether there are any substantive  
25 problems or whether it's just a question of it sitting

1 in someone's in box.

2 I do want to add one thing that I mentioned  
3 last week, as to why it took so long at least initially  
4 to get the response. I learned that part of the  
5 response was prepared in Bethesda by the Office of  
6 Nuclear Reactor Regulation, so in effect, there were  
7 people working on it from three different locations.  
8 The region headquarters in King of Prussia, the resident  
9 inspector at Shoreham and NRR in Bethesda. I don't  
10 offer that as an excuse, but just a further explanation.

11 I understand the desirability of having that  
12 letter as soon as possible, and frankly, I have done  
13 about all I can do.

14 JUDGE BRENNER: Well, you tell them it has the  
15 potential to drastically affect our planned schedule and  
16 approach to things as we go through the litigation on  
17 QA, and they can put that in their next report, also.

18 MR. BORDENICK: I will do that.

19 MR. LANPHER: That is all.

20 JUDGE BRENNER: And in fact, if it's not here  
21 by next week, I see problems in the schedule; big  
22 problems. If there is anything in there that is  
23 material -- and I agree with Mr. Lanpher that at this  
24 time, without knowing what is in there, there is  
25 certainly that reasonable possibility -- you're going to

1 have to have witnesses come back to talk about things  
2 when we could have handled it when the witnesses were  
3 here the first time.

4 MR. BORDENICK: I don't know what is in the  
5 letter either, Judge Brenner. I will relay the Board's  
6 concerns. I am frankly quite concerned myself, short of  
7 driving up to King of Prussia.

8 JUDGE BRENNER: Well, I know you know what's  
9 going on, so my statements aren't directed to clue you  
10 in. They are to help you when you clue the other people  
11 in.

12 MR. BORDENICK: I appreciate that.

13 MR. LANPHER: That is all the preliminary  
14 matters that we had, Judge Brenner, thank you.

15 MR. ELLIS: Judge Brenner, I just had one.

16 JUDGE BRENNER: Let me get back to this. I  
17 want to emphasize, as always, if there is a substantive  
18 problem and that's the reason why the staff hasn't  
19 completed it, that's fine and that's understandable. I  
20 don't want them to substantively affect their review.

21 But if it's just going through the  
22 bureaucratic chain, for gosh sakes, let's cut through  
23 it. And there's nothing wrong with filing a partial  
24 response, too, unless there is a reason not to. So the  
25 idea is not to have to come back after witnesses have

1 completed. It would have been helpful to have it even  
2 before the cross examination of LILCO's witnesses.

3 MR. BORDENICK: I agree. I really don't know  
4 the extent of substantive problems, if any. I think  
5 there may have been substantive problems up until about  
6 a week ago, and why it has remained in limbo beyond the  
7 28th I can't address that.

8 JUDGE BRENNER: All right. I'm sorry, Mr.  
9 Ellis, I cut you off.

10 MR. ELLIS: I just wanted to mention briefly  
11 -- I think it might be appropriate to mention on the  
12 record that LILCO did deliver to the Board and the  
13 parties the Torrey Pines report on Wednesday afternoon.

14 JUDGE BRENNER: Yes, we did receive that on  
15 that subject. I don't recall now whether LILCO stated  
16 it would serve the Board with additional copies after.  
17 We don't need them now, so I'm not complaining.  
18 Eventually, if you do catch up with additional copies,  
19 we only need one more, so a total of two will be fine  
20 for the Board. And that need isn't even an absolute  
21 need.

22 What I'm saying is if you were planning on  
23 giving us the usual four, don't; only give us one more.  
24 And if you have trouble giving us the one more, we can  
25 work with this one for quite a while without much

1 problem.

2 MR. ELLIS: Thank you, sir.

3 JUDGE BRENNER: There are enough pages to  
4 share.

5 (Laughter.)

6 And as long as we are all in Bethesda in our  
7 offices here, it makes it very easy for us.

8 MR. LANPHER: Judge Brenner, the county --  
9 since we're talking about Torrey Pines -- has asked that  
10 we provided additional copies in order to be able to  
11 perform review of that. When you look through it, much  
12 of it is, so to speak, inherently uncopyable, frankly.  
13 To just give that to a Xerox person to try to copy, if  
14 it ever got out of order it would never get back in  
15 order. So we're hopeful that we're going to receive  
16 additional copies of that.

17 JUDGE BRENNER: Well, if they can accommodate  
18 you, I hope they do and I'm sure they will in some  
19 timeframe. But in the meantime, we are going to find  
20 out next week as to what dates we can set for any  
21 actions on follow-up to the Torrey Pines report. So  
22 don't artificially delay a review because you only have  
23 one copy now.

24 I guess I don't understand what the big  
25 problem is. I understand why it might be convenient to



1 have more copies, but why would it delay the review?

2 MR. LANPHER: Because the people performing  
3 the review are not in Washington, D.C. They are in  
4 different locations.

5 JUDGE BRENNER: Well, send your copy out and  
6 share a copy here for now.

7 MR. LANPHER: We have one copy.

8 JUDGE BRENNER: Yes, I know, but I'm sure you  
9 can share a LILCO copy in the Bethesda offices here.  
10 You can even share our copy during the day here or in  
11 the evening. Let us know and we can work things out.  
12 How many copies does LILCO have?

13 MR. EARLEY: Judge, we have one copy here.  
14 There were only a limited number produced in the first  
15 run so we could expedite it. We will have additional  
16 copies but it may be several weeks before we have enough  
17 to give out extra copies. I was going to tell Mr.  
18 Lanpher that.

19 JUDGE BRENNER: Where is your copy? Here?

20 MR. EARLEY: It is here upstairs in our office.

21 JUDGE BRENNER: And the staff has one copy in  
22 Bethesda, also?

23 MR. BORDENICK: That's correct, Judge  
24 Brenner. I'm afraid it has probably been subdivided and  
25 farmed out to different people.

1 JUDGE BRENNER: We have a copy, also. Send  
2 your copy to California and you can use a combination of  
3 LILCO's copy and our copy as needed here. And some  
4 portions are copyable. That is, the portions that you  
5 cannot copy, you can use. But I don't want any inertia  
6 taking over. Is that a problem for LILCO over the next  
7 few weeks? The copy I take it is going to be here.

8 MR. EARLEY: It is going to be here. In fact,  
9 we could bring it down here and leave it in the hearing  
10 room for people's convenience. We do have it available.

11 JUDGE BRENNER: And we will make ours  
12 available on request. Presumably it would be one  
13 portion at a time or a few portions at a time.  
14 Hopefully, that will help you, Mr. Lanpher.

15 MR. LANPHER: Let me take a look at it.

16 JUDGE BRENNER: I want to reiterate what we  
17 said the other week. Those depositions are pretty much  
18 going to have to be taken in November, and the likely  
19 hearing break is that week of Thanksgiving week, because  
20 the only hearing business will be emergency planning on  
21 that Monday, unrelated to this other subject, and we  
22 have that in mind in part in setting our schedule.

23 MR. LANPHER: Well, Judge Brenner, I guess I  
24 have to respond to that. This is a massive report. Mr.  
25 Hubbard is the key person in the review of that report.

1 He is scheduled to be on the witness stand shortly.

2 Our position is that it is not feasible to  
3 have detailed depositions on that report or the  
4 important portions of that report in November. I can  
5 tell you that right now. It is far too detailed and  
6 complex to be able to review it completely with the  
7 assistance of Mr. Hubbard in that timeframe.

8 JUDGE BRENNER: All right, we will hear more  
9 on it when we get to it next week. But don't assume  
10 that you're going to be successful in that argument.  
11 LILCO turned over the report, I guess, on November 3rd  
12 if I recall correctly, and we're talking about 20 days  
13 after that.

14 All right. We are prepared to continue the  
15 cross examination, or to have the county do it, to be  
16 more precise.

17 Whereupon,

18 ARTHUR R. MULLER and

19 EDWARD J. YOUNGLING,

20 the witnesses on the stand at the time of recess,  
21 resumed the stand and, having been previously duly  
22 sworn, were examined and testified further as follows:

23 CROSS EXAMINATION -- Resumed

24 BY MR. DYNNER:

25 Q Gentlemen, as a preliminary matter, yesterday

1 you will recall that we spent some time examining  
2 Appendix 12.1, page 32 of 32 of SP-12.019.01, the  
3 procurement procedure. And on that page there was a  
4 heading entitled "Spares for Shop Instrumentation" and I  
5 asked you whether gaskets and bellows were included  
6 under that heading. Have you had the opportunity to  
7 determine an answer to that question yet?

8 A (WITNESS YOUNGLING) Yes. Gaskets would not  
9 necessarily be an example. Bellows might. A pointer  
10 might. A dial face.

11 Q When you use the word "might" are you  
12 suggesting that you don't know what items would be under  
13 that list entitled "Spares for Shop Instrumentation"?

14 A (WITNESS YOUNGLING) If I were making a list  
15 up, I would put those items on it.

16 (Counsel for Suffolk County conferring.)

17 Q So your testimony is that gaskets and bellows  
18 would be on that list? Is that correct?

19 A (WITNESS YOUNGLING) I said bellows. Yes, I  
20 said bellows. I do not think I would put gaskets on  
21 that list.

22 Q Thank you. Now also yesterday, we were  
23 referring from time to time to the SP-12.012.01, which  
24 is the procedure on maintenance work request, and I  
25 would ask you to turn to that document if you would for

1 a moment. It is Attachment 49 to the LILCO pre-filed  
2 testimony.

3 Now, if you would turn to page 24 of the  
4 maintenance work request procedure, it is identified as  
5 Appendix 12.2, page 1 of 7, and it is entitled  
6 "Safety-Related Structures, Systems and Components List  
7 (Appendix B, OQA Manual)." What does the reference,  
8 Appendix B, OQA Manual mean?

9 MR. ELLIS: What page and line number again,  
10 please?

11 MR. DYNNER: This is page 24 of the  
12 procedure, Appendix 12.2, page 1 of 7, and it is the  
13 heading -- I think you may find, Mr. Ellis, that is in  
14 my copy the pages are slightly out of sequence. I think  
15 in my copy, page 24 follows page 25.

16 (Panel of witnesses conferring.)

17 WITNESS MULLER: The reference Appendix B, OQA  
18 Manual is incorrect. That list applies -- that list was  
19 derived from a document, a previous document that no  
20 longer exists. The list is effective.

21 BY MR. DYNNER (Resuming):

22 Q The list is effective with respect to this  
23 procedure, but there is no OQA Manual, Appendix B any  
24 longer? Is that correct?

25 (Panel of witnesses conferring.)

1           A       (WITNESS MULLER) The QQA Manual has been  
2 replaced by the QA Manual.

3           Q       Thank you. Now this list identifies  
4 structures, systems and components considered safety  
5 related for the purpose of completing Item 17 of the  
6 maintenance work request, doesn't it?

7           A       (WITNESS MULLER) It does provide guidance.  
8 Once again, in order to determine whether a component is  
9 safety related one would have to go back to the design  
10 documents.

11          Q       Now, my question was that this list is a list  
12 of the structures, systems and components that shall be  
13 considered safety related for the purpose of completing  
14 Item 17 of the maintenance work request, isn't it?

15                   (Panel of witnesses conferring.)

16          A       (WITNESS MULLER) That does not provide a list  
17 of all components; that is just a summary.

18          Q       Well, my question is a paraphrase of the first  
19 sentence of Appendix 12.2, which I will now read and ask  
20 you to tell me if you read the same sentence as I am  
21 about to read. "The structures, systems and components  
22 listed in this appendix shall be considered safety  
23 related for the purpose of completing Item 17 of the  
24 maintenance work request."

25          A       (WITNESS MULLER) That is what appears on that

1 page, yes.

2 Q Thank you.

3 (Counsel for Suffolk County conferring.)

4 Q Now this list of items is not consistent with  
5 FSAR Table 3.2.1.1 which identifies items in Category 1  
6 of LILCO, is it?

7 MR. ELLIS: I object to the question. In the  
8 first place it's asking about a document that they do  
9 designate, I don't believe, in their list of documents  
10 that they were going to go through. And also -- and I  
11 think that it would have enabled us, if they told us  
12 about it before hand, if we could go through and make a  
13 line-by-line comparison.

14 I also object to its relevancy. The purposes  
15 of the list are not the same, and the witness has  
16 already testified that the design documents are the base  
17 documents for determining it.

18 JUDGE BRENNER: Let me hear the question  
19 again. Could you repeat it? Otherwise, I will get it  
20 read back. Do you want it read back?

21 MR. DYNNER: Yes, you might read it back just  
22 for accuracy.

23 (The reporter read the record as requested.)

24 JUDGE BRENNER: Now, which document was  
25 designated, Mr. Ellis? The FSAR table or the procedure?

1 MR. ELLIS: No, sir, the procedure. The FSAR  
2 table was not designated, either. I hope I'm not  
3 mistaken in those two. I'm looking very quickly. If I  
4 am, I'm sure Mr. Dynner will correct me. I don't see  
5 the station procedure referenced in the letter setting  
6 forth the documents.

7 JUDGE BRENNER: I don't have the supplemental  
8 letter.

9 MR. DYNNER: Well, Judge Brenner, it was not  
10 identified because it was not a document that I thought  
11 I would be examining extensively on. I still don't  
12 believe I'm going to be examining extensively on it.  
13 The document is certainly repeatedly referred to in the  
14 pre-filed testimony of the witnesses, and it was  
15 referred to by the witnesses yesterday.

16 In addition, in a letter from counsel for  
17 LILCO dated October 22nd addressed to Mr. Lanpher of my  
18 firm, listing attachments to the LILCO pre-filed  
19 testimony on which LILCO intends to rely, Enclosure 1  
20 specifically refers to this SP in Attachment 49. And  
21 while I made every effort, as indicated in my letter, to  
22 identify in advance those portions of the OQA program  
23 that I would be questioning on extensively, I didn't  
24 believe that the Board's directions in this regard were  
25 intended to be a complete bar.



1 JUDGE BRENNER: Okay, let me cut you off  
2 because I think I have a solution.

3 (Board conferring.)

4 JUDGE BRENNER: All right, the objection as  
5 phrased is overruled. The subject is relevant. What  
6 you later show in your findings as to what they used and  
7 didn't use is going to be a function of the whole  
8 examination, so we can't use that point to rule out the  
9 inquiry into the list and procedures, when there are  
10 lists purporting to be what the title of this list  
11 states.

12 In terms of not designating the document, this  
13 isn't a document that the county is coming up with; this  
14 is a document in the direct testimony of LILCO. I  
15 thought you were going to make that argument at that  
16 point, and I guess you came close to it, Mr. Dynnar.  
17 But it is not the county's document being pulled in on  
18 cross examination for the first time.

19 However, on balance, it would have been nice  
20 to state even though it was a LILCO testimonial  
21 attachment, that you were going to use that list.  
22 Because your questioning is extensive. You don't  
23 measure the extent of it by the number of questions. It  
24 is what you're asking the witness to do. It's one  
25 question but you're asking him to go through, possibly

1 go through a list of seven pages long, comparing item by  
2 item.

3 Now, I don't know if that is necessary or not  
4 for the answer, so I'm going to allow the witnesses to  
5 answer your question. However, if the answer is they  
6 don't know unless they go through each and every item,  
7 that is the answer we're going to stay with. We're not  
8 going to stop and go through each and every item now.  
9 That is the balance we will draw.

10 WITNESS MULLER: Judge Brenner, we would have  
11 to go through each and every item.

12 JUDGE BRENNER: Do you know now that there are  
13 some differences that you can tell us about without  
14 going through every item? And I'm talking about your  
15 present knowledge.

16 WITNESS MULLER: I think we would have to go  
17 through every item.

18 JUDGE BRENNER: I tried with the follow-up,  
19 Mr. Dynner. Go ahead. Do you want to ask them what if  
20 they are different; what stems from that? Well, I will  
21 ask them that. What if they are different? Is that an  
22 incompatibility that affects assuring that the  
23 replacement materials get the proper review?

24 WITNESS MULLER: No. We would have to go,  
25 once again, back to the design documents.

1 BY MR. DYNNER (Resuming):

2 Q The page 1 of 7 on Appendix 12.2 at the very  
3 bottom indicates Revision 8, and the date is January 26,  
4 1982. Is this the latest copy of this procedure  
5 currently in effect?

6 A (WITNESS MULLER) I will have to check that  
7 out. I don't think the list has changed. There may  
8 have been other minor revisions to the procedure. I  
9 think the list is still the same in any revisions that  
10 may have occurred.

11 (Counsel for Suffolk County conferring.)

12 Q Are you aware, Mr. Muller, that the FSAR Table  
13 3.2.1.1 was changed as late as April of this year?

14 A (WITNESS MULLER) I was not aware. Once again,  
15 that is only a summary table.

16 JUDGE BRENNER: Which table did you reference  
17 in your question? The 3.2.1?

18 MR. DYNNER: 3.2.1.1.

19 JUDGE BRENNER: It was later than April. But  
20 go ahead. Did your question mean to imply changed in  
21 the sense of a formal revision to the FSAR?

22 MR. DYNNER: Yes, Judge Brenner.

23 JUDGE BRENNER: Well, it was changed at the  
24 hearing. I don't recall whether or not it was a  
25 revision incorporating those changes. But I will let it

1 go for now.

2 BY MR. DYNNER (Resuming):

3 Q On Appendix 12.2 that we have been referring  
4 to there is a reference to Item 17, the maintenance work  
5 request. And if you turn to page 34 of the procedure,  
6 there is a copy of the maintenance work request form,  
7 and Item 17 says after it, SECPD, and then REQ'D. Could  
8 you tell me what that means?

9 A (WITNESS MULLER) The reference to Item 17 is a  
10 typo; it should be 16. SECPD means station equipment  
11 clearance permit.

12 Q So it is your testimony --

13 A (WITNESS YOUNGLING) I would like to add to  
14 that that the typo will be corrected. One of the  
15 reasons we put these procedures in place as early as we  
16 can is to shake them down, and a typographical error  
17 like that would be caught during the shakedown period.  
18 As far as its significance to the procedure, I don't  
19 think it means that much to the procedure. It is a typo  
20 and it will be corrected.

21

22

23

24

25

1 Q How long has this procedure been in effect?

2 A (WITNESS MULLER) Since January 26, 1982.

3 Q Well, is that the date which I see on the  
4 first page of Revision 8, or is that the date that the  
5 original procedure went into effect?

6 A (WITNESS YOUNGLING) That is the date of  
7 Revision 8.

8 A (WITNESS MULLER) And I think the reason why  
9 the typo may not have been picked up is because everyone  
10 is aware that safety-related box refers to Appendix 12.2  
11 and not the station equipment clearance permit.

12 Q Now, my question was: Do you know how long  
13 this procedure has been in effect; not how long this  
14 particular revision has been in effect?

15 A (WITNESS YOUNGLING) No, I don't. I would  
16 have to check.

17 JUDGE BRENNER: Well, I take it -- maybe I am  
18 wrong -- but more particularly, your question is: Do  
19 you know how long a version of this procedure with that  
20 typographical error has been in effect? Is that what  
21 you really want to know?

22 MR. DYNNER: Well, I wouldn't phrase it that  
23 way, Judge Brenner, but I will follow up the concept  
24 that you are suggesting, which I think is the correct  
25 concept.

1 BY MR. DYNNER: (Resuming)

2 Q How long, do you know, a version of this  
3 procedure containing Appendix 12.2 has been in effect?

4 A (WITNESS MULLER) I think this was the first  
5 revision with that appendix in there. The maintenance  
6 work request procedure had undergone major revision. I  
7 don't remember if it was Revision 8 or Revision 7.

8 (Counsel for Suffolk County conferred.)

9 A (WITNESS MULLER) And I would also like to add  
10 that the plant staff had no safety-related components  
11 under their jurisdiction during the previous revisions.

12 Q Well, if we turn to page 2 of this procedure,  
13 in paragraph 3.2 you see a reference to Appendix 12.2  
14 there, don't we?

15 A (WITNESS YOUNGLING) Yes.

16 Q And in the margin on that page you see some,  
17 at various places, some vertical lines with an "8" next  
18 to it. Could you tell me what those lines signify?

19 A (WITNESS MULLER) Those would indicate the  
20 changes in Revision 8.

21 Q And there is no such line opposite the list,  
22 the listing of Appendix 12.1 or 12.2, is there?

23 A (WITNESS MULLER) No, there is not.

24 Q So it is fair to assume that this procedure  
25 has been in effect with Appendix 12.2 prior to January

1 26, 1982, isn't it?

2 A (WITNESS MULLER) Yes.

3 Q So that your shakedown period is a rather long  
4 shakedown period, isn't it?

5 A (WITNESS YOUNGLING) This plant has been  
6 around for a while, yes.

7 Q Well, I am referring to --

8 A (WITNESS YOUNGLING) The period would be a  
9 long period, yes.

10 Q I am referring to your statement that there  
11 was a shakedown period for procedures during which time,  
12 presumably, errors in the procedures would be caught and  
13 rectified?

14 A (WITNESS YOUNGLING) It's hard to tell from  
15 this procedure whether that typographical error was  
16 carried through from Revision 0 through all of the  
17 subsequent revisions through 8 or whether it appeared at  
18 7 as a result. I would have to review all eight  
19 revisions to be sure of that.

20 Q And just so we would know what your testimony  
21 is, when you refer to the "typographical error," you  
22 have testified that not only on that page is there an  
23 error in the reference to Item 17 but also there is an  
24 error in the heading stating "Appendix B OQA Manual."  
25 And also, you stated that the statement contained in

1 that first sentence, that this is the list of  
2 structures, systems, and components that shall be  
3 considered safety-related for the purpose of completing  
4 Item 17," is not, as you testified, a complete  
5 statement. Isn't that true?

6 A (WITNESS MULLER) Yes, that is not a complete  
7 list of all of the safety-related structures, systems,  
8 and components. That is only a summary list.

9 (Counsel for Suffolk County conferred.)

10 Q And if you could turn back a few pages to  
11 Appendix 12.1, which is on page 21, entitled  
12 "Safety-related Job List," is that list a complete list  
13 or only a summary?

14 (Witnesses conferred.)

15 A (WITNESS MULLER) That list is a summary list  
16 which provides guidance. There could be other  
17 activities that would be performed and would be  
18 considered safety-related on safety-related components.  
19 Each job would have to be evaluated by the section head  
20 and the QQAE or the QQA section.

