

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:)
)
TEXAS UTILITIES GENERATING)
COMPANY, et al.) Docket No. 50-445
) 50-446
(Comanche Peak Steam)
Electric Station, Units 1 & 2))

TELEPHONE CONFERENCE CALL

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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In the matter of: :
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TEXAS UTILITIES GENERATING :
COMPANY, et al. : Docket Nos. 50-445
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Electric Station, Units 1 and 2 :
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TELEPHONE CONFERENCE CALL

Thursday, April 7, 1983

The telephone conference call in the above-titled
matter was convened at 2:30 p.m., subject to notice, before

JUDGE PETER BLOCH,
Chairman, Atomic Safety & Licensing Board.

JUDGE KENNETH MC COLLOM,
Member, Atomic Safety & Licensing Board.

JUDGE WALTER JORDAN,
Member, Atomic Safety & Licensing Board.

1 APPEARANCES:

2 FOR THE APPLICANT:

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13 Office of the Executive Legal Director
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15 Washington, D.C. 20555

16 FOR THE INTERVENORS:

17 JUANITA ELLIS, ESQ.
18 BRIAN BERWICK, ESQ.
19 JAMES MATTHEWS, ESQ.
20 State Attorney General's Office
21 Austin, Texas

P R O C E E D I N G S

1
2 JUDGE BLOCH: I am Peter Bloch, Chairman of the
3 Atomic Safety and Licensing Board for the Comanche Peak
4 proceeding.

5 With me today on this telephone call are Walter Jordan
6 and Kenneth McCollom, the other two judges on the Licensing
7 Board for this proceeding.

8 I would like to begin by call the roll of the parties
9 in attendance.

10 For the Applicant, please.

11 MR. REYNOLDS: Nicholas Reynolds, Washington, D. C.,
12 and my associate, William Morris; also Homer C. Schmidt in
13 Texas. Mr. Schmidt is the licensing project manager for Texas
14 Utilities Services.

15 JUDGE BLOCH: For the staff.

16 MR. TREBY: My name is Stewart A. Treby, Assistant
17 Chief Hearing Counsel. With me is Marjorie Rothchild, staff
18 counsel in this proceeding, and, also, Mr. D. J. Youngblood,
19 Chief of Licensing Branch No. 1, Division of Licensing of the
20 Office of NRR.

21 JUDGE BLOCH: For the Intervenor's case.

22 MS. ELLIS: Juanita Ellis. I am president of CASE.
23 We are Intervenor here.

24 JUDGE BLOCH: For the State Attorney General's Office
25 of Texas.

1 MR. BERWICK: This is Brian Berwick -- Berwick -- for
2 the state of Texas.

3 JUDGE BLOCH: Off the record.

4 (Discussion off the record.)

5 JUDGE BLOCH: I regret that Marshal Miller found it
6 necessary to resign from this case, but he has a serious
7 problem which made it impossible for him to continue as
8 chairman of this board. You will be getting to know me soon.
9 Obviously, the style of the chairman does influence the
10 proceeding, and I assure you that I am interested in fairness
11 and efficiency in this proceeding, that I will be at the service
12 of the parties to assist and resolve deadlocks that occur and
13 that interfere with fairness and efficiency. And I can be
14 reached at any time. I am even willing to be reached at home
15 should that be necessary.

16 MR. REYNOLDS: Mr. Chairman.

17 JUDGE BLOCH: Yes, Mr. Reynolds.

18 MR. REYNOLDS: There was one name that was not
19 identified. Could we have that identification, please?

20 I believe the name was Matthews.

21 MR. MATTHEWS: Yes, Jim Matthews. I'm on the line
22 with Mr. Berwick of Texas.

23 MR. REYNOLDS: Of the Attorney General's Office/

24 MR. MATTHEWS: Yes.

25 JUDGE BLOCH: Thank you very much.

1 I would like to urge that when the Board asks
2 questions, that parties should feel free to object. We realize
3 that in framing questions or taking other actions that we are
4 subject to error just as parties are in asking questions. And
5 I would like for people not to be reluctant to challenge the
6 Board.

7 The agenda for today's call has several parts. First,
8 there was a conversation which we had with the staff about its
9 plans for independent design review, and we will call on them
10 for that. I'm going to go over the whole agenda.