21 (Counsel for Suffolk County conferred.)

22 JUDGE MORRIS: While there is this pause,  
23 gentlemen, let me ask -- maybe you have said this  
24 already -- are these procedures in use now at the plant?

25 WITNESS MULLER: Yes, they are, Judge Morris.



1 JUDGE MORRIS: How long have they been in use?

2 WITNESS MULLER: A number of years. I am not  
3 sure of exactly how many.

4 JUDGE MORRIS: Thank you.

5 BY MR. DYNNER: (Resuming)

6 Q Now, under this procedure there is no OQA  
7 review with respect to non-safety-related items, is  
8 there?

9 A (WITNESS MULLER) OQA review for  
10 non-safety-related items or activities is not required  
11 for this procedure. We do, in fact, receive all copies  
12 of the maintenance work request. And I would like to  
13 add that we do audit the maintenance work request  
14 program to assure that the proper copies are sent to us  
15 and reviewed.

16 MR. DYNNER: Judge Brenner, I am going to move  
17 now to one of the items in J on the cross plan.

18 BY MR. DYNNER: (Resuming)

19 Q Gentlemen, you have testified that activities  
20 involving replacement parts and other activities are  
21 subject to inspection by the OQA section, pursuant to in  
22 one instance QAPS 10.3, entitled "Station Operational  
23 Quality Assurance Inspection Control," which is referred  
24 to on page 220 of your prefiled written testimony and  
25 which is Attachment 45 to your testimony. Is that

1 correct?

2 A (WITNESS MULLER) That is correct.

3 Q Now can we turn, please, to QAPS 10.3.

4 Paragraph 4.1 of this procedure references the LILCO  
5 quality assurance manual, doesn't it?

6 A (WITNESS MULLER) Yes, it does.

7 MR. DYNNER: Mr. Ellis is asking me -- this is  
8 an Attachment 45 to the LILCO prefiled testimony, Mr.  
9 Ellis.

10 MR. ELLIS: I am sorry, I thought you were  
11 referring to your Exhibit 76. Thank you.

12 (Pause.)

13 JUDGE BRENNER: Why don't you continue?

14 BY MR. DYNNER: (Resuming)

15 Q Let me just identify this. This is QAPS 10.3,  
16 Revision 0, with an effective date of 5/23/80. And that  
17 is the document you have before you; is that correct?

18 A (WITNESS MULLER) That is correct, Revision 0,  
19 dated 5/23/80.

20 Q And is this the latest copy of this document  
21 and currently in use?

22 A (WITNESS MULLER) Yes, it is.

23 Q Now, paragraph 4.1 does not refer to any  
24 specific section of the QA manual, does it?

25 A (WITNESS MULLER) No.

1 Q What section of the QA manual does it, in  
2 fact, refer to?

3 A (WITNESS MULLER) Section 10.

4 Q Would you turn to section 10 of the QA manual,  
5 please? Section 10.2 of the QA manual is entitled  
6 "Responsibilities." And in section 10.2.1 there is a  
7 reference to the "ISI agent," and to the "in-service  
8 inspection program plan. And there is no other  
9 reference -- strike that. There is no description or  
10 definition of the ISI agent or of the in-service  
11 inspection program plan in this manual, is there?

12 A (WITNESS MULLER) No, there is not. The "ISI"  
13 stands for "in-service inspection."

14 Q And the in-service inspection program plan is  
15 not attached to this manual, is it?

16 A (WITNESS MULLER) The in-service inspection  
17 plan is a separate manual. It is provided, it is a  
18 service provided by an outside contractor, audited by  
19 the quality assurance department.

20 A (WITNESS YOUNGLING) The in-service inspection  
21 plan is a plan to meet the requirements of the technical  
22 specifications and the federal regulatory requirements  
23 to perform inspections of piping systems and so forth.  
24 That plan stands as a separate document, and it has been  
25 submitted to NRC. We have to have a preservice

1 inspection plan and an operating inspection plan. It is  
2 a separate document.

3 Q And in section 10.2.2 there is reference to  
4 LILCO organizations requisitioning safety-related items  
5 and/or services. And there is no identification of who  
6 those organizations are, is there, in this procedure?  
7 Strike that. In this section of the manual?

8 A (WITNESS MULLER) No. But once again, those  
9 are the responsible LILCO organizations that we  
10 discussed earlier.

11 Q Now, if we turn to page 2 of this section, in  
12 section 10.3.1, there is a requirement that a number of  
13 LILCO organizations must document the scope of their own  
14 inspection programs, isn't there?

15 (Witnesses conferred.)

16 A (WITNESS MULLER) Yes.

17 Q And there is no identification of who the  
18 organizations are that have quality control inspection  
19 responsibilities in this section, is there?

20 A (WITNESS MULLER) No.

21 Q And there is no written list of any procedure  
22 or part of this manual that would tell you who those  
23 organizations are, is there?

24 A (WITNESS MULLER) No, there is no list because  
25 the number of organizations could change. If we hired a

1 contractor to perform an activity for us, he may be  
2 required to have a quality control program.

3 Q So the definition of who has the  
4 responsibility for preparing inspection programs is up  
5 to the determination of individuals and is not  
6 documented, is it?

7 (Witnesses conferred.)

8 A (WITNESS MULLER) It is not documented in a  
9 list. However, the organizations having quality control  
10 inspection responsibility must document their programs.

11 Q But they haven't documented in this case, have  
12 they?

13 MR. ELLIS: Mr. Dynner, I am not sure why they  
14 were done. I can see why you might have thought they  
15 were done, but I am not sure they were.

16 BY MR. DYNNER: (Resuming)

17 Q Please proceed.

18 A (WITNESS YOUNGLING) I would just like to add  
19 that part of Mr. Muller's charter would be to, and the  
20 other QA department organizations, would be to audit  
21 through audit and surveillance to ensure that there was  
22 such a program in place.

23 Q Well, my question, Mr. Youngling, was that  
24 even if the QQA program has audit responsibilities,  
25 there is no documentation as to who they would audit

1 because there is no identification in the DQA program as  
2 to who are the responsible organizations that must  
3 prepare various inspection programs, is there?

4 A (WITNESS YOUNGLING) To answer one question,  
5 who must prepare, there is no list. The second  
6 question, as to who the DQA organization must audit,  
7 they must audit the plant staff organization. The QA  
8 department personnel are responsible for the other  
9 organizations in the program.

10 JUDGE BRENNER: The question wasn't who the  
11 auditors are. The question is who the auditees are and  
12 how do you know that?

13 WITNESS MULLER: The auditees are determined  
14 by the audit schedule, both the operational QA audit  
15 schedule and the quality assurance department schedule.

16 JUDGE BRENNER: And how do you know which ones  
17 to put on the schedule?

18 WITNESS MULLER: The audit schedule for both  
19 quality assurance department and the operating quality  
20 assurance section are approved by the quality assurance  
21 manager. The DQAE and the quality assurance department  
22 division managers provide the input as to who should be  
23 audited, and they provide that input on the schedule.

24 And I think what we are getting at is at the  
25 site there is only one group responsible -- not at the

1 site but at the operating plant there is only one group  
2 responsible for the inspection program, and that is  
3 operational quality assurance. If we hire a contractor  
4 to do some work and we need the assistance of an outside  
5 inspection firm, the inspection firm would be  
6 responsible for providing an inspection program. And it  
7 would be my responsibility to review their program or  
8 the quality assurance department's responsibility to  
9 review that program.

10 That is where we are getting into each  
11 organization having quality control responsibilities. I  
12 think we just wanted to -- we didn't want a defined list  
13 because we could, in fact, have other organizations  
14 involved in quality control. And, Judge Brenner, we  
15 would know who that was because that would be part of a  
16 purchase contract.

17 BY MR. DYNNER: (Resuming)

18 Q And because each organization documents the  
19 scope of its own inspection program you have numerous  
20 inspection programs rather than a single inspection  
21 program, don't you?

22 A (WITNESS MULLER) At present we only have one  
23 inspection program. That is the operational quality  
24 assurance program. We do not have any contractors  
25 sleighted for performing inspection during operations.

1 Q So your testimony is that at the present time  
2 under section 10.3.1 there is only a single organization  
3 in LILCO that has quality control inspection  
4 responsibilities; is that correct?

5 (Witnesses conferred.)

6 A (WITNESS MULLER) In the operating plant,  
7 yes. In construction there is Stone & Webster field  
8 quality control.

9 Q All right. So --

10 A (WITNESS MULLER) And Courter & Company. And  
11 that is once again construction and not operations.

12 Q And in the operating area would you include  
13 the ISI agent?

14 A (WITNESS MULLER) If LILCO does not perform  
15 that inspection, the ISI agent would be one of the  
16 organizations having quality control and inspection  
17 responsibilities, yes.

18 Q So that is a second one, isn't it?

19 A (WITNESS MULLER) That would be a second one.  
20 I am not sure that the program has been fully -- well,  
21 it has not been implemented if it has not been required  
22 to be implemented. We are not in service yet.

23 (Witnesses conferred.)

24 A (WITNESS MULLER) Mr. Youngling has reminded  
25 me that the contract has been let, so, yes, the ISI



1 inspection agency would have quality control inspection  
2 responsibility.

3 Q And is all receiving inspection done by one  
4 organization?

5 A (WITNESS MULLER) At the station, yes.

6 Q And outside of the station?

7 A (WITNESS MULLER) That would once again be  
8 during construction, Stone & Webster field quality  
9 control.

10 Q And during operations?

11 A (WITNESS MULLER) Only operational quality  
12 assurance. Mr. Dynner, do you want me to keep to  
13 operations?

14 Q Well, I think, Mr. Muller, it has gotten a bit  
15 confusing because some of your answers say at the  
16 station. And for clarity's sake, let me ask you this:  
17 Is it true, isn't it, that operational quality assurance  
18 is not limited to operating quality assurance at the  
19 station, is it? For example, there is the QA  
20 department, isn't there, as part of the operational QA  
21 program?

22 (Witnesses conferred.)

23 A (WITNESS MULLER) They are part of the quality  
24 assurance program for operations. They do not perform  
25 inspections at the present time.

1 (Pause.)

2 Q Now, would you please turn back to the  
3 inspection control procedure QAPS 10.3, to page 3 of  
4 that procedure? Section 5.8 requires the documentation  
5 of unsatisfactory inspection results in accordance with  
6 the QA manual, doesn't it?

7 A (WITNESS MULLER) Yes, it does.

8 Q But it doesn't reference which is the  
9 applicable section of the QA manual, does it?

10 A (WITNESS MULLER) No, it does not. But it is  
11 understood that our program and the LILCO deficiency  
12 report pro s our method of complying with the  
13 requirements of the LILCO QA manual.

14 Mr. Dynner, I would like to add that that is  
15 the only way that we have to document nonconforming  
16 conditions, is our one procedure. So everyone is aware  
17 of that. Anyone at the station can implement an LDR, or  
18 should I say, initiate an LDR, not implement.

19 Q Now, in section 9.5.1 there is a reference to  
20 safety-related activities. There is no definition of  
21 the word "activities," is there?

22 A (WITNESS MULLER) No, there is not.

23 Q And as you define the word "activities," does  
24 it include a piece of equipment?

25 A (WITNESS MULLER) An activity would be an

1 action performed to a piece of equipment.

2 Q But not the piece of equipment itself, is that  
3 correct?

4 A (WITNESS MULLER) An activity is not a piece  
5 of equipment. A receipts inspection would be an  
6 activity performed on a piece of equipment.

7 Q Now, as an example, would you consider  
8 inspection to be an activity?

9 A (WITNESS MULLER) Yes, inspection is an  
10 activity.

11 Q And section 5.9.1 permits inspection of  
12 safety-related activities to be carried out only by  
13 surveillances, doesn't it?

14 (Witnesses conferred.)

15 A (WITNESS MULLER) No. Surveillance is only  
16 one means.

17 Q But it could be the only one, couldn't it?

18 A (WITNESS MULLER) If that is what is  
19 appropriate and that is what is required, yes.

20 Q And this procedure doesn't provide any  
21 criteria, standards, or guidelines for choosing whether  
22 surveillance in one of the other three kinds of  
23 activities are appropriate, does it -- excuse me --  
24 surveillance of the other two?

25 A (WITNESS MULLER) The document that authorizes

1 the activity to be performed, such as installation,  
2 provides criteria for the installation. The criteria  
3 for the installation would also include inspection  
4 responsibility and inspection points, such as  
5 installation to a specification or installation to a  
6 procedure. That procedure provides specific criteria to  
7 be inspected to. And in addition, we can prolong  
8 surveillance in process-type of inspection on certain  
9 activities, such as welding.

10 The inspections may not be required in process  
11 by code or standard; however, that doesn't prevent QQA  
12 from performing inspections to ensure that the proper  
13 inspections are being applied during the process.

14 Q But those would not provide guidance or  
15 direction to QQA personnel as to whether they ought to  
16 perform a surveillance or some other kind of activity,  
17 would it?

18 A (WITNESS MULLER) The documents would provide  
19 criteria for inspection.

20 Q Listen to the question. The documents would  
21 not provide guidance or instructions as to whether QQA  
22 personnel should perform a surveillance or one of the  
23 other kinds of activities listed in this procedure,  
24 would they?

25 A (WITNESS MULLER) Yes, they would. Mr.

1 Dynner, the documents would provide us information as to  
2 where we would have to include inspection points. An  
3 example would be nondestructive examination, we are  
4 required to perform that examination by the ASME code in  
5 certain instances. That would indicate that we would  
6 have to perform an inspection at that point during the  
7 work process.

8 Q And this procedure does not provide standards  
9 or criteria for what is an acceptable or unacceptable  
10 inspection report, does it?

11 (Witnesses conferred.)

12 A (WITNESS MULLER) An acceptable inspection  
13 report would be an inspection report that is not  
14 discovered -- has not discovered any deficiencies.  
15 Paragraph 5.8 notes that any deficiencies or  
16 unsatisfactory inspection results must be identified on  
17 an inspection report.

18 Q But paragraph 5.10 allows the elimination of  
19 what is called "minor deficiencies," doesn't it?

20 A (WITNESS MULLER) It allows the elimination,  
21 but it also provides for the documentation and  
22 reverification that the deficiencies are, in fact,  
23 corrected. An example of that might be if an inspector  
24 discovers that a screw is loose on an electrical  
25 termination, rather than go through the paperwork, he

1 may have the responsible technician, in fact, tighten up  
2 the screw, and he would verify that all the connections  
3 are, in fact, tight. That would be an example of a  
4 minor deficiency.

5 Q Now, we have referred here to surveillances.  
6 Is a surveillance a planned and scheduled event?

7 A (WITNESS MULLER) A surveillance is a planned  
8 event. In some cases it is not scheduled in a sense  
9 that we perform it when the activity is ongoing. We do  
10 not schedule it on a master plan because we do not know  
11 when the activity will occur. Perhaps during a  
12 maintenance activity we would prepare a surveillance  
13 plan based upon the requirements of the maintenance  
14 procedure.

15 We would verify through the surveillance that  
16 the activities are properly being followed. This would  
17 be in addition to inspections. The inspection points  
18 would be stamped in the procedures. This would allow us  
19 to verify other conditions than those that we have  
20 already stamped as inspection hold points. The  
21 inspection hold points provide a minimum coverage. The  
22 surveillance plan adds to our verification program.

23 Q And the procedure to be followed for  
24 surveillance is QAPA 10.5, isn't it?

25 A (WITNESS MULLER) That is correct. The

1 surveillances are documented for that procedure.

2 Q When you say that the surveillances are  
3 documented under that procedure, you are suggesting that  
4 a surveillance results in a completed surveillance plan;  
5 is that correct?

6 A (WITNESS MULLER) That is correct.

7 Q And is that surveillance plan required to  
8 become a part of the work package in going to the  
9 station OQA file?

10 A (WITNESS MULLER) It would go into the station  
11 OQA file.

12 Q Well, if we look for a moment at QAPS 10.5,  
13 which is in the County's Exhibit 76, section 6 says it  
14 may be retained for inclusion in the station OQA file,  
15 doesn't it?

16 A (WITNESS MULLER) That is what it says.

17 Q So that is not a requirement, is it?

18 A (WITNESS MULLER) It is a quality assurance  
19 record, and it must be maintained. It is a lifetime  
20 document.

21 Q I think you misunderstood my question. My  
22 question was that there is no requirement that the OQA  
23 surveillance plans and other documentation must  
24 necessarily be retained for inclusion in the station OQA  
25 file; isn't that correct?

1 (Witnesses conferred.)

2 JUDGE BRENNER: Well, you changed your  
3 question a little.

4 MR. DYNNER: I did? If I did, it was  
5 inadvertent.

6 JUDGE BRENNER: First you wanted to know  
7 whether there is any requirement that it must be  
8 maintained in the work package. Then you asked him  
9 whether there is any requirement that it must be  
10 maintained in the station OQA file. I don't know the  
11 extent of the overall outputs. Those two things are  
12 distinguished in section 6.0. But I will get an answer  
13 to each one.

14 WITNESS MULLER: Generally, the inspection  
15 packages are part of the work package. They are part of  
16 the complete work package that includes our inspection  
17 plans. The surveillance plans are normally kept within  
18 the OQA filing system. They may become part of the work  
19 package. That is not the everyday case. They are  
20 maintained by us, but they do reference the work package  
21 to which they belong. At a later date we may decide to  
22 include them all in the work package. But they are  
23 permanent plant lifetime records, and they must be  
24 maintained.

25 (Counsel for Suffolk County conferred.)



1           JUDGE BRENNER: You are testifying, in effect,  
2 that the language in 6.0 as applied means that they will  
3 be maintained in either of those two places. I suggest  
4 that somebody could read the language in 6.0 and assume  
5 that means you can put it, you can keep the surveillance  
6 plans with the respective work package or include them  
7 within the station OQA file or keep them no place,  
8 because of the word "may." How does somebody reading  
9 this section not suffer from that incorrect approach and  
10 throw it out?

11           WITNESS MULLER: The OQA station personnel are  
12 aware that these records are permanent records and they  
13 are not thrown out. They must be maintained. The  
14 surveillance plans are tracked. They are given numbers,  
15 and they are sent to the permanent plant file along with  
16 the work packages. They may be sent separately.

17           JUDGE BRENNER: Now, the permanent plant file  
18 is not the station OQA file?

19           WITNESS MULLER: No, that is not the station  
20 OQA file. The station OQA files are sent to the  
21 permanent file as well as the work packages.

22           JUDGE BRENNER: When you said the surveillance  
23 plans were tracked, did you mean they are part of the  
24 computer system?

25           WITNESS MULLER: No. We have a manual

1 tracking system for the surveillance plans.

2 BY MR. DYNNER: (Resuming)

3 Q Now, under the requirements of section 5.1.1  
4 schedules must be developed for conducting surveillance  
5 activities, mustn't they?

6 A (WITNESS MULLER) Yes.

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1 Q And this section doesn't provide for an  
2 unscheduled surveillance, does it?

3 (Pause.)

4 A (WITNESS MULLER) It does say that we shall  
5 develop schedules. However, we do provide unscheduled  
6 surveillances for activities that we cannot plan for,  
7 such as maintenance.

8 Q But this procedure doesn't provide for  
9 unscheduled surveillances, does it?

10 (Witnesses conferring.)

11 A (WITNESS MULLER) This procedure does not. We  
12 perform them above the requirements of the procedure.

13 Q So there is no documented procedure for an  
14 unscheduled surveillance, isn't that correct? Strike  
15 that.

16 There are no written procedures which provide  
17 guidance as to how an unscheduled surveillance shall be  
18 carried out, is there?

19 A (WITNESS MULLER) Not as far as timing, but as  
20 far as implementation of the surveillance plan. This  
21 procedure provides us guidance and I think the  
22 difference between a scheduled surveillance and an  
23 unscheduled surveillance is that we provide a schedule  
24 of surveillances for activities that we can schedule.  
25 For activities that we cannot schedule, such as

1 maintenance testing, other activities, we do not provide  
2 a schedule.

3           Scheduled activities would include  
4 housekeeping, document control, lifted lead and jumper  
5 control, manual control, fire protection, housekeeping  
6 and various other administrative activities that  
7 continue throughout the life of the plant.

8           (Counsel for Suffolk County conferring.)

9           JUDGE BRENNER: We can take a morning break  
10 whenever you want. It doesn't have to be now. Are you  
11 going to finish up this procedure in the next few  
12 minutes?

13           MR. DYNNER: Judge Brenner, it would be  
14 convenient now, although I do have some additional  
15 questions. It is hard to say how long it will take.

16           JUDGE BRENNER: Okay. Let's break until  
17 10:55.

18           (A brief recess was taken.)

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1           JUDGE BRENNER: Okay, back to the subject of  
2 Torrey Pines for just a moment. We are going to make an  
3 extended loan of our copy to the County with the  
4 exception of the executive summary, which is only that  
5 very thin volume which is easily photocopied. So not  
6 having that will deprive you of nothing. The only  
7 reason we are not giving you the executive summary is  
8 Judge Morris has already marked his up.

9           The extended loan become permanent. That is,  
10 take it, keep it where you want. Mr. Hubbard, we will  
11 give it to you this afternoon. Mr. Hubbard can take it  
12 back to California. You can send it wherever. In  
13 effect, the County will have two copies. The LILCO copy  
14 will be here if you want to look at selected portions,  
15 but we thought this would make it more convenient for  
16 the County.

17           There may come a time when we want to take  
18 back one or two parts, but it wouldn't be on a short  
19 time frame and we can look at the LILCO copy here too  
20 from time to time, if necessary. We envision that the  
21 copies -- additional copies -- will have been made  
22 available by LILCO before we need this copy back and,  
23 therefore, you may never have to give us this copy  
24 back. And when LILCO gets additional copies, then we  
25 would appreciate two more, since we are giving this one

1 away.

2 The reason you can't have it now is I am still  
3 looking at some of the pictures over lunch. But you can  
4 have it this afternoon.

5 MR. DYNNER: That is a kind offer, Judge  
6 Brenner.

7 JUDGE BRENNER: Well, it is to help you and to  
8 help the proceedings both.

9 MR. DYNNER: Would you have, in view of your  
10 comments on it being possibly extended loan, would you  
11 have any problem if the extended loan lasts through the  
12 time when LILCO is able to come up with additional  
13 documents and furnish you with a fresh copy so that we  
14 could mark up the copy that you are going to lend us?