11 The Board has a few questions that they will want to
12 ask, and also have announced that they have some more that will
13 be coming, or some briefs that we will be requiring. And we
14 will discuss those as scheduled. And we wish to resolve all
15 outstanding discovery matters on any of the contentions in the
16 proceeding. We will resolve them one at a time.

17 We hope, then, to schedule a hearing. And then the
18 chairman has some advice he'd like to give to the parties about
19 the procedures that he would like to see followed in the filing
20 of findings, citations, regulatory material, preparation of
21 cross-examination.

22 Mr. Treby, would you please report on the Board's
23 request to you for information about independent design review?

24 MR. TREBY: Yes, Judge Bloch.

25 The Board asked the staff to report on the status of

Kraus

1 the staff's determination of a need for an independent design
 2 interpretation program at Comanche Peak. On March 10, 1983,
 3 the staff held a meeting with the representatives of the Appli-
 4 cant. Copies of meeting summaries have been provided to the
 5 Board, the parties, in the form of Board Notification 83-29A.

6 As stated in those meeting summaries, the staff advised
 7 the Applicant that in view of recent developments, some form
 8 of added assurance that the plant has been designed and construct-
 9 ed in accordance with the application would be necessary.

10 One form of giving added assurance would be through an
 11 IDVP. However, the staff indicated that that was not the only
 12 method that could be used. Subsequently, the staff has noticed
 13 another meeting between the staff and the parties to be held on
 14 April 13 between the staff and Applicant, on April 13. As of
 15 this time the staff has not made any decision as to whether an
 16 IDVP will be required.

17 JUDGE BLOCH: Can you tell us the scope of the staff's
 18 interest for an IDVP? Would it be interest for all quality
 19 control or is it limited to the new matters that have been
 20 discovered?

21 MR. TREBY: My understanding of an IDVP is that the staff
 22 asks the utility company to look at a particular system in detail
 23 from the very beginning of the design right through to the end
 24 of construction, and all of the documentation along the way.
 25 And at least that's one form of an independent design verification

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1 program.

2 JUDGE BLOCH: Was it for one or two systems or for the
3 plant?

4 MR. TREBY: In the past it has been to look for just one
5 system all the way through, the theory being, as I understand it,
6 that the same procedures are followed on all systems, so if you
7 look in detail at the one system, that gives you an indication
8 of what the processes of the utility were.

9 JUDGE BLOCH: And is it clear at this point that that
10 system would not include piping and price reports, or it might
11 even include that?

12 MR. TREBY: No determination has been made. However,
13 the staff did conduct a special investigation into the allegations
14 that were made by Messrs. Walsh and Doyle, and it would be very
15 unlikely that there would be a duplication of that investigation
16 as part of IDVP.

17 JUDGE BLOCH: So that in your view it would be all right
18 for the Board to continue investigating the Doyle concern and
19 would not be concerned that that would later be outdated because
20 the staff had gone back and done it again in detail?

21 MR. TREBY: You are correct, Judge Bloch. You could
22 go forward and there would be no turnabout as becoming outdated.

23 MR. REYNOLDS: Mr. Chairman, Nick Reynolds.

24 JUDGE BLOCH: Yes, Mr. Reynolds.

25 MR. REYNOLDS: I would like to add that the Applicant's

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1 position in that regard is that the Board need not even await
2 the outcome of the IDVP, should one be required, before issuing
3 its initial decision. Rather, this should be considered an
4 independent inquiry by the staff outside of the scope of this
5 hearing and outside of the issues which have been raised in this
6 hearing.

7 JUDGE BLOCH: I appreciate that. We wanted to hear whether
8 there was a direct relationship. Not that it would preclude our
9 going forth, but it might affect our decision as to whether to
10 go forward.

11 Are there any other necessary comments on this point?

12 MS. ELLIS: Yes, this is Juanita Ellis. There are a
13 couple of things that should be noted. Although we have been
14 informed of all the meetings between the Applicants and the
15 staff about the independent design verification program,
16 we sent a letter recently to Harold Denton objecting to the
17 fact that we were not informed of the March 10th meeting until
18 after it had already occurred. We received, recently, a letter
19 from Mr. Eisenstadt apologizing for that and saying that in
20 the future we would be informed in advance, and we have been
21 informed in advance of the April 13th meeting.