15 JUDGE BRENNER: Go ahead and mark it up. The  
16 probability is we will never need it back again.

17 MR. DYNNER: Thank you.

18 JUDGE BRENNER: Because we will be able to  
19 look at LILCO's copy for selected portions and, to be  
20 very honest, we don't think we will have to give it any  
21 in-depth look until further copies are available anyway,  
22 based upon the estimate of the next few weeks.

23 MR. BORDENICK: Judge Brenner, we can make a  
24 copy of the executive summary available to the County.  
25 I think we have made several copies of that.

1 JUDGE BRENNER: They have one copy and, as I  
2 say, that one is easily copyable. That is a kind offer,  
3 also. If it will help Mr. Hubbard get a copy to some  
4 part of the country today, perhaps he might want to take  
5 advantage of that, but you can talk about it. We  
6 thought he might want to carry it on the plane with  
7 him.

8 (Laughter.)

9 JUDGE BRENNER: Well, the long and the short  
10 of the matter is that we know, Mr. Hubbard, you have  
11 been back and forth across the country and you might  
12 have a location where you would like to put the copy we  
13 are giving you, and you can proceed with the examination  
14 now.

15 BY MR. DYNNER: (Resuming)

16 Q Gentlemen, let's look for a moment at Section  
17 5.1.1 of QAPS 10.5. That subsection provides that  
18 surveillance schedules shall be developed annually in  
19 general, but doesn't provide any guidance or  
20 instructions as to what is meant by "in general," does  
21 it?

22 A (WITNESS MULLER) No, but I think, Mr. Dynner,  
23 I misspoke. The "in general" is there because we do  
24 have what we call the unscheduled surveillance. All the  
25 surveillances that are performed are performed in

1 accordance with this procedure. What we mean by the  
2 scheduled surveillances are the surveillances that are  
3 shown on the schedules.

4           If we know when maintenance is being  
5 performed, we can schedule a surveillance. If we don't  
6 know when it is being performed, we cannot "schedule" or  
7 plan it ahead. If we have the procedures, we can come  
8 up with the pre-plans, but we cannot perform the  
9 surveillance until the activity occurs. That is what we  
10 mean by scheduled and unscheduled and I may have  
11 confused the issue, and if I did, I am sorry, but that  
12 is what we mean by generally.

13           We cannot put the maintenance surveillances on  
14 a rigid schedule because the maintenance activities are  
15 not on a rigid schedule.

16           Q       Well, this subsection doesn't say that  
17 surveillances shall be scheduled in general, does it?  
18 It says that in general these schedules shall be  
19 developed annually and reviewed and updated on a  
20 semi-annual basis if required. Isn't that what it  
21 says?

22           A       (WITNESS MULLER) That is what it says, and  
23 that is in fact what we do with the scheduled  
24 surveillances. We use two classifications of  
25 surveillance. We use scheduled and unscheduled.



1           Q       Well, if you are revising your prior  
2 testimony, which I understood to say that you agreed  
3 with my statement that there are no provisions,  
4 instructions or guidance set forth in this procedure  
5 with respect to unscheduled activities, would you please  
6 show me where in this procedure there is such guidance  
7 or there are such instructions or procedures with  
8 respect to unscheduled surveillances?

9           A       (WITNESS MULLER) In paragraph 1, the purpose,  
10 the purpose is to establish the station OQA requirements  
11 for planning, scheduling, conducting and documenting  
12 surveillance of safety-related activities. We cannot  
13 schedule the maintenance activities and we cannot  
14 schedule the maintenance surveillance, but we can plan  
15 them, we can conduct them, and we can document them.

16          Q       And that is the only provision that you are  
17 relying on in this procedure that you believe sets forth  
18 guidance and instructions with respect to unscheduled  
19 surveillance? Is that correct?

20          A       (WITNESS MULLER) That is correct, and that is  
21 totally adequate for the operational quality assurance  
22 engineer to assign short-term surveillance or to  
23 initiate surveillances on a short time period that we  
24 cannot schedule over the long time frame.

25          Q       Now let me go back to my initial question,

1 which is is there anything in this procedure that  
2 indicates or gives criteria, standards or guidance as to  
3 what is meant by the term "in general" in the second  
4 sentence of subsection 5.1.1?

5 A (WITNESS MULLER) The "in general" means that  
6 the QQAE can make changes to the schedule.

7 Q Do you agree that the term "in general" means  
8 usually --

9 (Witnesses conferring.)

10 A (WITNESS MULLER) In the judgment of the QQA  
11 engineer, "in general" does not mean usually. It means  
12 we prepare an annual schedule. If we need to update it  
13 on an interim basis, we can, and we do prepare a  
14 schedule of administrative surveillances on an annual  
15 basis and we do update it as required.

16 There are activities that we may want to add  
17 after the first quarter or after a month or after one  
18 activity is initially started at the station.

19 Q So there are no criteria or standards in this  
20 procedure for determining when it is not necessary to  
21 develop a schedule annually or review and update it on a  
22 semi-annual basis, is there?

23 A (WITNESS MULLER) There is no criteria written  
24 in the procedure, but the operating quality assurance  
25 engineer can provide input to the schedule and can amend

1 the schedule.

2 Q And looking at section 5.1.2, aside from the  
3 examples given in that section there is no or there are  
4 no standards, criteria or provisions which give further  
5 guidance as to what the surveillance schedule shall  
6 contain, is there?

7 A (WITNESS MULLER) No, there is not, but that  
8 is based upon the activities being performed at the  
9 station.

10 Q So that again this is a matter that is up to  
11 the interpretation of the OQA section, isn't that  
12 correct?

13 A (WITNESS MULLER) That is correct. It is up  
14 to the individual in charge of the OQA section in order  
15 to assure that implementation of the general program is  
16 being accomplished.

17 Q And in section 5.2.2 there is no listing of  
18 the applicable documents to be reviewed other than the  
19 illustration set forth there, is there?

20 A (WITNESS MULLER) No, there is not because  
21 some of the applicable documents -- well, there are over  
22 1,400 station procedures and they are included in the  
23 applicable document category.

24 Q Well, they would be procedures, wouldn't  
25 they?

1 A (WITNESS MULLER) That is correct.

2 Q And it does list procedures and it does list  
3 specifications and it does list references to Appendix  
4 3.2, doesn't it, but those are given as illustrations.  
5 And my question is that there is nothing else which is  
6 set forth or listed that would enable the reader to  
7 determine exactly which applicable documents are  
8 required to be reviewed, is there?

9 A (WITNESS MULLER) That would be up to the DQAE  
10 and the person initiating the surveillance plan to  
11 review the activities and the documents that are  
12 required to verify that those activities are being  
13 performed in accordance with the proper steps.

14 Q And then if we turn the page to page three  
15 now, in subsection 5.4.2 there are incorrect references  
16 to non-conformance reports, aren't there?

17 A (WITNESS MULLER) No, that is not correct.  
18 The reference 2.1 goes back to the LILCO quality  
19 assurance manual, which includes a section on  
20 non-conformance reporting. We implement the  
21 requirements of the QA manual through our own station  
22 operating quality assurance procedures.

23 Q Well, there is no identification in that  
24 subsection as to which is the applicable section of the  
25 QA manual which is being referenced, is there?

1           A       (WITNESS MULLER) No, there is not, and it is  
2 not required. The individuals that work in my section  
3 are well aware of the procedures they need to perform  
4 their jobs.

5           Q       And the capitalized term Non-Conformance  
6 Reports are not defined here, are they?

7           A       (WITNESS MULLER) They are not defined here.  
8 Once again, we only have one way or one procedure for  
9 controlling, implementing non-conformance reports.

10          Q       And in fact it should really say LILCO  
11 deficiency report and not non-conformance reports,  
12 shouldn't it?

13          A       (WITNESS MULLER) It is not required to be  
14 that specific. Everyone is trained and qualified. They  
15 know how to use the QA procedures.

16          Q       So that you use capitalized terms in these  
17 procedures in a variety of interchangeable ways, don't  
18 you?

19          A       (WITNESS MULLER) Yes, we do, but the people  
20 using the procedures understand the procedures and know  
21 how to use them.

22          Q       Now, Mr. Muller, could you describe for me the  
23 difference between an inspection and a surveillance as  
24 you understand it in OQA section.

25          A       (WITNESS MULLER) As defined in paragraph

1 4.3.1, surveillance, the physical presence to monitor by  
2 observation designated activities to assure that they  
3 are performed in a specific manner. Surveillance, as we  
4 use it, is a prepared checklist which includes  
5 references to procedures.

6 We go through a step-by-step verification  
7 which is usually monitored by observation to verify that  
8 the step-by-step procedural steps are in fact followed.  
9 I need a second to get to the inspection definition.

10 JUDGE BRENNER: That paragraph you just read  
11 was from QAPS 10.5, correct?

12 WITNESS MULLER: That is correct.

13 Going to QAPS 10.3, paragraph 4.4.1,  
14 inspection is that phase of quality assurance which by  
15 means of examination, observation or measurement  
16 determines the conformance of material suppliers or  
17 components, systems, processes or structures to  
18 predetermined quality requirements.

19 We use the inspection as a visual verification  
20 of physical measurements of parts to assure that they  
21 conform to drawings, specifications or procedural  
22 requirements.

23 BY MR. DYNNER: (Resuming)

24 Q Now so that I can get some clarification and  
25 if you go back to the definition that you just referred

1 to in QAPS 10.5 on surveillance --

2 JUDGE BRENNER: Let me suggest that we stay  
3 with 10.3 because the exact definition is repeated in  
4 section 4.4.3 of that nomenclature and you can look at  
5 it all on one page.

6 MR. DYNNER: Thank you, Judge Brenner.

7 BY MR. DYNNER: (Resuming)

8 Q You testified earlier that activities, as you  
9 use the word, an activity does not include a piece of  
10 equipment. Does that mean that -- but it would include  
11 an activity such as an inspection or something that is  
12 being performed by people on a piece of equipment,  
13 possibly, or on something else?

14 A (WITNESS MULLER) That is generally what an  
15 activity is.

16 Q So that, as I understand the definition and  
17 your explanation, there could be no surveillance of a  
18 piece of equipment or a structure component or a part or  
19 a system, is that correct?

20 A (WITNESS MULLER) There could be a  
21 surveillance of a part or a system as far as you could  
22 perform surveillance, a surveillance activity, which you  
23 verify cleanliness. If a part had debris on it, we  
24 would perform a surveillance of the area which would  
25 include the part and we would note that it had in fact a

1 non-conforming condition.

2 JUDGE BRENNER: Mr. Dynner, I don't know how  
3 much more you are going to have on this line, but I'm  
4 not sure where it is going in terms of your larger  
5 issue. I take it you are exploring the distinction or  
6 lack thereof between inspection and surveillance and  
7 have been for some time now, correct?

8 MR. DYNNER: Well, that is true, Judge  
9 Brenner, and I am also exploring whether and to what  
10 extent these written procedures adequately satisfy or  
11 fail to satisfy the requirements of Appendix C because  
12 of the way in which they are written, their  
13 completeness, et cetera.

14 JUDGE BRENNER: Right, I know that. And, more  
15 particularly, that goes to your point 1 under J in your  
16 cross plan, but I don't understand how all of this time  
17 on the differences or lack thereof of inspection and  
18 surveillance is going to get you to J-1 unless you show  
19 that ergo that leads to some problem, and you are just  
20 caught in this very narrow spot.

21 It may be it leads to a problem, maybe it  
22 doesn't, but I am not going to find out if we just stay  
23 where you are. I thought by now you might have asked  
24 the witnesses if they agree that the definitions overlap  
25 and are not mutually exclusive and, if they do agree,



1 what does that mean -- you know, in order to get more  
2 directly to your point 1 under J in your cross plan --  
3 because I don't think it is worth the time so far.

4 You may find something that draws the  
5 connection which proves otherwise.

6 MR. DYNNER: Well, I hoped I was getting to  
7 that point in this inquiry about the definition of  
8 surveillance, because what I have had so far is what I  
9 believe to be a contradiction that was developed in the  
10 answer to the last question. Initially the witness said  
11 that surveillance was, as defined here, of an activity,  
12 and an activity did not include a piece of equipment.  
13 And now the witness has just testified that you can have  
14 surveillance of the cleanliness of a part which is of a  
15 piece of equipment.

16 JUDGE BRENNER: Well, I am not sure the  
17 witness -- I understand that.

18 MR. DYNNER: I am trying to develop the fact  
19 that there are inconsistencies and ambiguities in these  
20 procedures.

21 JUDGE BRENNER: Yes, and you are entitled to  
22 do that if you want to, but my point is I think you are  
23 operating on a more micro level than necessary to get  
24 where you want to go, depending upon their answers to  
25 some other questions.

1           You may have to in fact get at that level if  
2 they give you an answer that you would then want to  
3 impeach through these kind of details, but for all I  
4 know they may not be stating that these definitions are  
5 mutually exclusive. Maybe there is overlap and maybe  
6 that matters and maybe it doesn't in terms of your  
7 section J under the cross plan. I don't know.

8           But why don't you see what the witnesses think  
9 about that first? They may agree with you that some of  
10 these things are similar under both definitions. I am  
11 trying to help, honestly, even if you don't perceive  
12 that at any given moment.

13           (Counsel for Suffolk County conferring.)

14           BY MR. DYNNER: (Resuming)

15           Q       Gentlemen, is surveillance performed on  
16 maintenance activities by the QQA section?

17           A       (WITNESS MULLER) Yes. Surveillance is  
18 performed of maintenance activities. However, if I can  
19 clarify the difference, I will try.

20           Q       Excuse me, what difference are you referring  
21 to?

22           A       (WITNESS MULLER) Between a surveillance and  
23 inspection.

24           Q       That wasn't my question. My question was  
25 whether surveillance is performed on maintenance

1 activities.

2 A (WITNESS MULLER) Surveillances are performed  
3 and inspections are performed. Inspections are specific  
4 requirements; surveillances may not be required by Code  
5 standards or other procedures. They are applied by the  
6 QQA program to assure implementation of the program.

7 JUDGE BRENNER: Why don't we let him clarify  
8 the difference and then if you don't like it, or if you  
9 do like it, depending upon your purpose, you can take it  
10 from there.

11 MR. DYNNER: Sure.

12 BY MR. DYNNER: (Resuming)

13 Q You wanted to add something to your previous  
14 answer?

15 A (WITNESS MULLER) A maintenance activity may  
16 require specific inspection. Using an example of  
17 welding, certain welding requires fitup inspection,  
18 final visual inspection, and non-destructive  
19 examination. These are classified as inspections. We  
20 would be required to perform each of these activities  
21 under the inspection program.

22 We may also perform a surveillance of that  
23 activity that is not required by the codes or  
24 standards. In that surveillance we may verify that the  
25 operator has properly set up his equipment, he is using

1 the right essential variables in the welding process, he  
2 has the proper material that he is using. We can also  
3 verify this through documentation as far as the use of  
4 materials.

5 But the surveillance is not required by the  
6 code standards or procedures to which the activity is  
7 being performed. The surveillance is over and above the  
8 inspection requirements. Both activities may require  
9 visual observation. Does that help?

10 Judge Brenner, I am doing the best I can.

11 JUDGE BRENNER: If you are asking me, I don't  
12 know if I care, frankly, because I don't know if the  
13 lack of specificity in understanding a full distinction  
14 between surveillance and inspection matters in terms of  
15 the way these procedures then go on to implement those  
16 terms, so I'm not going to answer your question.

17 It depends upon what else exists as to whether  
18 I still have a lack of understanding.

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1 BY MR. DYNNER: (Resuming)

2 Q And does the OQA section carry out all of the  
3 inspections of maintenance activities on site?

4 A (WITNESS MULLER) Yes, we do, as required by  
5 the code standard specifications and procedures.

6 (Counsel for Suffolk County conferred.)

7 A (WITNESS MULLER) Mr. Dynner, I think I also  
8 did mention previously the in-service inspection  
9 program. We do not perform that inspection; that is  
10 done by a contractor. That is not presently going on.  
11 My answer was in the present tense and not in the future  
12 tense.

13 (Counsel for Suffolk County conferred.)

14 Q Gentlemen, is there anything in the  
15 maintenance work request procedure which provides that  
16 the OQA section carries out inspections of maintenance  
17 work?

18 A (WITNESS MULLER) That is provided through the  
19 requirement that the maintenance work request, the  
20 safety-related maintenance work request, first has to be  
21 reviewed by the operational quality assurance section.  
22 The operational quality assurance section then reviews  
23 the maintenance work request and identifies the  
24 inspections that are required from the code standards  
25 and applicable specifications or procedures. That is

1 noted on page 11, step 31 of SB-1201301, paragraph C  
2 under blue copy.

3 Q Well, that paragraph that you are referencing,  
4 as I read it, only indicates the maintenance work  
5 request is forwarded to OQA. My question is whether  
6 there is anything here that requires that OQA perform  
7 inspections on maintenance work?

8 A (WITNESS MULLER) The inspections are included  
9 in our traveler when it is returned to the maintenance  
10 coordinator, who is required to have our traveler prior  
11 to his initiating work.

12 Q I didn't understand the word. Could you  
13 repeat that slowly? Your "traveler," it sounded like  
14 you said?

15 A (WITNESS MULLER) That is correct. The blue  
16 copy is a traveler for the maintenance work request. It  
17 is a multipart form. The maintenance coordinator is  
18 required to receive our copy back which would indicate  
19 what inspections are required to be performed. He  
20 cannot start the work until he receives our copy back.  
21 Our copy would either be the blue traveler or a traveler  
22 sheet that describes the inspection requirements.

23 JUDGE BRENNER: He wanted to know what a  
24 "traveler" was or why you call it a "traveler," I think.

25 WITNESS MULLER: A traveler is an attachment

1 to the work package. There are, in the case of the  
2 maintenance work requests, three travelers: one for the  
3 fire protection permit, one for CQA, and one for the  
4 radiation work permit.

5 In order to start work, the maintenance  
6 coordinator needs all of these forms back. The purpose  
7 of the MWR is to initiate the work and coordinate all of  
8 the activities. More than maintenance is involved in a  
9 maintenance work request. At some plants it is called a  
10 "job order" or "work order." Maintenance doesn't apply  
11 to a single department; it applies to a general activity.

12 JUDGE BRENNER: In some plants it's called a  
13 "job ticket," which implies the mobility of it more than  
14 the title you used; is that correct?

15 WITNESS MULLER: That is correct.

16 BY MR. DYNNER: (Resuming)

17 Q So your testimony is that there is an  
18 identification of the inspection work that has to be  
19 performed; is that correct?

20 A (WITNESS MULLER) Yes, there is.

21 Q Where is it provided that CQA conducts an  
22 inspection of maintenance work?

23 A (WITNESS MULLER) If inspection is required,  
24 CQA is the section that provides that inspection.

25 Q And where is that provided?

1           A       (WITNESS MULLER) The procedures that are  
2 included in the maintenance package provide the  
3 inspection points. That is why we receive the working  
4 copy of the procedures: first, to review the  
5 procedures; and second, to indicate the inspection  
6 points.

7           Q       So that this procedure does not, in fact,  
8 anywhere in its text require DQA to carry out an  
9 inspection on maintenance work; is that correct?

10           MR. ELLIS: Which procedure are we now  
11 referring to?

12           MR. DYNNER: The SP on maintenance work  
13 request that we have been reviewing.

14           MR. ELLIS: I would like the witnesses to have  
15 the time to look through the whole thing if they need to.

16           JUDGE BRENNER: Well, let them worry about  
17 whether they need to or not.

18           WITNESS MULLER: The traveler provides input  
19 to maintenance for DQA inspections. The traveler is  
20 part of the procedure and part of the maintenance work  
21 request package.

22           BY MR. DYNNER: (Resuming)

23           Q       And if we look at Appendix 12.4 on page 32 of  
24 this SP, there is no provision there for DQA review or  
25 for DQA inspection, is there?



1 (Witnesses conferred.)

2 MR. ELLIS: Which page again, Mr. Dynner?

3 MR. DYNNER: Page 32, Appendix 12.4, which is  
4 a flow sheet.

5 WITNESS MULLER: The flow sheet does not  
6 indicate OQA inspection. The procedures in the work  
7 package indicate the points of OQA inspection.

8 WITNESS YOUNGLING: Mr. Dynner, the procedures  
9 in the plant that we have been talking about, the 1400  
10 of them, a great deal of them deal with maintenance  
11 activities.

12 Those procedures have within them hold and  
13 inspection points by the OQA organization. They are  
14 predetermined in many instances as a result of the  
15 approval cycles that we talked about earlier this week.

16 BY MR. DYNNER: (Resuming)

17 Q Does the OQA section also establish test  
18 requirements for maintenance work?

19 A (WITNESS MULLER) The test requirements are  
20 established by the technical personnel involved.

21 Q And is the technical person involved a member  
22 of the OQA section?

23 A (WITNESS MULLER) No, he is not. He is a  
24 member of the plant staff, and he is required to provide  
25 the testing requirements on the maintenance work request.

1 (Counsel for Suffolk County conferred.)

2 Q So there is no CQA involvement on the testing  
3 requirements for maintenance work; is that correct?

4 A (WITNESS MULLER) That is not correct. We  
5 once again get the working copies of all of the  
6 procedures in the work package prior to the work  
7 starting. We can perform surveillance of the test  
8 activities. We also have to review the complete package  
9 prior to closeout.

10 A (WITNESS YOUNGLING) Again, as we testified  
11 earlier this week, the technical people within the plant  
12 staff make the determination of the extent of testing,  
13 the type of testing. Mr. Muller's organization will  
14 ensure that that testing is carried out.

15 Q Gentlemen, could you turn for a moment to  
16 Appendix C of the QA manual, page 1 of 2? Now, you  
17 testified yesterday, I believe, that this is a complete  
18 and accurate list of the current procedures of the QA  
19 department; is that correct?

20 A (WITNESS MULLER) Page 1 of 2 is a correct and  
21 accurate list of the QA department procedures.

22 Q Do you have those QA department procedures  
23 with you?

24 A (WITNESS MULLER) No, sir.

25 Q Are you familiar with any of the QA department

1 procedures?