22 We are very concerned that it was at that particular
23 March 10th meeting where it was discussed that the NRC had
24 lost some confidence in the safety of the plant to the extent
25 that they needed to have some sort of additional assurance.

1 Another thing --

2 MR. REYNOLDS: Mr. Chairman, this is the reason why
3 I object to the characterization that Ms. Ellis has placed on
4 the outcome of that March 10 meeting. The records speak for
5 itself in that regard.

6 JUDGE BLOCH: We have read it, Mr. Reynolds. I would
7 urge that the parties consider whether all of the points that
8 they might want to make are necessary for purposes to advance
9 the proceedings. I think that would apply to this point, both
10 to the Applicant's remarks and, to some extent, to Ms. Ellis'.
11 If you wanted the Board to take action about a notification, that
12 would be helpful, but general comments without a request for
13 action won't advance things very much.

14 Ms. Ellis, would you like to continue?

15 MS. ELLIS: Yes. I think a later review might outdate
16 what the staff has already done. I think that that statement,
17 that it will not, is a little alarming to us because it seems
18 to us that there is a prejudgment in effect as to what will
19 occur during the next period, and I think that if nothing else
20 it points out the need for us to thoroughly cover and analyze
21 the testimony and documents in regard to the Walsh-Doyle allega-
22 tion.

23 MR. REYNOLDS: Mr. Chairman, Nick Reynolds. I think
24 Ms. Ellis is totally off base in that regard. The point that
25 was made by the staff, as I understood it, is that it is unlikely

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1 that the same hardware systems would be evaluated in any IDVP
2 that might be conducted in view of the fact that the staff has
3 just conducted an exhaustive IDVP on its own, of that very
4 system.

5 JUDGE BLOCH: Thank you, Mr. Reynolds. I did under-
6 stand, and I was going to say that to Ms. Ellis. It was my
7 understanding that the reason that they don't expect to outdate
8 the previous results is that they don't expect to cover that
9 particular system, not that they think that the review they
10 will undertake will change things. I don't think the staff
11 would do that.

12 MR. TREBY: This is Mr. Treby. You improperly char-
13 acterized my statement.

14 JUDGE BLOCH: Ms. Ellis, would you like to continue?

15 MR. JORDAN: This is Walter Jordan. I have one ques-
16 tion.

17 JUDGE BLOCH: Yes?

18 MR. JORDAN: I have one question. Is the staff saying
19 their concerns with respect to the need or possible need for an
20 IDVP was in no way triggered by the investigations, special
21 investigations in response to Walsh-Doyle?

22 MR. JORDAN: This is Dr. Jordan. The staff -- I held
23 an earlier meeting, in December, with the Applicants at which
24 the subject had to come up, and the staff at that time was
25 aware of the Walsh-Doyle allegations that in fact a special

Kraus 1 investigation was in force at that time. And at that time the
2 staff did not have any concerns. The staff's concerns have
3 arisen as a result of the past investigation together with the
4 various other allegations that have been made over the course
5 of time.

6 JUDGE BLOCH: So that includes possibly Walsh-Doyle,
7 although you are saying it wasn't determinative?

8 MR. JORDAN: Right. That's just one of many allega-
9 tions.

10 JUDGE BLOCH: Ms. Ellis, you were speaking?

11 MS. ELLIS: Yes. Regarding the staff's findings,
12 my understanding is that there is still an investigation report
13 to come on that. Is that correct?

14 MR. TREBY: As I understand it, the status of that
15 special investigation, there still are a few unresolved items
16 and open items, and those will be the subject of an additional
17 supplement to that investigation report.

18 MR. REYNOLDS: Mr. Chairman, Nick Reynolds.

19 JUDGE BLOCH: Yes?

20 MR. REYNOLDS: Mr. Treby's response leaves me somewhat
21 confused. I thought he was going to say that in no way does
22 the Walsh-Doyle investigation by the staff lead the staff to
23 conclude that an IDVP would be required. I am not sure that
24 that is what he said. I am not sure that I understand what he
25 said. But it seems to me that if you read the investigation of

Kraus 1 the staff, it came out squarely on all fours against the allega-
2 tions made by those gentlemen, and therefore cannot, in my view,
3 lend any support to a staff conclusion that an IDVP may be
4 required. And I wonder if we could have clarification on that
5 from Mr. Treby.

6 MR. TREBY: I would like, instead, to stop this inquiry
7 on the grounds that if there is some relevance to this proceeding,
8 of the motivation of the staff on seeking an IDVP, that that
9 really should be taken up as an evidenciary matter so that we
10 learn from the people themselves what their motivations were.
11 I would rather that we not go into it in any greater detail now.
12 Is that a problem for you, Mr. Reynolds?

13 MR. REYNOLDS: No, I just wanted the record to be
14 complete on it, since it was raised by the Board. But I have
15 no problem dropping it.

16 JUDGE BLOCH: Ms. Ellis?

17 MS. ELLIS: I would like to inquire if there is a date
18 or proposed date regarding the past findings. I believe there
19 was a notation in the original notification to the Board that
20 it would be in early April. Is that correct?

21 JUDGE BLOCH: Mr. Treby?

22 MR. TREBY: I am sorry, I didn't hear the question.

23 JUDGE BLOCH: Will the test study be completed in
24 early April, or is there another date for its completion that
25 has been set by the staff?

Kraus 1 MR. TREBY: My understanding is that the test report
2 will come out in April.

3 JUDGE BLOCH: And you will omit it early, purposely,
4 I take it?

5 MR. TREBY: My understanding is that it is supposed
6 to be coming out early next week, and I am not sure whether
7 we are getting into early or middle. Somewhere between the 12th
8 and the 15th, possibly.

9 JUDGE BLOCH: Ms. Ellis, does that complete your par-
10 ticipation at this point?

11 MS. ELLIS: Yes, sir.

12 JUDGE BLOCH: Thank you.

13 The next section of the agenda deals with a few ques-
14 tions that the Board has to ask.

15 MR. MATTHEWS: Jim Matthews, with the State of Texas.

16 JUDGE BLOCH: Yes, sir?

17 MR. MATTHEWS: One thing that I would like to clear
18 up in the record at this point is notification about meetings.
19 I would like to go on record in saying that the state would like
20 to have advance notice of all meetings that are going to occur
21 between the staff and Applicant.

22 JUDGE BLOCH: Mr. Treby, that can be managed, can't it?

23 MR. TREBY: Yes, it can.

24 MR. MATTHEWS: Also, one thing I wanted to have certi-
25 fication about, will the independent design and verification

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1 program be part of the licensing procedure?

2 JUDGE BLOCH: That is a matter of some controversy at
3 this point, and I think that the Board needs to resolve it. At
4 this time we don't know what that program is. I think what
5 Mr. Treby is indicating is that we can go forward on Walsh-Doyle
6 at this point, and then I think we can make up our minds later,
7 when we see what has actually transpired. Do you have a problem
8 with that, sir?

9 MR. MATTHEWS: I just wanted to be clear as to whether
10 or not we were ruling it in or out at this time. You are saying
11 that we would reserve judgment on whether or not it could be
12 part of the licensing procedure?

13 JUDGE BLOCH: Well, there is no question that if it
14 comes out, whatever the staff action is, it can be a matter of
15 evidence in this proceeding. I am saying that the only purpose
16 of our inquiry right now was to decide whether we could go
17 forward on other matters.

18 MR. BERWICK: This is Berwick, from Texas.

19 JUDGE BLOCH: Yes, sir?

20 MR. BERWICK: What Mr. Reynolds said was that an initial
21 decision could be issued and need not await the outcome of the
22 IDVP. I take it that the panel is not at this time ruling on
23 whether or not Mr. Reynolds is correct. Am I right?

24 JUDGE BLOCH: You are right.

25 MR. BERWICK: Okay, is it the panel's desire to support

Kraus 1 his view, with briefings, for example? I only offer that as an
2 example.

3 JUDGE BLOCH: We would at some other time if it becomes
4 relevant. For the time being we are only concerned with going
5 forward on Doyle and emergency planning issues. So I don't
6 consider it relevant at this time. Is there anyone who disagrees
7 with that method of proceeding?