2 A (WITNESS MULLER) I would need them in front  
3 of me. They are not part of my day-to-day working  
4 procedures. They are for the QA department, not the  
5 operating quality assurance section.

6 Q And do they form a part of the QA program for  
7 the Shoreham plant during operations, don't they?

8 A (WITNESS MULLER) They are a part of the QA  
9 program for operations, yes.

10 Q Gentlemen, do you have, is it possible for you  
11 to easily obtain a copy of the QA department procedures?

12 A (WITNESS MULLER) Yes. I think we have one  
13 upstairs.

14 Q You have one upstairs?

15 A (WITNESS MULLER) Yes.

16 Q I think we can defer this line of questioning  
17 with the request that perhaps you bring those down with  
18 you after lunch.

19 MR. DYNNER: This is an area, Judge Brenner,  
20 which I did not plan before the cross-examination  
21 commenced to get into at all.

22 Based upon the witnesses' answer yesterday to  
23 my question and the way that the cross-examining is  
24 developing, I would like to ask some, a number of short  
25 questions. I don't intend to examine them in detail at

1 all on these procedures the way I have been examining  
2 them on the procedures of the CQA section. But I think  
3 that as far as the completeness of the QA program for  
4 operations, the line of questioning would be relevant  
5 and material.

6 JUDGE BRENNER: Can you tell them which ones?

7 MR. DYNNER: Yes.

8 JUDGE BRENNER: And which subparts of them?

9 MR. DYNNER: I won't be questioning them on  
10 the documents in any detail or subparts of the document,  
11 but just in general.

12 Specifically on the following QAP numbers, and  
13 your reference is section C, page 1: QAP number 2.1,  
14 2.6, 3.1, 3.3, 7.1, 7.3, 15.1, and 16.1.

15 As I say, so that the witnesses don't feel  
16 that my -- strike that. My questions will not be  
17 extensive, and the witnesses should not feel that they  
18 have to spend the lunch break carefully reviewing in  
19 detail these documents because I will not be asking a  
20 lot of questions as to their substance or going into  
21 every sentence. My questions will be quite general.

22 JUDGE BRENNER: Well, the questions may be  
23 general, but I have trouble believing, frankly, that you  
24 are going to be able to ask a few questions, based upon  
25 what I have seen in this hearing so far, about eight

1 procedures.

2 MR. DYNNER: If I should get into any detail  
3 that is considered to be unfair to the witnesses, I  
4 would hope that the Board or Mr. Ellis would stop me.  
5 And I will obviously voluntarily stop. I do feel that  
6 the few things that I am going to ask will be material,  
7 and I will hope you will accept my word on that.

8 JUDGE BRENNER: Well, I am not doubting your  
9 intent. What I am doubting is the way it will work out  
10 in practice, given their need for answers. Let me make  
11 that clear. You are still talking about that subject  
12 J-1 of your cross plan?

13 MR. DYNNER: Yes. And I think it is relevant  
14 to B as well.

15 JUDGE BRENNER: If there are just a few  
16 questions, why don't you ask them now without getting  
17 the answers, and then they could think about it while  
18 they read the documents? You are putting the witnesses  
19 at a terrible disadvantage. If I was them, I would read  
20 them thoroughly, not withstanding what you said. And  
21 you would, too, I submit. You don't have to put it in  
22 question form now, but tell them what you want to ask  
23 about.

24 MR. DYNNER: If the Board wants to, I can  
25 state the points that I believe would be developed in

1 cross in this very short cross-examination, and ask the  
2 witnesses to look at these documents over lunch and  
3 verify whether or not they are accurate. So I will ask  
4 the questions now, and they can verify it later. There  
5 are really three areas. I think maybe that would cut  
6 all of this short, and people could relax about it  
7 because it is not a big long cross-examination.

8 JUDGE BRENNER: I got that impression from  
9 what you said, and that is why I thought maybe going at  
10 it this way would not prejudice the County in any way.  
11 I mean if you feel it would, you don't have to do it.  
12 But I think it would be better.

13 MR. DYNNER: I don't mind doing it.

14 BY MR. DYNNER: (Resuming)

15 Q The first question: Is it true that QAP  
16 numbers 2.1, 3.1, and 15.1 are not applicable during the  
17 operations phase of the Shoreham plant?

18 JUDGE BRENNER: Why don't you just go through  
19 them all.

20 BY MR. DYNNER: (Resuming)

21 Q The second question: Is it true that QAP  
22 numbers 2.6, 3.3, 7.1, 7.3, and 16.1 refer to either  
23 engineering QAPs or the engineering QAP department?

24 And a follow-up: Isn't it true that in  
25 accordance with the QA manual, during operations there

1 is no engineering QA department?

2 (Counsel for Suffolk County conferred.)

3 JUDGE BRENNER: Based upon my listing, you  
4 have now included each of the procedures you said you  
5 would ask about in those questions. That doesn't mean  
6 you don't have other questions?

7 MR. DYNNER: Let's limit it to that then,  
8 Judge Brenner.

9 JUDGE BRENNER: I am not going to limit you  
10 per se. That is, depending upon their answer, you may  
11 have some follow-up. But at least we have got the crux  
12 of the subject matter now.

13 Did you want to say something, Mr. Ellis?

14 MR. ELLIS: Well, before, I was at a little  
15 more disadvantage than I am now in terms of inquiring  
16 into the relevancy. I still do not see the relevancy of  
17 this examination. In addition, I would point out that  
18 none of these are listed on their list of documents to  
19 be used in the examination.

20 JUDGE BRENNER: He said that already. I mean  
21 he conceded that in his request.

22 MR. ELLIS: And I do not see how they relate  
23 to the contention.

24 JUDGE BRENNER: Well, I see a relationship.  
25 And I think I have the advantage of having the cross

1 plan. So I am not criticizing your point.

2 I am not sure it would have been immediately  
3 apparent without the cross plan, and I am not ruling now  
4 for the finding stage that we will think it relevant and  
5 material. But I see enough of a connection now to allow  
6 him to ask it. And that is as far as I need to go. If  
7 the witnesses don't know the answers, we will deal with  
8 that.

9 Okay, we will go until around 12:15. And the  
10 reason I didn't recognize you earlier, Mr. Ellis, is I  
11 knew you were going to ask for which procedures, and I  
12 knew I was going to ask for the same thing, so I decided  
13 to save time.

14 (Pause.)

15 BY MR. DYNNER: (Resuming)

16 Q Gentlemen, you have testified on page 223 of  
17 your prefiled testimony as to the portion of the QA  
18 program which you believe provides for identification  
19 and control systems. And the reference in your  
20 testimony there is to section 8 of the QA manual. Would  
21 you turn for a moment to section 8 of the manual?

22 (Pause.)

23 Q Now, gentlemen, in section 8.3.1 there is no  
24 identification specifically of the organizations  
25 responsible in that paragraph, is there?



1 A (WITNESS MULLER) No, there is not.

2 Q And there is no further description of what  
3 the term "et cetera" means there, is there?

4 (Pause.)

5 A (WITNESS MULLER) No, there is no definition.

6 Q And in section 8.3.2 on page 2 of section 8  
7 there is no identification as to who shall prepare the  
8 procedures referred to, is there?

9 A (WITNESS MULLER) There is no identification.  
10 However, the same responsible organizations that are  
11 responsible for the activities in 8.3.1 are required to  
12 provide those procedures.

13 Q And in section 8.3.3, aside from the  
14 illustrations, there is no comprehensive list with  
15 respect to the proper identification of materials,  
16 parts, and components providing a means of tracability  
17 between the items and appropriate documents, is there?

18 A (WITNESS MULLER) There is no specific list of  
19 materials, parts, and components that would require the  
20 tracability. The tracability requirement is specified  
21 in the procedures in the purchase documents and certain  
22 ASME codes.

23 Q And those codes are not referred to in this  
24 section of the QA manual, are they?

25 A (WITNESS MULLER) The codes are not

1 specifically listed. They are taken into account in the  
2 implementing procedures.

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1 Q And the implementing procedure for this  
2 section, for the CQA Section, is QAPS 8.1, isn't it?

3 A (WITNESS MULLER) QAPS 8.1 is the implementing  
4 procedure for the Operational Quality Assurance  
5 Section. The plant has other procedures, and other  
6 sections that are required to have procedures to have  
7 their procedures, also.

8 Q And that requirement is with respect to the  
9 other organizations referred to in the Section 8 of the  
10 manual, correct?

11 A (WITNESS MULLER) Could I have that question  
12 again, please?

13 MR. DYNNER: Would you read the question,  
14 please?

15 (The reporter read the record as requested.)

16 BY MR. DYNNER (Resuming):

17 Q That was to the previously-referenced Section  
18 8.3.1 that was referred to in the witness's answer.

19 A (WITNESS MULLER) That is correct.

20 Q So there is no uniform system for identifying  
21 and controlling materials, parts and components to  
22 preclude the use of incorrect or defective items in the  
23 station, is there?

24 A (WITNESS MULLER) There is a uniform system.  
25 The uniform system is identified in Section 8 of the

1 LILCO QA Manual.

2 Q But the procedures that are written by each  
3 one of the organizations may differ; is that correct?

4 A (WITNESS MULLER) They may differ in  
5 appearance, but the requirements are still there. The  
6 types of numbering systems used may not be uniform from  
7 department to department, but within LILCO one would be  
8 able to trace the system of identification.

9 Q And in order to be sure that there were no  
10 numbering systems in one department that were the same  
11 as the numbering system, and used identical numbers or  
12 tags as another department, there would have to be  
13 communication among the various departments having their  
14 own procedures, wouldn't there?

15 A (WITNESS MULLER) That is correct, and the  
16 Quality Assurance Department is responsible for  
17 reviewing those procedures.

18 Q And there is no reference to all of those  
19 procedures in Section 8 of the QA Manual, is there?  
20 Specifically, that is.

21 A (WITNESS YOUNGLING) No, there is no specific  
22 reference. I'm having difficulty in understanding the  
23 point. The materials and the parts and the components  
24 that have come into the station come in through a  
25 central receiving area; the warehouse. There are

1 procedures in there to accept and receive those  
2 materials, and those materials are identified in  
3 accordance with the procedures. I don't think that  
4 there is any problem there at all.

5 Q Yes. Well, Mr. Youngling, since you've asked  
6 me for an explanation, by way of explanation, my  
7 questions are going not to what you do but to what your  
8 procedures and your manual in the Operating QA area  
9 provide.

10 Now, if we look for a moment at QAPS 8.1 in  
11 paragraph 1 entitled "Purpose," the statement is that  
12 the purpose is to establish the requirements for the  
13 identification and control of material, parts and  
14 components, isn't it?

15 A (WITNESS MULLER) Yes.

16 Q And there is no definition in this procedure  
17 of any of those terms, material, parts or components, is  
18 there?

19 A (WITNESS MULLER) No, there is not.

20 Q How do you define those three terms?

21 (Panel of witnesses conferring.)

22 Strike that. Are material, parts and  
23 components the same?

24 A (WITNESS MULLER) No, they are not.

25 JUDGE BRENNER: Just to avoid a possible

1 confusion on the record when we read it, what you're  
2 asking is: do you think materials, parts and components  
3 are the same. And we got the answer.

4 MR. DYNNER: I would only append what you say  
5 to say that the term used in this procedure is material,  
6 singular, and not materials, plural.

7 JUDGE BRENNER: Okay. I was looking at the  
8 manual.

9 JUDGE MORRIS: Nevertheless, the comma is  
10 important.

11 MR. DYNNER: Yes. I will rephrase the  
12 question if you like.

13 JUDGE BRENNER: No, that's okay. It's all  
14 straightened out. I just didn't know if I would  
15 remember it when I read the transcript sometime in the  
16 future.

17 BY MR. DYNNER (Resuming):

18 Q Now in paragraph 4.1 there is a reference to  
19 the QA Manual, but there is no reference to the  
20 applicable section of the QA Manual, is there?

21 A (WITNESS MULLER) There is no specific  
22 reference to the section of the QA Manual, and, Mr.  
23 Dynner, it is not required.

24 Q And it is not required because people in the  
25 CQA Section just know it by looking at it, right?

1           A       (WITNESS YOUNGLING) Just like Mr. Muller was  
2 able to find the procedure when you asked him.

3           Q       With the help of identifying it for him,  
4 didn't it?

5                   Now, is the intention of this procedure in  
6 paragraph 4.2 to eliminate the verification of  
7 implementation of the program by inspection, by virtue  
8 of the absence of that word where it says that  
9 verification will be through audit or surveillance?

10                   (Panel of witnesses conferring.)

11           A       (WITNESS MULLER) That simply means that we  
12 verify the complete program of identification and  
13 control of material through verification and audit.  
14 Other requirements are that we be there when these parts  
15 and materials are identified and received and inspected  
16 and the numbers are placed on the proper documents, so  
17 these items can be traced throughout their life in the  
18 plant.

19           Q       I phrased the question very badly, and I  
20 apologize. Let me try to rephrase it. Paragraph 4.2, --

21                   JUDGE BRENNER: You don't think he answered it?

22                   MR. DYNNER: I didn't understand him to answer  
23 it.

24                   JUDGE BRENNER: I thought he answered it, but  
25 go ahead.

1 BY MR. DYNNER (Resuming):

2 Q Paragraph 4.2 provides for a verification of  
3 the program by audit or surveillance, but does not  
4 provide for a verification by inspection, does it?

5 A (WITNESS MULLER) Paragraph 4.2 is in a  
6 discussion section of the procedure; it is not in the  
7 requirement section of the procedure. Verification of  
8 the overall program is provided through audit and  
9 surveillance. We are also required, at the time of  
10 receipt inspection, to verify that these numbers are, in  
11 fact, coinciding with the proper documents and that  
12 these numbers are continuously traced, or these numbers  
13 are transferred to permanent plant documents so that we  
14 can trace these numbers throughout the life of the  
15 plant. And that is part of our receipt inspection, and  
16 that is described in Section 5.

17 Q Now, this procedure does not provide for the  
18 identification and control of equipment, does it?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) It does require  
21 identification of the equipment.

22 A (WITNESS YOUNGLING) Mr. Dynner, maybe an  
23 example might be a pump. If it is delivered, this  
24 equipment, an impeller, which is part of a pump, is a  
25 part. Bar stock to be used to machine a shaft for the



1 pump is material.

2 Q Well, what I'm referring to is the fact that  
3 while the purpose of this procedure deals with material,  
4 parts and components, if you look at, for example,  
5 subsection 5.1.3, that deals only with material, doesn't  
6 it?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) Mr. Dynner, that paragraph  
9 does refer only to material. However, as part of the  
10 receipt inspection process, one of the attributes on the  
11 inspection plan is identifications and markings. So  
12 every piece of equipment material and every component  
13 that comes into the plant must be identified as a part  
14 of the receipt inspection process.

15 Q The title of paragraph 5.1 of this procedure  
16 is "Receiving of Material." And 5.2, the title is  
17 "Issue of Material." In 5.2.5 entitled "Transfer of  
18 Numbers" it deals only with the transfer of numbers of  
19 material, and the title of paragraph 5.3 is "Returned  
20 Material," isn't it?

21 A (WITNESS MULLER) Yes, it is. And by the term  
22 "material" we mean anything, as far as this procedure is  
23 concerned, as being safety related. Material includes  
24 parts, components, equipment.

25 Q So you are changing your testimony when you

1 first stated that the term "material" is different from  
2 the term "parts and components", aren't you?

3 (Panel of witnesses conferring.)

4 A (WITNESS MULLER) Mr. Dynner, "material, parts  
5 and components" could all be considered "material"  
6 items. There are materials included in parts and  
7 components, and there are parts included in components.

8 Q Now, --

9 JUDGE BRENNER: Could I jump in? If you had  
10 used terms consistently throughout this procedure, QAPS  
11 8.1, wouldn't the title of 5.1 be "Material, Parts and  
12 Components" and then so on throughout the rest of the  
13 procedure in the parts that Mr. Dynner asked you about?  
14 And my premise for that is the Section 1.0, Purpose of  
15 the Procedure, and in part the title of the procedure,  
16 although that is not a full match.

17 WITNESS MULLER: Judge Brenner, it may have  
18 been clearer if we had said Material, Parts, and  
19 Components. By "material" in Section 5 we mean  
20 basically anything that is being received.

21 JUDGE BRENNER: But isn't that usage of the  
22 word "material" not fully consistent with the way you  
23 used "material" in the Purpose section, and in fact, not  
24 fully consistent with the very nice distinction by  
25 example that Mr. Youngling gave before, which

1 distinction was perhaps consistent with the Purpose  
2 section but not consistent with the way you used  
3 "material" in the other sections? Isn't that correct?

4 WITNESS MULLER: Yes. We could have been more  
5 articulate in the procedure.

6 JUDGE BRENNER: The question beyond  
7 articulateness is how does somebody implementing this  
8 procedure not make the mistake of applying the  
9 requirements only to material to the exclusion of parts  
10 and components, if that person implementing it is  
11 thinking of material in the sense of Mr. Youngling's  
12 distinction? That is, a distinction from parts and  
13 components, or a a distinction from equipment, if you  
14 want to lump parts and components under another label  
15 together.

16 WITNESS MULLER: Judge Brenner, all of the  
17 inspection people know that anything that comes into the  
18 plant has to be identified. Materials, components. It  
19 has to be identified so you know what it is.

20 JUDGE BRENNER: Is there a procedure that  
21 spells out that they have to identify --

22 WITNESS YOUNGLING: Yes, Judge Brenner. I'm  
23 looking at plant staff station procedure 12.019.02.

24 WITNESS MULLER: I'm not sure you have that,  
25 Judge Brenner.

1 JUDGE BRENNER: Why don't you give the title  
2 of the procedure, too?

3 WITNESS YOUNGLING: Yes. "Receiving Parts,  
4 Materials and Components." And under Section 8.2,  
5 Identification of Items for Purchase Order, there's a  
6 step that says, "As cartons and materials are unloaded,  
7 storage personnel shall inspect cartons for damage  
8 caused during shipping due to exposure or rough  
9 handling, fire or load shifting." Step 8.4 states that  
10 "Items identified by purchase order to be Category 1  
11 should be placed in the quality control hold area of the  
12 storeroom unless it is impractical to do so due to size  
13 limitations."

14 In a substep to that procedure it talks about,  
15 "Material that OQA cannot tag with a hold/reject tag  
16 shall be removed from the quality control area in a  
17 timely manner."

18 My point is that the items, all-inclusive,  
19 that come in are identified against the purchase order  
20 and inspected. And you will find further on in the  
21 procedure that the tagging mechanism that we use is  
22 called the material tag, and that is the tag. And we  
23 may put that on a piece of equipment, a component or a  
24 part.

25 JUDGE BRENNER: All right. Why don't we chew

1 on that while we chew on lunch and then come back?

2 MR. DYNNER: Judge Brenner, if we're going to  
3 be discussing that document which has not been  
4 identified and which I haven't seen and reviewed,  
5 perhaps I would be able to get a copy of that over lunch?

6 MR. ELLIS: Well, that is fine, but let me  
7 point out that they did have access to all the station  
8 procedures during the discovery period.

9 JUDGE BRENNER: All right. Show it to him  
10 over lunch. I'm not going to be discussing it anymore,  
11 so that's up to you. At least, I'm not presently  
12 planning on it.

13 Let's come back at 1:50.

14 (Whereupon, at 12:20 p.m., the hearing in the  
15 above-entitled matter was recessed for lunch, to  
16 reconvene at 1:50 p.m. the same day.)

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AFTERNOON SESSION

(1:50 p.m.)

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3 JUDGE BRENNER: Okay, we are back on the  
4 record. Mr. Bordenick, you wanted to cover something?

5 MR. BORDENICK: Yes, Judge Brenner. I just  
6 wanted to note for the record that the long-awaited  
7 letter that we were discussing this morning has  
8 arrived. It was issued yesterday and was telecopied  
9 down to my office this morning. I don't know whether  
10 the Board and the parties have had a chance to look at  
11 it. It is not a very lengthy letter.

12 JUDGE BRENNER: That is true.

13 MR. BORDENICK: And it is, you will note that  
14 a number of the items have the response or the region  
15 has found the applicant's response acceptable; others it  
16 indicates that the matter has been referred to the  
17 Office of Nuclear Reactor Regulation, et cetera.

18 I have attempted over the lunch hour to urge  
19 the Office of Nuclear Reactor Regulation to set up a  
20 meeting with the applicant as soon as possible to  
21 finally resolve any matters. And, of course, the County  
22 will be invited to that meeting once a time is set.

23 As far as the rest of the letter, it is brief  
24 enough. It can speak for itself, I am sure.

25 JUDGE BRENNER: Yes. I guess they have us

1 doing some of their work too in item Appendix C.2.

2 MR. BORDENICK: I noticed that, Judge  
3 Brenner. I am not quite sure what they meant by that.

4 JUDGE BRENNER: Maybe you had better ask them  
5 before your witnesses take the stand. Maybe I will know  
6 better when I go back and take a look at the details of  
7 that particular item.

8 MR. BORDENICK: That was my problem. I am not  
9 sure of the details.

10 JUDGE BRENNER: I always enjoy phrases like  
11 "has been addressed." I don't know what that means in  
12 terms of acceptability or nonacceptability as far as the  
13 Staff is concerned.

14 MR. BORDENICK: I assume it means it has been  
15 addressed in the hearing process such that it is  
16 acceptable to the region. But I will verify my  
17 understanding of it.

18 JUDGE BRENNER: I don't know what we are going  
19 to do about it, but there are some things on which  
20 further clarification might be helpful, as you have  
21 indicated. And my statement was merely in agreement  
22 with your approach.

23 MR. ELLIS: Judge Brenner, one other  
24 preliminary matter, if I may. I had promised the Board  
25 that I would try to have the correspondence relating to

1 the I&E bulletin, and I have assembled the material. I  
2 had hoped that Mr. Kelly would be here. He is  
3 knowledgable about it. I had hoped he would be here,  
4 but he is still ill. I need to coordinate more with Mr.  
5 Bordenick. And would Monday or Tuesday be adequate for  
6 the Board's purposes?

7 JUDGE BRENNER: Yes. We always left it that  
8 whenever you are ready, so you don't have to tell us  
9 again as long as it is, hopefully, within the next week  
10 or so, or two.

11 MR. ELLIS: Thank you.

12 MR. BORDENICK: Judge Brenner, I did have one  
13 additional item along these lines. I think it was this  
14 past Tuesday -- unfortunately, I don't have the  
15 transcript with me -- we were talking about I think it  
16 was in response to Judge Morris' question on whether or  
17 not the Staff had any further review on ISIG. The Staff  
18 reviewer involved has had some minor surgery this week.  
19 He is expected back in the office either today or  
20 Monday, I think.

21 But I want to verify that the answer is going  
22 to be that the Staff does not have any further review.  
23 It turns out, coincidentally, that the reviewer in  
24 question is also one of the members of the Staff's panel  
25 on the QA/QC. So that if the Board has any follow-up



1 questions you would like to ask, he will be here at the  
2 time the Staff testifies.

3 JUDGE BRENNER: All right. Very good. Which  
4 one of the Staff witnesses would that be?

5 MR. BORDENICK: George Rabenbark (phonetic).  
6 (Discussion off the record.)

7 JUDGE BRENNER: Okay, let's go back on the  
8 record.

9 MR. ELLIS: Judge Brenner, the witnesses did  
10 address the questions. They addressed the questions as  
11 I wrote them down. If it is acceptable to the Board, if  
12 I could read the questions, and the witnesses I think  
13 have divided up the answers as they reviewed it, and so  
14 that they can give Mr. Dynner the information he wants.  
15 If my questions are different from Mr. Dynner's, he can  
16 follow up. I think we tried to give him the information  
17 that he is after. May I ask the questions?

18 JUDGE BRENNER: Do you want to do it that way,  
19 Mr. Dynner? It's okay with me. Or you could ask the  
20 questions, if you prefer.

21 MR. DYNNER: I think we can proceed that way.  
22 If I think there's a problem with a question, I will let  
23 you know.

24 Prior to that, Judge Brenner, yesterday you  
25 asked me to prepare in somewhat more detail some

1 questions that I might have in the time allowing on the  
2 NOMIS and the NPRDS. And it has now been prepared in my  
3 own handwriting. I hope you can read it.

4 JUDGE BRENNER: If I can read my handwriting,  
5 I can read anyone's. Why don't you give it to Mr.  
6 Brown? And I don't know if it will copy or not. If we  
7 could, get four copies for us.

8 (Pause.)

9 JUDGE BRENNER: Mr. Ellis, why don't you  
10 proceed?  
11 Whereupon,

12 ARTHUR R. MULLER

13 and

14 EDWARD J. YOUNGLING,

15 the witnesses on the stand at the time of recess, having  
16 been previously duly sworn, resumed the stand and  
17 testified as follows:

18 MR. ELLIS: Mr. Youngling and Mr. Muller, is  
19 it true that QAP numbers 2.1, 3.1, and 15.1 are not  
20 applicable during operations?

21 WITNESS YOUNGLING: No. The procedures 2.1,  
22 3.1, and 15.1 are applicable during operations. Those  
23 procedures are part of the QA manual, and as a result of  
24 an organizational change made as a result of moving  
25 closer to the operation of the plant, the nomenclature

1 of the QA department was revised from the EQA department  
2 to the QA department.

3 And in fact, the procedure 2.1 carries the  
4 designation on the top of the procedure "Engineering  
5 Quality Assurance Procedure 2.1" This particular  
6 procedure is presently in revision to correct the  
7 nomenclature changes and will reference or reflect the  
8 movement towards operation. However, the physical  
9 content of the procedure -- that is, the training aspect  
10 -- will remain as documented.

11 The procedure 3.1 carries the designation "QA  
12 Procedure.

13 MR. DYNNER: Excuse me. Could I interrupt for  
14 a one moment because I am confused, and perhaps the  
15 witness is confused. There were two questions that were  
16 asked, as you know, Mr. Ellis. The witness was  
17 answering the question on the procedure, as I understood  
18 him, with respect to its reference to the engineering  
19 quality assurance department.

20 MR. ELLIS: Yes.

21 MR. DYNNER: The question that was asked, I  
22 think, was its reference to whether it is applicable  
23 during the operations phase.

24 MR. ELLIS: The question was: Was it true  
25 that they were not applicable? And the answer was:

1 That was not true, but he was telling you that the  
2 procedure does say EQAP. The first one, 2.1, does refer  
3 to EQAP.

4 MR. DYNNER: And it is applicable during the  
5 operations phase? Is that your testimony?

6 WITNESS YOUNGLING: Yes, sir.

7 JUDGE BRENNER: As I understood what happened,  
8 you could have included that QAP in your second question  
9 also, although you didn't. And even though you didn't  
10 include it in your second question, the witness I think  
11 fairly is encompassing where you are going overall,  
12 although the answer was restricted to the three  
13 procedures referenced in the first question. I think  
14 that is what happened.

15 MR. DYNNER: Judge Brenner, is it acceptable  
16 for me to ask one or two follow-up questions as we go  
17 rather than wait until the end?

18 JUDGE BRENNER: I think the end is going to be  
19 just one more question.

20 MR. DYNNER: Well, let me ask a follow-up  
21 question, if I may.

22 JUDGE BRENNER: You can, but it might be more  
23 efficient to let Mr. Ellis finish.

24 MR. DYNNER: Well, on this particular QAP I am  
25 confused, so perhaps it would be helpful.

## 1 CROSS-EXAMINATION -- Resumed

2 BY MR. DYNNER:

3 Q Is the QAP 2.1 that you are referring to  
4 entitled "Engineering Quality Assurance Training,  
5 Revision 4," dated 1/1/77?

6 (Pause.)

7 A (WITNESS YOUNGLING) Yes, sir, that is correct.

8 Q And does your copy in paragraph 1, the second  
9 sentence, read as follows: "This procedure applies to  
10 the quality assurance training of LILCO personnel who  
11 are involved in quality-related activities during  
12 design, procurement, and construction of nuclear power  
13 plants"?

14 A (WITNESS YOUNGLING) Yes, it says that. As I  
15 was relating earlier, these procedures are presently  
16 under revision to correct the nomenclature change of  
17 EQAP or EQA where appropriate, and in addition, to add  
18 as necessary the terminology for operations. The  
19 personnel involved in that organizational change from  
20 EQA to QA were the same personnel, and it was merely a  
21 change in department nomenclature.

22 In addition, the training involved with that  
23 transition resulted in those people being instructed  
24 such that wherever "EQAP" was used, the QA was to be  
25 understood as it was a management decision that the

1 changing of the nomenclature in the procedure would be  
2 done on a schedule to support the operational phases of  
3 the plant. And we made a decision to wait until there  
4 were substantive changes in the procedures to be made,  
5 not just to make the changes to make the correction of  
6 EQAP to QAP.

7 MR. ELLIS: Mr. Muller or Mr. Youngling, would  
8 you go ahead? There are three procedures referenced --  
9 2.1, 3.1, and 15.1 -- in the first question.

10 WITNESS YOUNGLING: Yes. Looking at QA  
11 procedure 15.1, that does carry the QAP designation.  
12 And that represents an example of the change to the QAP  
13 designation that was issued in June of 1982. And it is  
14 an example of the nomenclature changes. And also, that  
15 procedure does reflect the operational aspect of the  
16 plant.

17 MR. ELLIS: Mr. Muller and Mr. Youngling, is  
18 it true --

19 MR. DYNNER: Excuse me. I am getting perhaps  
20 confused.

21 JUDGE BRENNER: Okay. We have put witnesses  
22 for different parties together in this proceeding, and  
23 now we are putting examinations together. Who knows  
24 what other trails we will blaze before the end of this.

25 (Laughter.)

1 BY MR. DYNNER: (Resuming)

2 Q Was the answer given to QAP 3.1 yet?

3 A (WITNESS YOUNGLING) Yes, sir.

4 Q And because of my confusion, could you clarify  
5 for me, was it your testimony as to QAP 3.1 that that  
6 QAP is applicable during the operations stage of the  
7 plant?

8 A (WITNESS YOUNGLING) That procedure was  
9 revised in August of 1980 to change the designation and  
10 the nomenclature in the procedure to the QAP  
11 nomenclature. If you look at the procedure, it talks in  
12 the purpose about design input changes from the Stone &  
13 Webster Engineering Corporation and the nuclear station  
14 project management. Those are the organizations  
15 involved in the construction aspects of the project.

16 This procedure is or will -- I am sorry -- is  
17 under revision to include the other organizations that  
18 will be making design input during the operational  
19 phase. So this is an example of a procedure that has  
20 gone through the nomenclature change but has not as yet  
21 gone through the operability aspect change.

22 Q So that so far as the procedure now exists,  
23 are we both speaking of Revision 4, dated 8/15 1980?

24 A (WITNESS YOUNGLING) Yes, sir.

25 Q Insofar as this procedure is concerned, at the

1 present time it does not apply to the plant during  
2 operations, during the operations phase; correct?

3 A (WITNESS YOUNGLING) No. As I testified  
4 earlier, these procedures, all of the procedures that  
5 were questioned, do apply to the operational phase at  
6 this point in the project. The design input is coming  
7 from the project management and Stone & Webster  
8 Engineering Corporation. As we move closer to  
9 operations, we will be revising the procedure to list  
10 the other organizations involved in providing design  
11 input.

12 Q Well, I don't want to belabor the point, Mr.  
13 Youngling, but I have the same document before me that  
14 you have, apparently, and my copy states in 3.2,  
15 "Responsibility and criteria for review of design  
16 documents during operation of nuclear power station when  
17 the initial period and nuclear station project manager  
18 is phased out is not included herein."

19 A (WITNESS YOUNGLING) Yes, sir, that reflects  
20 exactly what I said. Right now the engineering input  
21 for the project comes from the Stone & Webster  
22 Corporation through the Shoreham project management  
23 organization. As we move through to the operability  
24 phase, the project management organization will be  
25 either retained to a degree or phased out in a



1 controlled manner to ensure proper transition to the  
2 engineering department.

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1 Q So that in order to apply to the operations  
2 phase after the initial period and phaseout of nuclear  
3 station project management, this procedure will have to  
4 be amended, won't it?

5 A (WITNESS YOUNGLING) Yes, sir.

6 Q Thank you.

7 A (WITNESS YOUNGLING) And these procedures, as  
8 any procedure, are a living document and have to reflect  
9 the changing situation and changing organization and  
10 changing regulatory requirements.

11 Q And if I can ask one more question for  
12 clarification, on QAP-15.1 could you give me the  
13 revision number and date of the document that you're  
14 referring to as QAP-15.1, please?

15 A (WITNESS YOUNGLING) QAP-15.1, Revision 3,  
16 dated 6-14-82.

17 Q Thank you.

18 MR. ELLIS: May I go to the next question?

19 MR. DYNNER: Please.

20 MR. ELLIS: Is it true that procedures 2.6,  
21 3.3, 7.1, 7.3 and 16.1 refer to either engineering QAPs  
22 or engineering QAP department -- excuse me -- QA  
23 department?

24 WITNESS MULLER: I would like to take that on  
25 a procedure-by-procedure basis. QAP 2.6 is in the form

1 of an EQAP and does refer to EQA personnel in the EQA  
2 department. QAP 3.3 was revised in 6-82 and only  
3 references QAPs and the QA department.

4 QAP 7.1 is in the form of an EQAP and does  
5 reference EQA personnel or the EQA department.

6 Procedure QAP 7.3 is in the form of an EQAP.  
7 Once again it does reference EQA procedures and EQA or  
8 EQA department personnel.

9 QAP 16.1 was revised in 1979, but it does  
10 reference EQAPs because it was the first procedure to be  
11 revised, and the EQAPs were in existence.

12 MR. ELLIS: Are you ready for the third  
13 question, Mr. Dynner?

14 MR. DYNNER: Prepared for the followup  
15 questions?

16 JUDGE BRENNER: Mr. Ellis wants to ask what  
17 you termed are followup questions. He called it the  
18 third question.

19 MR. ELLIS: Isn't it true that in accordance  
20 with the QA manual there is no engineering QA department?

21 JUDGE BRENNER: During operations.

22 MR. ELLIS: I don't believe Mr. Dynner limited  
23 it to that, and I think the answer -- I think he meant  
24 it as of the present tense.

25 JUDGE BRENNER: Well, what he said was isn't

1 it true that in accordance with the QA manual -- cause  
2 -- during operations there is no engineering QA  
3 department?

4 WITNESS MULLER: I will answer that in two  
5 parts. One, during operations there will not be an  
6 engineering QA department, and at present there is not  
7 an engineering QA department. The engineering QA  
8 department is the quality assurance department. That  
9 change was made in 1979.

10 MR. ELLIS: Those were the questions that I  
11 asked the witnesses to answer over the lunch period.

12 JUDGE BRENNER: And just to round out the  
13 answer, the quality assurance department will continue  
14 to exist during operations, correct?

15 WITNESS MULLER: That is correct.

16 BY MR. DYNNER: (Resuming)

17 Q Your testimony then indicates that to the  
18 extent that these QA department procedures are currently  
19 being used and are in effect, that to that extent the  
20 reference therein to a nonexistent engineering QA<sup>D</sup>  
21 department, or QA department I should say, is incorrect,  
22 isn't that true?

23 A (WITNESS MULLER) The references in the  
24 procedures to an engineering QA department are  
25 incorrect, but it is understood by everyone in the QA

1 department that they are in fact now in the QA  
2 department which was the engineering QA department.

3 A (WITNESS YOUNGLING) As I mentioned earlier,  
4 the personnel involved in that organizational  
5 nomenclature change are the same personnel who have been  
6 using these procedures all along, and they have been  
7 instructed in training to make the substitution of the  
8 QAP or the EAP.

9 Q And to the extent that there are those errors  
10 in procedures which you are presently using, those  
11 procedures are in violation of the requirements of the  
12 criteria of Appendix B, 10 CFR Part 50, aren't they?

13 (Pause.)

14 A (WITNESS MULLER) No, they are not.

15 Q So you do not interpret the criteria of  
16 Appendix B to require that quality assurance procedures  
17 that purport to apply and satisfy the requirements of  
18 Appendix B be properly documented and kept up to date,  
19 is that correct?

20 A (WITNESS YOUNGLING) The regulations require  
21 that the procedures be documented and kept up to date.  
22 These procedures are documented. These procedures are  
23 up to date and will be kept up to date to meet the  
24 schedule and requirements as the plant moves towards  
25 operations to reflect the situation as it occurs and as

1 it reflects the operability of the station.

2 MR. DYNNER: Judge Brenner, I'm going to turn  
3 back to another area, if you have any questions or the  
4 Board has.

5 JUDGE BRENNER: Do you want to outline your  
6 plans for the rest of the day?

7 (Pause.)

8 JUDGE BRENNER: While you're thinking about  
9 that for a moment, I want to prewarn LILCO about  
10 something I would like to hear about by the end of the  
11 day, and I meant to mention it before lunch. It is not  
12 a complicated matter.

13 I want to know if you've considered the order  
14 in which you will do the redirect in the two broad  
15 categories of operational QA and then the other issues.  
16 And I don't know if the sequence matters to the County,  
17 but it occurred to me that since the County has two  
18 different counsel, it would certainly be courteous to  
19 the extent possible to fix an order and work it out.

20 MR. ELLIS: Yes. Let me say right now -- I  
21 should have mentioned it earlier -- but it will be  
22 construction QA first and then operational QA on  
23 redirect.

24 JUDGE BRENNER: The staff's projected time is  
25 short enough where we won't ask them unless they think

1 they will go over a day.

2 MR. BORDENICK: I don't think that will be the  
3 case, Judge Brenner.

4 (Pause.)

5 MR. DYNNER: For the time being, Judge  
6 Brenner, I intend to stay on category J.

7 BY MR. DYNNER: (Resuming)

8 Q Gentlemen, I'm going to ask you to turn back  
9 to QAPS-8.1 that we were discussing before the lunch  
10 break.

11 JUDGE BRENNER: Let me ask you this. One  
12 reason I'm asking is I've looked at the outline you have  
13 given us on G-1 and G-3. Well, we talked about what  
14 they were yesterday -- the NDMIS and the NPROS programs  
15 and item I.C.5 of NUREG-0737.

16 Putting those items aside, which we know you  
17 have not done yet in that you've now told me you have  
18 more on J, and I didn't know that until you just told me  
19 that, what else is there? I want to see if your  
20 priority agrees with my priority. And, of course, you  
21 follow your own priority. I just want to have a few  
22 minute dialogue with you on it.

23 MR. DYNNER: In my judgment J is the single  
24 most important priority.

25 JUDGE BRENNER: Of the things remaining.

1 MR. DYNNER: Yes, sir.

2 JUDGE BRENNER: What else is there besides J  
3 and G-1 and G-3?

4 (Pause.)

5 MR. DYNNER: I have K or a variation thereof.

6 JUDGE BRENNER: Do you think K is less  
7 important than G-1 and G-3? I don't know if you have  
8 hot stuff in there or not, to be blunt about it. I mean  
9 just by subject matter I would think it was less  
10 important. But unless you know of something  
11 inconsistent with proper practice in LILCO's approach,  
12 it just seems to be quite a mundane subject, frankly.

13 I've been waiting, you know, for the smoking  
14 gun all week, and I certainly hope you haven't put any  
15 such smoking gun in things that you decided to put  
16 last. I would assume not. To be blunt about it, that  
17 is my approach right now in this discussion.

18 MR. DYNNER: Judge Brenner, unfortunately I'm  
19 afraid this area doesn't lend itself to too many smoking  
20 guns.

21 JUDGE BRENNER: It sure did in the prehearing  
22 allegation phase, I will tell you that.

23 MR. DYNNER: It is an area which obviously  
24 involves a great deal of complexity and a great deal of  
25 detail by the very nature of the contentions once we get



1 past the stages that you characterized as the narrow  
2 portions of the contentions which I feel that the cross  
3 examination has clearly established and get down into  
4 the detail of the procedures. There is, unfortunately,  
5 only one way to do it, and that is to slug through them  
6 in order to determine whether those procedures in fact  
7 satisfy the requirements of Appendix B. And it is  
8 undramatic and it is not pleasant for anyone, but it is  
9 a job that has to be done.

10 JUDGE BRENNER: I'm not talking about  
11 unpleasant. I'm talking about efficiency. I don't  
12 agree that's the only way to do it, but let's put that  
13 aside.

14 What else would there be besides K? I thought  
15 you covered K along your questioning in the other  
16 categories because that questioning necessarily covered  
17 parts of it, the subject of K. But I, of course, don't  
18 know everything you had in mind in K.

19 MR. DYNNER: It's correct that in part I have  
20 covered K.

21 JUDGE BRENNER: That's basically why I'm  
22 asking the question.

23 MR. DYNNER: It's very difficult for me to try  
24 to reach a judgment on what is important to the Board.  
25 I have tried to put myself in the Board's place and say

1 what would be important to me if I were sitting in your  
2 shoes.

3 JUDGE BRENNER: That's the best way to do it.

4 MR. DYNNER: Apparently, smoking guns or not.  
5 We haven't necessarily agreed on everything in my set of  
6 priorities, but I just have to continue to do the best I  
7 can in setting those priorities and in conducting the  
8 cross examination.

9 JUDGE BRENNER: Okay. I didn't start the  
10 discussion solely to disagree or agree with your  
11 priorities of what you've done so far. I'm wondering  
12 what's left.

13 You've got J.

14 MR. DYNNER: I should indicate I suppose to  
15 you that J, if you look at the letter that was submitted  
16 to LILCO and the supplement to that which contained the  
17 documents that we expected to use, is quite a  
18 comprehensive area and does involve, as you can see,  
19 quite a number of procedures and sections of the manual.

20 We have been through, by my count,  
21 approximately four and a half or five of those, and  
22 there are a fair number left, and it is a difficult and  
23 detailed and not terribly spectacular experience to go  
24 through for any of us. And at the same time my own  
25 feeling is that the nitty-gritty is where all of this is

1 unfortunately wound up, and some of us have to get our  
2 hands dirty in it.

3 JUDGE BRENNER: I don't mind slogging through  
4 details where details are important to prove a  
5 contention, but presumably you have already done some  
6 things in J as you said. Presumably within J you've  
7 given us your most important things already. At least  
8 as a rational approach that is what you would have done  
9 subject to the possibility that something you thought  
10 less significant turned up more significant in answers,  
11 which could always happen.

12 If we've got your best stuff on J, I'm worried  
13 about what the remaining stuff is. It is that simple.  
14 You see, in other words I've got the flavor of what you  
15 are worried about on J, but you're going to continue  
16 with J.

17 Where I'm getting to is as I look on your  
18 outline for G-1 and G-3 it looks like at the most about  
19 an hour's worth of questioning. I don't know if you are  
20 in a position to agree or disagree with that.

21 MR. DYNNER: I have no idea. On J?

22 JUDGE BRENNER: No. On G.

23 MR. DYNNER: That is an area where I am  
24 totally unfamiliar with what the answers might be that  
25 might be proffered by the witnesses, which will result

1 in an area which therefore is inherently a difficult  
2 cross examination area.

3 I really can't calculate by any means at all  
4 how long it would take if we were to get into that area.

5 JUDGE BRENNER: Mr. Ellis, are these the right  
6 witnesses for NOMIS and NPRDS, or are there other  
7 witnesses on the panel that should join them or be here  
8 instead of them?

9 I'm not implying anything. I'm just asking.

10 MR. ELLIS: I just asked a similar question  
11 myself a moment or two ago. I don't know, Judge  
12 Brenner. Let's ask Mr. Muller and Mr. Youngling. I  
13 think so.

14 JUDGE BRENNER: It is in the section that you  
15 have ascribed them to, but there was another individual  
16 attached to that section.

17 MR. ELLIS: I was confident they could address  
18 it now. If what you're asking is whether the  
19 individuals, for example, that we have been asked to  
20 produce for ISEG can also address it, that may be true.  
21 That is what I was thinking. Was that what you were  
22 thinking, Judge Brenner?

23 JUDGE BRENNER: Partly.

24 WITNESS MULLER: As far as the panel is  
25 concerned, Mr. Youngling and myself are the correct

1 witnesses.

2 JUDGE BRENNER: I should have asked the  
3 question more directly. Mr. Kelly being missing does  
4 not materially affect that area? That is really what I  
5 wanted to know.

6 MR. ELLIS: I think as a result of what has  
7 happened I would have to say yes, although I'm sure that  
8 Mr. Kelly, had he been here, would have been of material  
9 help to the Board.

10 JUDGE BRENNER: Give us a moment.

11 (Board conferring.)

12 JUDGE BRENNER: Here's what we will do. We  
13 would be willing to say wait until the ISEG panel to ask  
14 your G-1 and G-3 questions, but that may be a mistake in  
15 missing another perspective on it that you could get  
16 with these witnesses.

17 Why don't you spend the rest of your time this  
18 afternoon without worrying about G-1 and G-3, and then  
19 we will give you an opportunity before ISEG to ask the  
20 questions you have outlined here of the right panel.  
21 And I envision the questioning would be, as I say, about  
22 an hour. It's not an absolute deadline, but it is a  
23 close estimate.

24 So plan your questions carefully as opposed to  
25 having to consult about what the next question might be

1 and so on, because we are giving you that advance  
2 opportunity to do it. And when you're focusing on one  
3 sub-area it is easier for you to do that instead of  
4 worrying about the whole gamut that you once had to  
5 worry about at the beginning of this week and have the  
6 questions all ready and laid out, and cover the points  
7 in the outline.

8 That is not to say that when we do get to the  
9 ISEG panel you might -- it is all right to ask other  
10 questions because the subjects do overlap, but that way  
11 we will be sure that the subject is covered.

12 This is in part a reflection of our judgment  
13 that the NQMIS and NPRDS program is properly pointed to  
14 by LILCO in the testimony as being pertinent to the  
15 area, particularly Contention 13B on information for  
16 experience at both Shoreham and other plants; yet the  
17 programs are not explained in great depth, to put it  
18 gently, in the testimony.

19 It is not a criticism. It is a recognition of  
20 where we are. And, therefore, we think the County  
21 should be entitled to explore some things.

22 Now, some of this, looking at the outline,  
23 could be communication, and the benefit of not doing it  
24 this afternoon is that if you or your experts have not  
25 already, you should talk to LILCO some more about what

1 they're planning to do with the program. And I'm not  
2 saying that is in lieu of putting it on the record, but  
3 as I've discussed before, that certainly makes the  
4 record examination more efficient. You don't have to  
5 get educated. You can start out by probing.

6 MR. ELLIS: We would be delighted to talk to  
7 them about it.

8 JUDGE BRENNER: Now, it would be ideal to pick  
9 it up on Tuesday morning, but we will leave that up to  
10 the parties because you might not have been planning on  
11 having these witnesses back on Tuesday given what you  
12 have also told me about the order in which you would do  
13 things. So it would be when you next have the right  
14 witnesses back for redirect. Just before the redirect  
15 we would go into this area.

16 MR. ELLIS: Yes, sir.

17 JUDGE BRENNER: And, of course, I recognize  
18 that LILCO has two counsel and work it out so that it  
19 will be convenient for everyone; that is for Mr. Dynner  
20 also.

21 Since Mr. Dynner -- I presume, Mr. Dynner --  
22 maybe I'm wrong -- that you plan to be here during  
23 LILCO's redirect on the subjects that you cross examined  
24 on.

25 MR. DYNNER: Yes. I expected to, that is

1 correct.

2 JUDGE BRENNER: So the ideal time to do it  
3 possibly might be after you finish the redirect on the  
4 nonoperational QA and before going into the redirect on  
5 the operational QA. We will allow the County  
6 approximately an hour to ask their questions.

7 All of this is separate from the ISEG  
8 questions that we will then ask of that panel.  
9 Depending upon where the questions go in advance of the  
10 ISEG panel you might want to have some of your other  
11 witnesses around even though not technically part of the  
12 ISEG panel. But I will leave that up to LILCC.

13 Okay. So don't worry about that in your time  
14 period, and you can take up the rest of the afternoon on  
15 whatever you want, J or K or whatever.

16 (Counsel for Suffolk County conferring.)

17 BY MR. DYNNER: (Resuming)

18 Q Before we begin on QAPS-8.1, gentlemen, I  
19 would like you, if you could, to clarify a matter that  
20 was testified to previously concerning the six contract  
21 DQA personnel that you identified in your testimony.

22 Could you tell me of those six how many do you  
23 expect will fill QA/QC engineering positions?

24 A (WITNESS MULLER) The six personnel are  
25 expected to fill only the inspector positions. Although



1 we might not limit it to that, that is what is planned  
2 right now.

3 Q And just to refresh my recollection, the six  
4 contract personnel are not yet aboard, is that correct?

5 A (WITNESS MULLER) As I testified yesterday, we  
6 do have eleven contract personnel, so some of them may  
7 in fact be aboard.

8 Q The six additional I'm speaking of.

9 A (WITNESS MULLER) We have eleven non-LILCO  
10 personnel now. Some of them may continue through the  
11 first year or until the first refueling outage. I have  
12 not yet made that decision.

13 (Counsel for Suffolk County conferring.)

14 Q Now, gentlemen, if we could go back to page 3  
15 of QAPS-8.1, in paragraph 5.2.5(b) what does the  
16 "required identification and/or control numbers" refer  
17 to?

18 A (WITNESS MULLER) That would be the material  
19 traceability number as referenced in paragraph 5.1.2.  
20 That is a number assigned to certain material at the  
21 time of receipt inspection. This would be items like  
22 bar stock, weld rod.

23 Q So that at times you use the term "required  
24 identification and/or control numbers" and at times, as  
25 in, for example, subparagraph (c) of that subsection you

1 use the term "MTN," is that correct?

2 A (WITNESS MULLER) That is correct. And the  
3 term "MTN" follows in parentheses behind material  
4 traceability number in paragraph 5.1.2.

5 Q And subparagraph (c) requires that when large  
6 lots are to be subdivided, the MTN is transferred to the  
7 smaller quantity, but it doesn't provide for a number to  
8 be retained in the larger quantity, does it?

9 A (WITNESS MULLER) When the large quantity is  
10 divided, the MTN is required to be on all the remaining  
11 parts, including the original part.

12 Q And where does this procedure provide for that?

13 A (WITNESS MULLER) That is how the procedure is  
14 implemented.

15 (Counsel for Suffolk County conferring.)

16 Q This procedure sometimes refers to the storage  
17 area as in 5.3.1 and sometimes refers to the storeroom.  
18 Are those two terms the same?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) The storeroom is only one  
21 designated storage area. The reason why the procedure  
22 is this way is so that we're not limited to the  
23 storeroom. If we brought something to a different  
24 designated storage area, we would not be in violation of  
25 the procedure. That is why we used the general term

1 "storage area."

2 Q This procedure does not define the terms  
3 "storeroom personnel" as used, for example, in paragraph  
4 5.1.3 as opposed to "stores personnel" as used, for  
5 example, in 5.2.4, does it?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) They are one and the same.

8 Q Although this procedure states that -- in  
9 essence that the stores issue forms will be the means by  
10 which items will be controlled and documented, in fact,  
11 if we look at paragraph 6 on page 4 of this procedure we  
12 see that there is no requirement that the stores issue  
13 forms be kept as records for the company, are there?

14 A (WITNESS MULLER) There is no requirement that  
15 the stores issue forms be kept as records in the QQA  
16 section. They are in fact permanent records. They are  
17 not operational quality assurance controlled records.  
18 They are controlled as far as kept by the storeroom  
19 personnel, and their procedures require them to keep  
20 those forms.

21 (Counsel for Suffolk County conferring.)

22 Q Gentlemen, to assist you in what is likely to  
23 be taking place this afternoon I'm going to ask you a  
24 number of questions on sections of the QA manual and the  
25 corresponding sections of the CAPSs which are the

1 implementing procedures. So in order to save time  
2 perhaps I can just refer you to those without going back  
3 to your testimony. You have testified, I believe, as to  
4 all of the relevant sections and procedures.

5 (Pause.)

6 Q I'm going to ask you to turn now to QAPS-18.1  
7 entitled "Scheduling conduct, reporting and followup of  
8 station CQA audits." This is one of the documents in  
9 Suffolk County Exhibit No. 76.

10 Now, paragraph 4.1 of this procedure refers to  
11 the QA manual without specifying the section. Is the  
12 relevant section referred to Section 18 of the QA manual?

13 A (WITNESS MULLER) Section 18 is one of the  
14 relevant sections.

15 Q And what are the other relevant sections that  
16 are referred to?

17 A (WITNESS MULLER) In this case possibly the  
18 other 17 sections apply. Audits may be performed on any  
19 of the 18 criteria, including audits. In fact, the  
20 quality assurance department does perform audits to  
21 verify that our audit program is effective.

22 Q Do I understand that your testimony is that  
23 all 18 sections of the quality assurance manual require  
24 the establishment and implementation of a comprehensive  
25 system of planned and periodic audits?

1           A       (WITNESS MULLER) No. Only Section 18  
2 requires that. The audits may encompass the information  
3 required or the requirements of the other sections.

4           Q       Now, in paragraph 4.2 there is no guidance  
5 criteria or standards in this procedure for determining  
6 when it might not be normal for the QA department to be  
7 responsible for conducting audits of the appropriate  
8 corporate organizations as specified in that paragraph,  
9 is there?

10          A       (WITNESS MULLER) It is not the normal  
11 responsibility of operational quality assurance to  
12 perform audits of offsite organizations or activities.  
13 But we could be requested to perform an audit by the  
14 quality assurance department.

15          Q       Yes. And could you answer my question now,  
16 please?

17          A       (WITNESS MULLER) There is no specific  
18 guidance for it normally, but that is how we perform our  
19 procedure commitments.

20          Q       Thank you.

21                   And there is nothing in this procedure that  
22 would help the reader to determine what appropriate  
23 corporate organizations are or are not other than the  
24 several examples given there, is there?

25          A       (WITNESS MULLER) One would refer to the

1 organizational chart to determine which are the  
2 appropriate corporate organizations.

3 Q There is no guidance or instructions in this  
4 procedure that would enable the reader to determine  
5 which are appropriate corporate organizations other than  
6 the examples given in that paragraph, are there?

7 A (WITNESS MULLER) The procedure only mentions  
8 specific examples followed by et cetera.

9 A (WITNESS YOUNGLING) I would like to add to  
10 that that the personnel involved in the quality  
11 assurance department are well aware of the corporate  
12 structure and are well aware of the organizations  
13 involved in the nuclear program. They do that through  
14 their training, through their exposure to the  
15 corporation.

16 Q So is it your testimony that this section 4.2  
17 under "Responsibilities" is extraneous and unnecessary?

18 A (WITNESS MULLER) No. It adds clarification.  
19 It does not exclude us from performing offsite audits.

20 Q And there is no identification with respect to  
21 paragraph 4.2.2 as to what constitutes "appropriate"  
22 station activities in this procedure, is there?

23 A (WITNESS MULLER) There is no specific  
24 reference to appropriate station activities. The  
25 appropriate station activities are of safety-related

1 activities performed at the station -- any and all  
2 activities, safety-related activities performed at the  
3 station.

4 Q And when you add that statement, you are  
5 making that statement on the basis of your own knowledge  
6 and not on the basis of what this procedure says, aren't  
7 you?

8 A (WITNESS MULLER) That is how I read the  
9 procedure.

10 Q And while this subparagraph makes the  
11 statement that station OQA organization is generally  
12 responsible for conducting these audits, there is  
13 nothing in this procedure that says when the station OQA  
14 organization should not be responsible, is there?

15 A (WITNESS MULLER) This paragraph does not  
16 reference specific examples. The NCP policies provide  
17 additional guidance as to station OQA organization audit  
18 responsibility and the quality assurance department  
19 audit responsibility.

20

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25

1 Q I'm sorry, Mr. Muller, I didn't hear you. The  
2 "what" policies?

3 A (WITNESS MULLER) NDC, Nuclear Operations.

4 Q And is there a reference to the nuclear  
5 operations policies in this procedure?

6 A (WITNESS MULLER) No.

7 Q Well, if I were in the OQA section reading  
8 this procedure, how would I know from this paragraph or  
9 any other paragraph in this procedure when it was not  
10 appropriate for the station OQA organization to conduct  
11 audits of station activities?

12 A (WITNESS MULLER) You would obtain that  
13 information from your training and through discussions  
14 with the QA engineer and the OQA engineer.

15 Q Is there any written procedure that I could  
16 turn to that would give me that information?

17 A (WITNESS MULLER) Part of your training would  
18 be review of the NDC procedures. And may I add that the  
19 NDC policy does not limit the audit areas either. The  
20 audit schedule is made up by the OQA engineer, reviewed  
21 by the plant manager and approved by the QA department  
22 manager.

23 Q Now if we could turn back for one moment, and  
24 please keep QAPS 18.1 before you, but would you turn,  
25 please, to section 18 of the QA manual, page two of



1 four?

2 (Pause.)

3 Now section 18.3.2 of the QA manual requires  
4 QA organizations to develop and implement audit programs  
5 and procedures, doesn't it?

6 A (WITNESS MULLER) Yes, it does.

7 Q And is QAPS 18.1 the procedure that was  
8 developed by the CQA section to comply with that  
9 subsection of the QA manual?

10 A (WITNESS MULLER) Yes, it was.

11 Q And subsection 18.3.2 of the QA manual sets  
12 forth a number of general requirements that must apply  
13 to all audit programs, doesn't it?

14 A (WITNESS MULLER) Yes, it does.

15 Q And do the requirements in QAPS 18.1 comply  
16 with the requirements of the QA manual?

17 A (WITNESS MULLER) Yes, it does.

18 Q Now if we look at the requirements of the  
19 audit procedure, paragraph 5.1.1 says that audits are  
20 scheduled in consideration of the status and importance  
21 of activities, while section 18.3.2a of the QA manual  
22 says that audit schedules shall be based on the safety  
23 implications, complexity and status of the products, of  
24 the work being performed, doesn't it?

25 A (WITNESS MULLER) Yes, it does, and they mean

1 basically the same thing.

2 Q But there is a standard that is missing there,  
3 isn't there?

4 (Witnesses conferring.)

5 JUDGE BRENNER: Why don't you go back to your  
6 leading question approach and suggest to them which one  
7 you think is missing?

8 BY MR. DYNNER: (Resuming)

9 Q Now the procedure criteria for audit  
10 scheduling doesn't say anything about the requirements  
11 that complexity be considered, does it?

12 A (WITNESS MULLER) Complexity is part of the  
13 consideration of importance.

14 Q And the procedure doesn't say anything about  
15 safety implications having to be considered, does it?

16 A (WITNESS MULLER) The whole audit program is  
17 based upon the safety aspect.

18 Q The procedure doesn't say anything about  
19 safety implications as a requirement, does it?

20 A (WITNESS MULLER) It doesn't specifically  
21 mention it but it is part of the Appendix B program.

22 Q What do you mean "it is part of the Appendix B  
23 program"? What do you refer to as "it"?

24 A (WITNESS MULLER) QAPS is part of LILCO's --  
25 QAPS 18.1 is part of LILCO's Appendix B program. This

1 is our implementing procedure. By "our" I mean  
2 operational quality assurance.

3 Q So is it your testimony that the very fact  
4 that a procedure is adopted as part of your Appendix B  
5 program means that whenever a requirement is in the QA  
6 manual that says that you must specially consider safety  
7 implications, you don't have to do it? That is to say  
8 that you don't have to provide for the criterion of  
9 safety implications in this procedure. Is that  
10 correct?

11 A (WITNESS MULLER) That is correct. It is  
12 implied.

13 JUDGE BRENNER: Off the record.

14 (A discussion was held off the record.)

15 JUDGE BRENNER: Let's go back on.

16 BY MR. DYNNER: (Resuming)

17 Q Now if we turn to page three of the QA  
18 manual --

19 A (WITNESS MULLER) In section 13?

20 Q Section 13.3.5 provides that audits shall be  
21 preplanned and performed using written checklists, but  
22 section 5.1.2, the procedure says that the audit system  
23 shall provide for random and unscheduled audits, doesn't  
24 it?

25 (Witnesses conferring.)

1           A       (WITNESS MULLER) The audits are preplanned at  
2 all times as far as the audit checklist. As far as the  
3 schedule is concerned, if we find something that  
4 requires the attention of an audit, we may not have  
5 planned the audit but we will perform the audit.

6                   Once again, this gives us the opportunity not  
7 to stick with a strict schedule. We have the  
8 flexibility to audit when an audit is required and yet  
9 we have the responsibility to audit per a schedule.

10           Q       Are there any provisions which set forth  
11 criteria, standards or instructions for the performance  
12 of random or unscheduled audits as opposed to scheduled  
13 and preplanned audits?

14           A       (WITNESS MULLER) The unscheduled audits are  
15 determined by the DQAE and sometimes requested by other  
16 organizations to ensure that the program is in fact  
17 being implemented properly.

18           A       (WITNESS YOUNGLING) And, in fact, as the  
19 manager of startup I have requested the operating  
20 quality assurance engineer to perform audits of aspects  
21 of my program at my request on an unscheduled basis, if  
22 you will, a pop audit to ensure that the concern that I  
23 had was being addressed.

24           A       (WITNESS MULLER) Another example that we  
25 consider an unscheduled audit, once again the audits are

1 scheduled over the long term, but over the short term we  
2 don't put them down on a month-to-month schedule. We  
3 are required by the startup manual to audit every  
4 preoperational test, completed test that the startup  
5 organization performs. We consider them unscheduled  
6 audits. We still perform those audits, although we  
7 perform them after the activity is performed.

8 We don't sit down at the beginning of the year  
9 and say we are going to do these audits at this time  
10 because we don't know when the tests are going to be  
11 completed.

12 Q Now if you will turn to page six of this  
13 procedure, there is no definition or guidance given in  
14 this procedure to determine what is a finding of a  
15 serious nature, is there?

16 A (WITNESS MULLER) Both the leader auditor and  
17 the operating QA engineer evaluate all of the audit  
18 findings, and their discussions with the auditor would  
19 determine which findings are of a serious nature. That  
20 is up to the QQAE and the lead auditor to determine  
21 that.

22 Q So the answer to the question is no?

23 A (WITNESS MULLER) There is no written guidance  
24 in the procedure. However, the experience and training  
25 of the QQAE and the lead auditor provides that

1 guidance.

2 (Witnesses conferring.)

3 Q And there is nothing in --

4 MR. ELLIS: Mr. Dynner, excuse me. You  
5 weren't looking; I am sure you missed it. There may be  
6 further information for your answer.

7 MR. DYNNER: I am sorry.

8 (Witnesses conferring.)

9 WITNESS MULLER: When we do perform an audit,  
10 if we do find there is something of a serious nature, we  
11 do not wait for the audit report to go out. That may  
12 take time to go through the whole process. We would  
13 immediately notify the responsible organizations,  
14 including appropriate management, and let them know the  
15 situation.

16 BY MR. DYNNER: (Resuming)

17 Q What you are adding to that answer, then, is  
18 telling me what you do, but it is not required by this  
19 written procedure, is it?

20 A (WITNESS MULLER) Yes, it is, as far as  
21 findings of a serious nature noted during the audit  
22 shall be brought to the attention of the lead auditor or  
23 OQA engineer, who will then notify his appropriate  
24 management of the audited organization for action.

25 Q And that paragraph that you just read to me

1 does not state when that has to be done, does it?

2 (Witnesses conferring.)

3 A (WITNESS MULLER) It would happen when a  
4 serious nature is noted.

5 Q It doesn't say when the notification has to  
6 take place, does it?

7 A (WITNESS MULLER) It does not, but it would be  
8 immediate.

9 Q Nor does that --

10 A (WITNESS YOUNGLING) I would like to add to  
11 that. The people working at that station out there,  
12 whether in the OQA organization or whether in the plant  
13 staff organization or within the rest of the lighting  
14 company, are concerned utmostly with the safety of that  
15 plant. If any individual sees a problem out there, they  
16 are not going to wait for some written guidance to tell  
17 them when they are supposed to bring it up.

18 That problem is going to be brought up right  
19 away. It is going to be brought up to the right  
20 people. It is going to be addressed. It doesn't have  
21 to be written down to let competent, qualified,  
22 concerned people perform their jobs.

23 Q So they don't need these written quality  
24 assurance procedures, do they?

25 A (WITNESS YOUNGLING) They don't need a

1 procedure to be told to be competent and qualified and  
2 concerned.

3 (Counsel for Suffolk County conferring.)

4 Q And this paragraph doesn't state by what form  
5 the notification occurs, does it?

6 A (WITNESS MULLER) No, it does not identify the  
7 form, but it could either be by walking to the  
8 individual and telling him directly or through a  
9 telephone call.

10 Q Could it also be by the issuance of an LDR?

11 A (WITNESS MULLER) An LDR would not provide the  
12 immediate path. A CAR may, however. The item would be  
13 followed up through the audit finding. Verbal  
14 notification via the telephone, or direct communications  
15 would be the method used at this point.

16 Q And those matters are simply given to your OQA  
17 personnel as part of their training but are not provided  
18 for in the procedures, isn't that correct?

19 A (WITNESS MULLER) Mr. Dynner, I am not sure  
20 what your question refers to.

21 Q The method of notification that you just  
22 testified to.

23 A (WITNESS MULLER) The method of notification  
24 is not in the procedures. The fact that the lead  
25 auditor or the operating QA engineer knows they will



1 take appropriate actions as they have been trained to  
2 do.

3 Q Now, Mr. Muller, when you perform all of this  
4 training of your CQA personnel, don't -- you train them  
5 to comply with the written procedures that constitute  
6 this program, don't you?

7 A (WITNESS MULLER) Yes, we do. We train them  
8 to comply with these procedures as written and as we see  
9 them written.

10 Q And would you also train them in the case, for  
11 example, of the finding of a serious nature to notify  
12 appropriate management immediately and orally?

13 A (WITNESS MULLER) We would leave the oral  
14 discretion to them as far as whether via telephone or  
15 via walking to the individual involved.

16 Q And since this procedure doesn't provide for  
17 when the notification has to take place, is there some  
18 other written document that you would use to train CQA  
19 personnel as to when they must notify appropriate  
20 management?

21 A (WITNESS MULLER) This would be oral  
22 training.

23 Q And the basis of that oral training would not  
24 be any written document, would it?

25 (Witnesses conferring.)

1           A       (WITNESS MULLER) I'm not aware of any  
2 specific written notes that would tell anyone  
3 immediately, but it would be an oral training.

4           Q       So depending upon who is giving the training,  
5 one instructor might instruct his group that the  
6 notification should take place immediately, and another  
7 instructor might by oral means and another instructor  
8 might say it has to be within 12 hours by telephone, and  
9 another instructor might say something the third way,  
10 isn't that correct?

11          A       (WITNESS MULLER) The instructors would say  
12 immediately and because there is no time limit in the  
13 procedure they would say as soon as possible, or  
14 immediately.

15          Q       Well, is it your testimony that whenever one  
16 of these procedures does not give a time limit that it  
17 means immediately?

18          A       (WITNESS MULLER) No, that is not correct.

19               MR. DYNNER: I think we might take a break  
20 now, Judge Brenner, if that is acceptable.

21               JUDGE BRENNER: Okay. Let's take fifteen  
22 minutes until 3:35.

23                       (A brief recess was taken.)

24  
25

1 JUDGE BRENNER: We are ready to conclude the  
2 cross examination.

3 BY MR. DYNNER (Resuming):

4 Q Gentlemen, if I could ask you to turn to page  
5 7 now of QAPS 18.1, subparagraph E at the top of the  
6 page I believe is referring to what takes place in the  
7 post-audit conference. The statement that is indicated  
8 or referred to in subparagraph E is not required to be  
9 in writing, is it?

10 A (WITNESS MULLER) This would be an oral  
11 commitment which would be noted as being taken during  
12 the exit conference, or post-audit conference.

13 Q So there would be no record of that  
14 commitment, pursuant to these procedures, would there?

15 A (WITNESS MULLER) That is not correct. This  
16 commitment would be obtained and noted in the body of  
17 the audit report. The finding itself would still be  
18 issued. The audit finding is required to be documented  
19 and issued on the transmittal form.

20 (Pause.)

21 Q And notwithstanding --

22 A (WITNESS YOUNGLING) If I could clarify that.

23 Q I'm sorry.

24 A (WITNESS YOUNGLING) What that means is that if  
25 I, as the startup manager, were in the exit conference

1 and I had a finding against me and I committed to change  
2 the procedure within the next day, if you will, that  
3 would be my commitment. That would be documented on the  
4 audit finding when it was sent to me as my commitment.

5           Whereas, if I had another finding to do  
6 another action, I may have to look at that and I would  
7 give that disposition later on.

8           Q     And if such a non-conformance were discovered,  
9 why wouldn't the procedure of QAPS 15.1, which requires  
10 that or which covers the initiation of LDRs, be  
11 applicable?

12           A     (WITNESS MULLER) The non-conformance would be  
13 within a controlled system. An LDR may, in fact, have  
14 to be issued if the disposition requires engineering  
15 involvement as far as design change or repair. The  
16 audit report would generate an LDR, or could, depending  
17 upon the circumstances. But the deficiencies noted  
18 would be noted as part of the audit finding and would be  
19 tracked as such until they have been properly put to bed.

20           Q     There is nothing in QAPS 15.1 on  
21 non-conformance which provides that an LDR should not be  
22 issued as soon as the non-conformance is discovered, is  
23 there?

24           A     (WITNESS MULLER) Mr. Dynner, I'm not sure I  
25 understand the question.

1           Q     Well, if it is handy for you to turn back for  
2 a moment to QAPS 15.1, to which you testified yesterday,  
3 that provides in paragraph 5.1 that any LILCO employee  
4 or contract person assigned to Shoreham discovering a  
5 non-conforming condition shall originate an LDR, doesn't  
6 it?

7           A     (WITNESS MULLER) That is what that says. And  
8 during the audit program the proper document to initiate  
9 the discovery of a problem is the audit report.

10          Q     But there is nothing in this procedure and  
11 there is nothing in QAPS 18.1 which says that where a  
12 non-conforming condition is discovered during an audit,  
13 an LDR should not be issued, is there?

14          A     (WITNESS MULLER) The procedure does not say  
15 that, but the personnel involved in the audit program  
16 are well aware of the audit program and the audit  
17 program requirements.

18          Q     So the personnel would have that knowledge by  
19 virtue of their training, even though the procedures  
20 don't say it? Is that correct?

21          A     (WITNESS MULLER) That is correct. It is not  
22 necessary to document the problem on two control  
23 documents.

24          Q     And the basis for that training would be  
25 determinations by the instructors of the training and

1 not with respect to any written procedures, wouldn't it?

2 (Panel of witnesses conferring.)

3 A (WITNESS MULLER) Part of the training program  
4 includes an oral training session. There may not be  
5 written words given out that say if you write an audit  
6 finding, don't write an LDR. That is understood by the  
7 auditors.

8 Q You may have misunderstood my question, Mr.  
9 Muller. The point I was trying to ask about is that if  
10 the written QA, operating QA procedures do not provide  
11 for the withholding of an LDR during the discovery of a  
12 non-conforming condition during an audit, then how would  
13 the instructor know that an LDR should not be issued.  
14 And my question, therefore, was the instructor would  
15 just have to know this information without having the  
16 information given him by these written procedures; isn't  
17 that right?

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) The instructor would know  
20 that. That is just the way it works.

21 Q Thank you. And if you will turn for a moment  
22 back to QAPS 18.1, page 7 of 9, paragraph 5.5.3 does say  
23 that an audit report must be issued within 30 days after  
24 the post-audit conference, doesn't it?

25 (Pause.)

1 A (WITNESS MULLER) That is correct.

2 Q But when we go to paragraph 5.5.2, there is no  
3 guidance given as to when a response to the audit can be  
4 outside the 30-day limit, is there?

5 A (WITNESS MULLER) There is no guidance; that is  
6 a judgment of both the DQAE and the audited  
7 organization. Certain responses may take over 30 days.

8 Q And if we assume that an audit report is  
9 issued within the allotted time, and that the response  
10 is given within the normal allotted time, 60 days might  
11 have passed between the post-audit conference and the  
12 filing of the response, mightn't it?

13 A (WITNESS MULLER) That is a possibility, yes.

14 Q And 60 days could be quite a long time if it  
15 came to responding and taking corrective action to  
16 safety-related deficiencies, couldn't it?

17 A (WITNESS MULLER) That is why we hold the  
18 post-audit conference. That doesn't prevent the audited  
19 organization from taking action at the time of the  
20 conference or at the time when they are notified that  
21 there has been an audit finding.

22 Q It doesn't prevent him from taking action, but  
23 it doesn't require him to take action, does it?

24 A (WITNESS MULLER) The action, in fact, may not  
25 be required immediately.

1 Q In fact, the corrective action need not be  
2 taken within the 60 days normally allotted for the  
3 response time; isn't that correct?

4 A (WITNESS MULLER) That is correct. It may not  
5 need to be taken in that timeframe.

6 Q Is there always a 60-day timeframe between the  
7 post-audit conference and the required response  
8 regardless of the kind of problem or discrepancy  
9 discovered in the audit?

10 A (WITNESS MULLER) No. We are required to  
11 submit the report within 30 days, and they are required  
12 to respond within 30 days after the report comes out.  
13 That doesn't mean that the report could be out in two  
14 days and the response back the very next afternoon; or  
15 the report out in one day and the response back the same  
16 day.

17 Q I understand that this could take place at any  
18 time within the 60 days, but my question was whether  
19 there always is at least this 60-day period given to  
20 respond to an audit report after the post-audit  
21 conference, regardless of the severity or kind of  
22 discrepancy that was found.

23 A (WITNESS MULLER) No. The response date for  
24 the audit response could, in fact, be a week, two weeks,  
25 three weeks, four weeks or a few days, if necessary.



1 The requirement is that we have the report out within 30  
2 days and that we have the response out -- that we have  
3 the response back within 30 days after that. There is  
4 no minimum time. That is a maximum time.

5 (Panel of witnesses conferring.)

6 I would like to refer you to page 6 of 9 once  
7 again, paragraph G in 5.4.2 which says that findings of  
8 a serious nature noted during the audit shall be brought  
9 to the attention of the lead auditor and the CQAE, who  
10 then notifies appropriate mangement of the audited  
11 organization for action. That is why we have that  
12 paragraph.

13 Q And without going back through the testimony,  
14 it was noted that there is no definition, guidance or  
15 standards given in this procedure as to what constitutes  
16 a serious nature, is there?

17 A (WITNESS MULLER) No, there is not. But there  
18 is nothing that stops the auditor from letting the  
19 maintenance engineer know that he has found a piece of  
20 equipment with a problem. The maintenance engineer can  
21 write an MWR and normally would write an MWR and we  
22 would still have our audit finding.

23 Q Now, Mr. Muller, as used in these procedures,  
24 the word "shall" indicates a mandatory requirement,  
25 doesn't it?

1 A (WITNESS MULLER) That is correct.

2 Q And the word "may" indicates something that is  
3 optional, doesn't it?

4 (Panel of witnesses conferring.)

5 A (WITNESS MULLER) "May" is interpreted as  
6 optional.

7 Q Now, in paragraph 5.6.2 on page 3 of QAPS  
8 18.1, there is no requirement that the CQA engineer  
9 provide for a verification of items requiring followup  
10 action, is there?

11 MR. ELLIS: What? I'm sorry, Mr. Dynner, what  
12 paragraph did you refer to?

13 MR. DYNNER: 5.6.2.

14 MR. ELLIS: Thank you.

15 WITNESS MULLER: The way I read that paragraph  
16 is that the CQAE may provide for verification by a  
17 number of different means. That doesn't mean he would  
18 not provide for a verification.

19 BY MR. DYNNER (Resuming):

20 Q And there is no guidance, standards or other  
21 instructions in these procedures to tell the reader what  
22 constitutes other appropriate means, is there?

23 A (WITNESS MULLER) No, that would be at the  
24 discretion of the lead auditor or the CQAE. Inspection  
25 may, in fact, be an appropriate means. A documentation

1 review may be appropriate means. And 5.6.3 does require  
2 that the audit response form corrective action has to be  
3 verified.

4 Q And paragraph 5.6.3 you just referred to in  
5 fact only requires those steps when followup is  
6 required, doesn't it?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) That is what that paragraph  
9 says, yes.

10 (Pause.)

11 Q Now, except in situations where there is a  
12 finding that is determined by the appropriate personnel  
13 to be of a serious nature, the whole procedure for  
14 following up on an audit report could, in fact, take  
15 considerably longer than 60 days, couldn't it?

16 A (WITNESS MULLER) That is correct, depending  
17 upon the situation and the need for the corrective  
18 action.

19 Q Because if we were to look at the maximum  
20 periods allowed, we would have 30 days after the  
21 post-audit conference for the issuance of the audit  
22 report, followed by another 30 days for the submission  
23 of the audit response, followed by another period if the  
24 audit response were disapproved by station CQA pursuant  
25 to paragraph 5.6.4, followed by another period during

1 which another audit response form would have to be sent  
2 to the audited organization, followed by presumably, the  
3 appropriate corrective action. Isn't that true?

4 A (WITNESS MULLER) The followup of an audit  
5 could, in fact, go through those steps.

6 A (WITNESS YOUNGLING) And conversely, there  
7 could be an audit finding discovered, brought to  
8 attention and solved within a matter of minutes.

9 A (WITNESS MULLER) It would depend upon the  
10 situation. If we find now that we need a procedure in  
11 five years and write that up on an audit finding and  
12 that audit finding is issued and the commitment is now  
13 to have that procedure for four years, that audit  
14 finding would, in fact, remain open for four years.

15 And I think that if plant management finds  
16 that acceptable, we have an open item that is  
17 continuously being tracked.

18 Q Now, in paragraph 5.6.5, there are provisions  
19 for the initiation of corrective action requests in  
20 accordance with QAPS 16.1 under certain circumstances,  
21 aren't there?

22 A (WITNESS MULLER) You're referring to paragraph  
23 5.6.5 in QAPS 18.1?

24 Q Yes.

25 A (WITNESS MULLER) Yes, it does refer to the

1 corrective action procedure.

2 Q And are the conditions listed in subparagraphs  
3 A and B in addition to the conditions listed in QAPS  
4 16.1, or are they alternatives?

5 (Panel of witnesses conferring.)

6 A (WITNESS MULLER) The words are not the same;  
7 the meaning is identical.

8 Q When you say the meaning is identical, you're  
9 saying your interpretation of the different language is  
10 that it means the same thing as that, correct?

11 A (WITNESS MULLER) Yes.

12 Q In subparagraph A is the reference to  
13 corrective action "as agreed upon" a reference to some  
14 written agreement?

15 A (WITNESS MULLER) The corrective action is a  
16 written agreement that appears on the audit transmittal.

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1 Q And in subparagraph B that contemplates the  
2 possibility of an extension being granted to a response  
3 for audit findings, doesn't it?

4 A (WITNESS MULLER) That is correct. The  
5 audited organization may initially respond to the  
6 corrective action date. If they feel they cannot meet  
7 that date, they may request an extension. Depending  
8 upon the circumstances DQA can grant that extension.

9 This would be an example where the audit  
10 finding requires that a procedure be revised. The  
11 audited organization responds that they will change the  
12 procedure within 30 days. If they find out somewhere in  
13 that time frame that they cannot meet the commitment,  
14 they may request an extension.

15 Q And there are no instructions or criteria in  
16 this procedure which would provide for the standards of  
17 when an extension should be granted, are there?

18 A (WITNESS MULLER) The guidance is provided by  
19 the DQAE after he evaluates the situation.

20 Q So your answer is no; is that correct?

21 A (WITNESS MULLER) There is no written guidance  
22 in that procedure. It is understood by the DQAE and the  
23 lead auditor and the CAQ personnel. They must evaluate  
24 each situation.

25 Q And where you have a procedure which by its

1 own terms provides for at least a maximum of 60 days  
2 before any response must be given to a deficiency, that  
3 doesn't provide for prompt corrective action, does it?

4 A (WITNESS MULLER) I think "prompt" is a  
5 relative term. Once again, it depends upon the  
6 situation.

7 Q So that prompt corrective action could take 60  
8 days or 90 days or 6 months, depending upon the  
9 situation; is that right?

10 A (WITNESS MULLER) That is correct. And I  
11 don't think the regulations specify a time frame either.

12 A (WITNESS YOUNGLING) I would like to add to  
13 Mr. Muller's remark about the regulation on prompt  
14 corrective action. We have numerous documents; the  
15 technical specifications within the plant are just full  
16 of time limits for prompt corrective action of  
17 situations. So there are other mechanisms that would be  
18 able to give you the assurance and comfort of prompt  
19 corrective action.

20 Q And are those other mechanisms referred to in  
21 this procedure specifically?

22 A (WITNESS YOUNGLING) No, they are not, but  
23 they are certainly known by the personnel involved in  
24 the operation of the station; in particular, the plant  
25 operators who have to know the plant technical

1 specifications as a part of their license.

2 Q And it is the job of QQA, isn't it, to check  
3 up on the plant staff to make sure that they are  
4 properly carrying out those requirements, isn't it?

5 A (WITNESS MULLER) That is part of our  
6 responsibilities, yes.

7 (Pause.)

8 Q Let me turn for a moment to paragraph 5.6.7,  
9 which is on page 9. That expresses an intent that a  
10 centralized tracking system provide control of audit  
11 reports, et cetera, doesn't it?

12 A (WITNESS MULLER) Yes. And there is one.

13 Q Notwithstanding the fact that that language  
14 says that it is an intention, is in fact the input to  
15 the centralized tracking system mandatory?

16 A (WITNESS MULLER) The centralized tracking  
17 system we have is the log system in QQA. We are  
18 required to keep track of the audit reports, and each  
19 finding in the audit reports we need to know if there  
20 was an audit response form sent out, when it comes back  
21 to us with a response, and when the audit finding is in  
22 fact closed out.

23 Q And is the input to that tracking system  
24 mandatory even though this language says that it is the  
25 intention only?



1           A     (WITNESS MULLER) That is the method we use to  
2 track our audits.

3           Q     Is the answer yes?

4                     (Witnesses conferred.)

5           A     (WITNESS MULLER) It does not have a "shall"  
6 commitment.

7           JUDGE MORRIS: Excuse me, Mr. Muller, I was a  
8 little confused by that last answer. You said it does  
9 not -- what were you were referring to by the pronoun  
10 "it"?

11                    WITNESS MULLER: The tracking system.

12           JUDGE MORRIS: What about the commitment to  
13 enter data? Is there such a commitment?

14                    WITNESS MULLER: We do keep a system of the  
15 audits. It is the OQAE's from day one commitment to  
16 keep track of the audit responses and audit findings.

17           JUDGE MORRIS: If I were to follow in Mr.  
18 Dynner's vein, is that commitment written down anywhere,  
19 that requirement?

20                    WITNESS MULLER: I would have to say very  
21 loosely written down. It is not a "shall" requirement  
22 in our procedure.

23           JUDGE BRENNER: Why don't you say "mandatory"  
24 instead of "shall"? I think things will flow smoother  
25 on the transcript.

1 JUDGE MORRIS: Well, I am still a little  
2 uncertain about what that means. You say "loosely." Is  
3 there something that tells the inspector or the auditor  
4 that for any finding he makes, that should be entered  
5 into the tracking system?

6 WITNESS MULLER: He was aware that he is  
7 required to do it. It is not a written commitment.

8 JUDGE MORRIS: But it is mandatory?

9 WITNESS MULLER: It is mandatory as far as I  
10 am concerned, yes.

11 JUDGE MORRIS: Thank you.

12 JUDGE CARPENTER: Mr. Muller, I wonder if you  
13 would help me. For about the past hour we have been  
14 talking about things that are implied or not written or  
15 that you know. Is there a reason they are not written?

16 What is the virtue of the things you have been  
17 testifying to in the last hour in just the common-sense  
18 way to focus specifically on the item Judge Morris was  
19 just asking about, why isn't there a clear printed  
20 statement that it is mandatory that each one of these  
21 things enter the tracking system?

22 WITNESS MULLER: I think it is our intent to  
23 keep track of these events really on a computer system.  
24 That may not be up to speed just yet. We keep a manual  
25 log. Instead of saying the item shall be maintained in

1 a manual log, we put it in these terms. These are  
2 procedures written for us to understand. We understand  
3 them. And this is the way things are happening.

4 Maybe it would be clearer to someone else if  
5 we had a "shall" commitment or a mandatory commitment.

6 JUDGE CARPENTER: I am trying to get at this  
7 from a common-sense point of view. If I tell you have a  
8 commitment but I am not willing to put in writing, how  
9 do you feel about my commitment?

10 WITNESS MULLER: That it may not be a  
11 commitment.

12 JUDGE CARPENTER: That's why I think wherever  
13 you can help me understand why you are reluctant to have  
14 these fundamental attributes of the system described in  
15 writing, I would sure like to hear it.

16 WITNESS MULLER: I think, Judge Carpenter,  
17 where certain evaluation must be made, in some cases it  
18 is very difficult to list the whole process of  
19 evaluation. We would not write it in the procedure; we  
20 would leave it to the discretion of the responsible  
21 individuals.

22 The example I gave was with a procedure that  
23 may not be required for 4 years, we don't want to put  
24 something in the procedure that says an audit response  
25 is required from now until 5 years. We like to keep it

1 in a range of 30 days, but there may be exceptions that  
2 maybe we don't think of.

3 JUDGE BRENNER: I don't want to take any more  
4 of the County's time this afternoon, but just what I  
5 think is one more quick thing, what you are talking  
6 about now are things that vary with circumstances, and  
7 you have talked about quite a few of those over the  
8 course of this week and therefore in your opinion could  
9 not be written down. But this one last example in my  
10 mind does not fall in that category.

11 And your reason that you may go from the log  
12 tracking system to a computer system doesn't make sense  
13 to me either because you could have said, for example,  
14 the centralized tracking system, the audit reports,  
15 responses, et cetera, shall be entered into the  
16 centralized tracking system in use or some other generic  
17 term that would have covered you from the manual  
18 tracking system changeover to the computer system.

19 WITNESS MULLER: I think, Judge Brenner, that  
20 may have been a better way to put it, and maybe we could  
21 have put it in a different manner.

22 JUDGE BRENNER: On the other hand, I am not  
23 enough of a linguist to know whether it is intended "is  
24 mandatory or permissive" as a summary to other  
25 procedures. But I will leave that go for now.

1           WITNESS MULLER: Judge Brenner, I think as an  
2 auditor whenever there is a "shall" commitment, you  
3 don't have a choice. That is an auditable-type  
4 situation. If we didn't have a centralized tracking  
5 system, immediately we could be hit with an audit  
6 finding. I think we are just trying to be a little bit  
7 overprotective.

8           JUDGE BRENNER: I understand the difference  
9 between "shall" and "may." My point was I don't know  
10 where "it is intended" falls between those two. We also  
11 talked about "should" earlier this week, but enough is  
12 enough.

13           Back to you, Mr. Dynner.

14           MR. DYNNER: I am going to move now to section  
15 11 of the QA manual, test control and its corresponding  
16 procedure QAPS 11.1.

17           BY MR. DYNNER: (Resuming)

18           Q     Now, section 11.3.2 of the QA manual requires  
19 the QQA department and the QQA section to establish  
20 appropriate programs for test control, doesn't it?

21           A     (WITNESS MULLER) That is correct.

22           Q     And the QQA procedure that has been established  
23 pursuant to that requirement is QAPS 11.1, isn't it?

24           A     (WITNESS MULLER) That is correct.

25           (Pause.)

1 Q Now if you will turn to page 2 of this  
2 procedure, verification of compliance with test  
3 procedure requirements can be performed either by QQA  
4 personnel or personnel authorized by QQA; isn't that  
5 true?

6 A (WITNESS MULLER) Where are you reading from,  
7 Mr. Dynner?

8 Q Paragraph 5.3.1 of QAPS 11.1.

9 A (WITNESS MULLER) It does say that, yes.

10 Q There are no standards or guidance in this  
11 procedure that indicate what personnel can be authorized  
12 by QQA to perform this function, are there?

13 A (WITNESS MULLER) Within the body of this  
14 paragraph, no, there are not. However, those --

15 Q Well, within --

16 MR. ELLIS: Excuse me. Would you permit him  
17 to answer?

18 MR. DYNNER: I am sorry.

19 JUDGE BRENNER: Actually, in this case I think  
20 he was helping him with the addition. But go ahead.

21 WITNESS MULLER: However, these personnel  
22 could only once again be QC-qualified personnel. They  
23 would not be construction personnel or startup personnel.

24 BY MR. DYNNER: (Resuming)

25 Q And there is nothing in this procedure that

1 substantiates what you just said, is there?

2 A (WITNESS MULLER) The written words do not  
3 appear in that paragraph.

4 JUDGE BRENNER: He is taking you beyond the  
5 paragraph and giving you the benefit of the whole  
6 procedure, and you keep going back to the paragraph in  
7 your answers, Mr. Muller.

8 (Pause.)

9 WITNESS MULLER: There are no references in  
10 this procedure.

11 BY MR. DYNNER: (Resuming)

12 Q So that according to this procedure, these  
13 verification functions could be performed by a  
14 construction laborer if he were authorized by OQA,  
15 couldn't they?

16 A (WITNESS MULLER) They could not.

17 Q And where does it say in this procedure that  
18 they could not?

19 A (WITNESS MULLER) A construction laborer would  
20 not be authorized by OQA.

21 Q Where in the procedure does it say that he  
22 could not?

23 (Pause.)

24 A (WITNESS MULLER) It doesn't say that in the  
25 procedure. However, he would not be authorized by OQA

1 because he would not be under our cognizance, he would  
2 not be qualified or certified to perform that function.

3 Q But, Mr. Muller, there is nothing in this  
4 procedure that says that the person authorized by OQA  
5 has to be under your cognizance or trained or qualified,  
6 is there?

7 JUDGE BRENNER: Didn't you ask that one  
8 already in different words? I mean it is your time, but  
9 if you want to ask it again, okay.

10 Answer the question.

11 (Witnesses conferred.)

12 WITNESS MULLER: It does not appear in this  
13 procedure. That appears in our qualification procedure  
14 and in the ANSI standards to which our procedure goes  
15 back to. That is ANSI N-452.6.

16 MR. DYNNER: Well, to me that is not a  
17 responsive answer, and I am trying to clarify the answer  
18 to the question, Judge Brenner.

19 JUDGE BRENNER: I think he answered the  
20 question. He gave you the immediate answer, and then he  
21 gave you further explanation. He gave you more of an  
22 answer to what I think was essentially the same question  
23 a few moments ago, but that is what happens when you ask  
24 essentially the same question.

25 (Counsel for Suffolk County conferred.)



1 BY MR. DYNNER: (Resuming)

2 Q There is nothing in this procedure that says  
3 when verification of compliance with test procedure is  
4 required, is there?

5 (Witnesses conferred.)

6 A (WITNESS YOUNGLING) There may not be any  
7 words on there, but I certainly have requirements within  
8 my program under startup. I have a series of  
9 procedures, preoperational test procedures. These are  
10 performed on safety-related systems at a minimum. There  
11 are some non-safety-related pre-ops that are done.

12 When we write those procedures, they are sent  
13 to the QA organization. As part of that review the QA  
14 organization will initiate and tell us the witness  
15 points that they want to be involved in. Those witness  
16 points are put in the procedure. And during the  
17 performance of the procedure there are prerequisites  
18 that call for the notification of the QA organization  
19 that the test is to begin. And the test people and the  
20 QA people perform the test, and the witness points are  
21 satisfied.

22 In addition, as part of the overall approval  
23 process of the pre-op tests, the QA organization  
24 performs a subsequent audit of the entire test package  
25 to ensure that all of the signatures are in place and

1 the witness points have been satisfied. So if there  
2 isn't anything in there, there sure is a lot in my  
3 particular area.

4 Q Now, if we look at paragraph 5.3.2,  
5 subparagraph B sets forth the manner in which  
6 prerequisite witness points may be verified by OQA,  
7 doesn't it?

8 A (WITNESS MULLER) Yes. It shows one method.

9 Q And that method can be simply a written  
10 document, can't it?

11 A (WITNESS MULLER) In some cases it would be a  
12 written document which would require a chemical analysis  
13 in the case of a test that is performed to clean a  
14 system.

15 Q Well, perhaps I don't understand the language  
16 of this paragraph, and maybe you can help me out with it.

17 JUDGE BRENNER: Let him ask another question.  
18 I want to make sure that the witness inadvertently  
19 doesn't divert you from where you want to go. That's  
20 why I jumped in.

21 BY MR. DYNNER: (Resuming)

22 Q Verification can take place under this  
23 paragraph by proving that a functional requirement has  
24 been met by examining objective evidence. And that  
25 evidence, in order to determine that the functional

1 requirement has been met, can be a sign-off by someone,  
2 can't it?

3 A (WITNESS MULLER) Yes, it could be. And that  
4 does apply to certain procedures in order to verify that  
5 certain prerequisites have been accomplished. The  
6 procedure may require sign-offs by individuals  
7 performing the previous steps.

8 Q And a sign-off is just a piece of paper with  
9 someone's initials or name on it indicating that he has  
10 performed some function, isn't it?

11 A (WITNESS YOUNGLING) The sign-off would be  
12 that the requirements of the step have been accomplished.

13 A (WITNESS MULLER) And this would appear in a  
14 controlled procedure.

15 Q But what I am getting at is would the evidence  
16 of a sign-off be a piece of paper or a checklist or  
17 something like that with someone's initials or signature  
18 on it?

19 A (WITNESS MULLER) Yes, it would be. And there  
20 would be other evidence to back up the sign-offs.

21 Q Wel, this procedure doesn't require any other  
22 evidence, does it?

23 A (WITNESS YOUNGLING) No, it does not. And  
24 again, within my procedures there are steps where OQA  
25 will verify that all prerequisite steps have been

1 satisfactorily signed off.

2 Q And by "my procedures," what are you referring  
3 to?

4 A (WITNESS YOUNGLING) I am sorry. In  
5 accordance with the Shoreham startup program manual.

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1 Q And that is not the QQA section procedure, is  
2 it?

3 A (WITNESS YOUNGLING) What I am trying to show  
4 you is it is an example of the mechanism to carry out  
5 that step or an example of the way that step is carried  
6 out.

7 Q In paragraph 5.3.4 there is no requirement  
8 that QQA complete an QQA verification report to document  
9 the activity that is referred to in the second sentence,  
10 is there?

11 A (WITNESS MULLER) There is no requirement in  
12 every case to complete a verification report. The QQA  
13 witness point may in fact be on the test procedure.

14 Q There are no standards or criteria or  
15 instructions contained in this procedure that would  
16 represent guidance as to when an QQA verification report  
17 should or should not be filed in that instance, is  
18 there?

19 A (WITNESS MULLER) There are no specific  
20 requirements listed, but the people know when a  
21 verification report is required. If a test procedure  
22 requires QQA signoff, a verification report is not  
23 normally required. The step is written, the  
24 verification signature is there, and that indicates that  
25 the procedural step was in fact followed.

1 Q And so they know whether or not to file a  
2 verification report not by virtue of anything in this  
3 written procedure but by some other means, is that your  
4 testimony?

5 A (WITNESS MULLER) That is part of their  
6 training. If the test procedure does not provide for  
7 that verification signoff a verification report would be  
8 required.

9 Q You are familiar, Mr. Muller, aren't you, with  
10 the fact that criterion V of Appendix B of 10 CFR Part  
11 50 requires "activities affecting quality shall be  
12 prescribed by documented instructions, procedures or  
13 drawings of a type appropriate to the circumstances and  
14 shall be accomplished in accordance with these  
15 instructions, procedures or drawings"? You are familiar  
16 with that, aren't you?

17 A (WITNESS MULLER) Yes, I am.

18 JUDGE BRENNER: Off the record.

19 (A discussion was held off the record.)

20 JUDGE BRENNER: Let's go back on.

21 BY MR. DYNNER: (Resuming)

22 Q So that each time in response to a question  
23 that I ask you as to where in the written procedures is  
24 there documentation of an activity affecting quality and  
25 you responded it is not in the written procedures but it

1 is something that QA personnel know or have been trained  
2 to know, et cetera, you are telling me that there is a  
3 violation of Criterion V of Appendix B, aren't you?

4 (Witnesses conferring.)

5 A (WITNESS MULLER) We are not in violation of  
6 Criterion V. The procedures are appropriate.

7 (Counsel for Suffolk County conferring.)

8 Q What are the criteria that you use in  
9 determining whether activities affecting quality in the  
10 DQA section need to be documented in writing or can  
11 simply be determined on an ad hoc basis and implemented  
12 in the training program?

13 (Witnesses conferring.)

14 A (WITNESS MULLER) Mr. Dynner, can I have my  
15 question again?

16 MR. DYNNER: Would you kindly read the  
17 question, please?

18 (The reporter read the record as requested.)

19 (Witnesses conferring.)

20 WITNESS MULLER: The criteria are the  
21 experience, the training of the personnel, the  
22 clarification required.

23 (Counsel for Suffolk County conferring.)

24 BY MR. DYNNER: (Resuming)

25 Q Is that your complete answer?

1           A       (WITNESS MULLER) That is all I can think of  
2 right now, yes.

3           Q       Could you clarify your answer by telling me  
4 what you mean by "clarification required" as a criterion  
5 for deciding whether an activity affecting quality need  
6 be documented?

7                   (Witnesses conferring.)

8           A       (WITNESS MULLER) When a judgment has to be  
9 made, I will provide clarification.

10                   (Counsel for Suffolk County conferring.)

11          Q       Is there any documentation with respect to the  
12 criteria that you just set forth that would indicate how  
13 much experience or how much training is needed in order  
14 to determine whether activities affecting quality should  
15 be documented?

16                   (Witnesses conferring.)

17          A       (WITNESS MULLER) Mr. Dynner, if you are  
18 talking about the documentation of these activities that  
19 is required via inspection, surveillance, through the  
20 test procedures --

21          Q       I think you misunderstood the question, Mr.  
22 Muller. Let me try it again.

23                   (Counsel for Suffolk County conferring.)

24                   You have mentioned three criterion as being  
25 applied in a decision as to whether procedures or,



1 rather, activities affecting quality need to be  
2 documented in procedures -- experience, training, and  
3 the clarification required.

4 Are those three criteria documented anywhere  
5 such that one could find out the amount of experience  
6 necessary, the amount of training necessary or the type  
7 of clarification that is required?

8 A (WITNESS MULLER) I think I misunderstood your  
9 question and I think the reason I understood there was  
10 also training or implementation of a training program in  
11 there.

12 JUDGE BRENNER: Well, don't worry about it.  
13 Just answer the question as he has just asked it.

14 WITNESS MULLER: I am very confused, Judge  
15 Brenner.

16 JUDGE BRENNER: Okay. First of all, you  
17 testified as to a lot of these things that aren't  
18 written down in the procedures that people doing these  
19 things know what to do and then you partially  
20 articulated that later as two criteria being experience  
21 and training.

22 He wants to know by what standards does one  
23 know that you have the people who know what they are  
24 doing -- that is, have the requisite experience and  
25 training to be able to do what you said they could do.

1 WITNESS MULLER: That's easy.

2 MR. DYNNER: Excuse me. I hate to interpose,  
3 but I don't think that is what I was asking. Perhaps I  
4 should start all over again.

5 JUDGE BRENNER: Then I don't understand your  
6 question.

7 BY MR. DYNNER: (Resuming)

8 Q As I understood your testimony, Mr. Muller,  
9 you indicated that the decision as to whether or not  
10 procedures for activities affecting quality need to be  
11 documented was made on the basis of three criteria --  
12 experience, training and the clarification required.

13 And my question was are there any documents  
14 that set forth and explain those three criteria?

15 (Pause.)

16 A (WITNESS MULLER) I'm still slightly confused,  
17 but as far as those three criteria, what I was referring  
18 to was the amount of instruction that those people would  
19 require as far as in the written procedure.

20 (Counsel for Suffolk County conferring.)

21 Q Mr. Muller, if we can turn now for a moment to  
22 page four of this procedure, QAPS 11.1, could you tell  
23 me why aren't test records a part of the record  
24 requirement in paragraph 6?

25 A (WITNESS MULLER) Test records are required to

1 be kept not by the QQA section but by the organization  
2 performing the test.

3 A (WITNESS YOUNGLING) In the case of the plant  
4 staff, the procedures on testing that call for testing  
5 do require that those records be kept and within my  
6 organization there is a commitment to ensure that those  
7 test records are in place.

8 (Counsel for Suffolk County conferring.)

9 MR. DYNNER: Judge Brenner, in view of the  
10 time I would like now to interrupt my cross examination  
11 on the various procedures -- I have completed my  
12 examination on QAPS 11.1 -- and move into evidence the  
13 County's Exhibit 76.

14 JUDGE BRENNER: I don't remember if you asked  
15 about all of those or not, to be honest, but I don't  
16 have any problem moving it into evidence in the same  
17 fashion as Attachment 45 to LILCO's testimony, for that  
18 matter, but we will hear from the other parties.

19 MR. ELLIS: Judge Brenner, the only problem I  
20 have is the problem that we deal with, I guess, in all  
21 cases in dealing with findings later on, but we have no  
22 objection other than that. If we could do it in terms  
23 of portions, it might be better, but we have no  
24 objection, certainly, to the authenticity or other  
25 aspects of it.

1 JUDGE BRENNER: Well, let's just admit it.  
2 This is different than the audit findings; that is, that  
3 these are the procedures. Offhand I can't think of a  
4 difference in being able to cite them for findings of  
5 fact between being in for identification or in  
6 evidence. The point can be made either way. The  
7 procedure says this; the procedure says that.

8 So I don't have the same problem that we have  
9 discussed with the audit findings, because the purpose  
10 there was in part for more than just the finding says  
11 this, to the extent they were examined on it.

12 I guess I'm waiting for a response from you,  
13 Mr. Ellis.

14 MR. ELLIS: Well, I still have a problem with  
15 facing a finding in the future concerning a portion of a  
16 procedure on which there has been no testimony.

17 JUDGE BRENNER: Well, how about all the  
18 procedures that you attached in Attachment 45, QAPS  
19 procedures there? They were referenced in passing in  
20 most cases in the testimony rather than being discussed.

21 MR. ELLIS: That is true.

22 JUDGE BRENNER: And they are in evidence.

23 MR. ELLIS: That is true. I didn't hear that  
24 objection made then.

25 JUDGE BRENNER: That's true also. But if you

1 thought it was okay, it's okay for them.

2 MR. ELLIS: Sauce for the goose is sauce for  
3 the gander. I understand that one.

4 (Laughter.)

5 JUDGE BRENNER: I don't think there's a  
6 problem with the procedures. We don't have the same  
7 hesitation, strong hesitation that we have with the  
8 audit reports. And I pointed out technically we could  
9 have admitted all of those audit reports, and we did not  
10 for the reasons we discussed.

11 MR. ELLIS: I think it is that excessive  
12 caution that I have been accused of in the past. I  
13 understand.

14 JUDGE BRENNER: All right. We will admit  
15 Suffolk County Exhibit No. 76 into evidence.

16 (The document previously  
17 marked Suffolk County  
18 Exhibit No. 76 for  
19 identification was  
20 received in evidence.)

21 JUDGE BRENNER: For the record, that consists  
22 of those audit reports which were listed. I'm sorry.  
23 It consists of the operational quality assurance  
24 procedures that are under the designations QAPS and then  
25 the numbers. And we already got the list at the time

1 the exhibit was identified.

2 MR. ELLIS: Judge Brenner, may I inquire if  
3 Mr. Dynner is through? These witnesses have planes.  
4 They have enough time to catch them, but it's always  
5 nice to have a little leeway.

6 JUDGE BRENNER: Well, Mr. Dynner has seven  
7 more minutes, and he can do what he wants with them.

8 MR. DYNNER: Judge Brenner, as I indicated  
9 previously, I have been going through what is a  
10 difficult and detailed examination of the various  
11 procedures, and I would like the opportunity to continue  
12 my cross examination with respect to all of the rest of  
13 the balance of the procedures at least on the County's  
14 Exhibit 76.

15 JUDGE BRENNER: And you don't have enough time  
16 to do it?

17 MR. DYNNER: That is within your discretion,  
18 sir.

19 JUDGE BRENNER: No. We are going to cut off  
20 the cross examination at 5:00 as we said. You mean you  
21 wanted to finish today?

22 MR. DYNNER: Well, I don't think it is  
23 possible for me to finish today. But I do have these  
24 other procedures which we haven't gotten to and which,  
25 as you know, that I indicated earlier I didn't feel it

1 would be possible for us to get through. And it is my  
2 feeling that in the cross examination of these  
3 procedures they would be material relevant and important  
4 to the Board's decisions as to whether or not the LILCO  
5 CQA program as provided by the FSAR, the QA manual and  
6 the various procedures of the CQA section satisfy the  
7 requirements of Appendix B of 10 CFR Part 50.

8 JUDGE BRENNER: Well, you make your offer of  
9 proof when it is convenient, but sooner rather than  
10 later, similar to the offer of proof we received on the  
11 construction QA. And we will take a look at it, but  
12 we're not going to look just at the value of what you  
13 say you didn't get to. We are going to balance it  
14 against the five weeks of cross examination and  
15 especially the three weeks since we set the time limit.  
16 And you were entitled to set your own priorities, and we  
17 are going to judge what was accomplished during that  
18 time.

19 In addition, presumably you took your best  
20 shot first, as we have discussed many times, and  
21 particularly I'm talking about this one area now, the  
22 contents of the procedures and whether one knows what  
23 should be done in accordance with Appendix B as spelled  
24 out in the implementing documents, including the  
25 procedures, and the coordination or lack thereof between

1 the procedures and the manual and the FSAR and so on;  
2 that is, your part J of the cross plan.

3           Within that category you put your best stuff  
4 first, and that is in the sense of your best argument.  
5 I assume you did. And we've got the flavor of where  
6 that is, and if you're right, you've got it. You've got  
7 enough examples in there where if you are correct, you  
8 will get a finding in your favor. If you are incorrect  
9 on what you've showed us so far in our view, you won't  
10 get a finding in your favor.

11           But then to argue that well, you didn't  
12 convince us on those but you had others you were going  
13 to convince us on is not very palatable on the theory  
14 that you put your best stuff first. But we will think  
15 about it when we see your offer of proof.

16           MR. DYNNER: Judge Brenner, I wanted to, if I  
17 may --

18           JUDGE BRENNER: I can't decide that now.

19           MR. DYNNER: I would like briefly, if I could,  
20 to respond, because I think by the very nature of this  
21 cross examination it has been difficult for me to adduce  
22 what is putting my best foot forward. As you can see,  
23 we are dealing with the examination of highly detailed,  
24 complex material, and certain things that may seem less  
25 important to me may be more important to the Board or



1 vice-versa. And, therefore, it is hard for me to say  
2 that I have put the most important things forward first,  
3 because I don't know what might be of greater interest  
4 or lesser interest to the Board. I've done the best  
5 that I could.

6 JUDGE BRENNER: Well, it's not just you.  
7 You've got experts advising you.

8 MR. DYNNER: I meant the County has done the  
9 best it could.

10 JUDGE BRENNER: Well, the County has had a lot  
11 of time to decide what to ask about even before the last  
12 five weeks and certainly within the last five weeks.  
13 And I can tell you that we're going to balance the fact  
14 that I spent two hours listening to litter on the floor  
15 problems at one point in these last five weeks and other  
16 things that went nowhere. And if you've got good stuff  
17 that you would have gotten to in the next two hours,  
18 maybe that should have been asked at that point.

19 MR. DYNNER: Would you prefer me to give the  
20 offer of proof in writing? Is that what you are  
21 suggesting?

22 JUDGE BRENNER: I would prefer it. I won't  
23 require it, but I think it would be more efficient for  
24 all of us.

25 We're going to take a look at the offer of

1 proof we received today, and I guess I'm acknowledging  
2 receipt of that on the other QA items other than  
3 operational QA, and we will look seriously at a similar  
4 offer.

5           But it is not just a matter of we think what  
6 is in the offer of proof would have been helpful. It's  
7 also a matter of our having set back for certainly the  
8 last three weeks -- remember, the quid pro quo with the  
9 time limit was we do not jump in and say move on as  
10 frequently as we might have if you had not had the time  
11 limit. I can tell you that for an absolute fact there  
12 are times when I would have said move on to the next  
13 area; this is taking too long. And if you had not had a  
14 time limit, we would have done it that way.

15           But partly based upon the arguments that it  
16 was difficult to tell at any given moment how important  
17 the material would be, which arguments were advanced by  
18 the County, we set the overall time limit, and we think  
19 it was generous. And if you've made your case, again  
20 talking about this subpart, which are the ones you've  
21 indicated you just didn't get to, then you would have  
22 made it by the examples already used. If you didn't  
23 make it by these examples, I don't know, but you should  
24 have put what you thought was most important first. And  
25 beyond that we will take a look at your offer of proof.

1 MR. LANPHER: Judge Brenner, you alluded to  
2 the fact that I did hand out an offer of proof on behalf  
3 of Suffolk County, and I gave it to Mr. Bordenick and  
4 Mr. Ellis. I have not marked that as an exhibit or  
5 provided it.

6 JUDGE BRENNER: We will do that next week. I  
7 think it certainly should be marked as an exhibit.

8 MR. LANPHER: While I signed it as a pleading,  
9 I did not serve it on the service list, and I didn't  
10 think that was appropriate.

11 JUDGE BRENNER: We will handle it as an  
12 exhibit next week. Why don't you have some copies  
13 around?

14 That's it, I guess.

15 Well, I want to thank the witnesses for their  
16 effort in clarifying for us and the parties the matters  
17 that needed clarification and for putting in a hard week  
18 as witnesses in this proceeding always do, and we  
19 appreciate that.

20 Next week we will pick up on Tuesday, November  
21 9th at 9:00 with the staff's examination of the LILCO  
22 panel, subject to the flexibility I indicated if LILCO  
23 and the staff want to divide it up, and then LILCO will  
24 begin the redirect with nonoperational QA, and we will  
25 hold our questions until after the redirect, if we have

1 any left by then. We have taken liberties in asking  
2 questions all along the way so we wouldn't have to save  
3 them for five weeks.

4 That's all we have. All right. Have a nice  
5 weekend. We'll see you Tuesday morning.

6 (Whereupon, at 5:00 p.m., the hearing was  
7 recessed, to be reconvened at 9:00 a.m., Tuesday,  
8 November 9, 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 5, 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)