8 MR. TREBY: This is Mr. Treby. The staff does not
9 disagree, and I would like to make sure that the record is clear
10 that the staff has not indicated that a determination has been
11 made that there will be an IDVP. That's just a possibility, and
12 the reason we want to make the record clear is that I have the
13 impression that the records -- that the attorney general of
14 Texas is assuming that that is a foregone conclusion.

15 JUDGE BLOCH: Thank you for clarifying that, Mr. Treby.

16 MR. MC COLLUM: Mr. Chairman, this is McCollum.

17 JUDGE BLOCH: Yes, sir?

18 MR. MC COLLUM: I wonder if the staff would not provide
19 the Board a description of the things that go on in an IDVP pro-
20 cedure so that we would have that information available to us
21 for consideration.

22 JUDGE BLOCH: I assume that you would want it by the
23 time they should decide to do one. Is that right?

24 MR. MC COLLUM: I believe that it would be helpful for
25 me to have it, whether they decide to do one or not.

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1 JUDGE BLOCH: Surely, Mr. Treby, that is no problem,
2 is it?

3 MR. TREBY: We will try to answer the question. I
4 would like to point out that there has been a number of different
5 types of programs under this heading of independent design
6 verification program, depending on the particular concern and
7 the particular case. It is raised all the way from what is
8 happening in Diablo Canyon to a rather brief review in the south.
9 It depends on the particular case.

10 JUDGE BLOCH: So if you feel, therefore, that it has
11 no minimum core meaning, so that answering Judge McCollum wouldn't
12 be very helpful?

13 MR. TREBY: That is true.

14 JUDGE BLOCH: Does the judge have a further question
15 about that?

16 JUDGE MC COLLOM: That's all right.

17 JUDGE BLOCH: Okay, are there any other objections
18 to what we have said about how we are proceeding on a parallel
19 track with your IDVP concern?

20 All right, there being no objection, we will pass to
21 the questions that the Board has to ask. Judge McCollom first,
22 please.

23

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(3)

1 JUDGE BLOCH: Judge, I am having difficulty hearing
2 you.

3 JUDGE MC COLLOM: Say that again.

4 JUDGE BLOCH: I can't hear you.

5 JUDGE MC COLLOM: I think I'll change to the
6 telephone.

7 Is that better?

8 JUDGE BLOCH: Yes.

9 JUDGE MC COLLOM: All right, I'm on the phone.

10 JUDGE BLOCH: Yes.

11 JUDGE MC COLLOM: I would like to cover this from the
12 basis of a number of Board modifications.

13 The first one is referred to as the semi-scale test
14 results, which are Board Notifications 82-93, 82-107, and 83-27.
15 In that the staff stated that analysis is not a generic
16 indication of the ability of PWRs to feed and bleed, which must
17 be determined on a case-by-case basis.

18 My question is: What is the result of the analysis, if
19 it has been done for Comanche Peak?

20 JUDGE BLOCH: Off the record, please.

21 (Discussion off the record.)

22 JUDGE MC COLLOM: The second question is the failures
23 of reactor trip breakers to open in trip signal, which are covered
24 in two Board Notifications, Board Notification 83-26 and Board
25 Notification 83-83.

1 This is two occasions on which trip breakers
2 have not opened. When the staff read this, and I think the
3 applicant, they indicated that trip breakers were used in
4 Board Notification 3-26 was not used in Comanche Peak.

5 My question is is that what is used in Board
6 Notification 83-83 that GE AK-2 breaker, or what kind of
7 breaker is it? In addition, what procedures have been
8 implemented on the maintenance that will assure with
9 reasonable probability that an ATWS event will not occur?

10 The third question --

11 JUDGE JORDAN: Dr. McCollom, Walter Jordan here.

12 JUDGE MC COLLOM: Yes.

13 JUDGE JORDAN: Since I will also be having
14 questions on some of the unresolved safety issues and the
15 justifications that the staff used on the unresolved safety
16 issues, that particular Board Notification also concerns me
17 with respect to that because the justification in both the
18 staff answers to Board questions with respect to ATWS and
19 with respect to the justification cites the record as being
20 exceptionally good and in the past that there has not been
21 any failures to scram, there have been no ATWS events, and
22 there has been -- therefore, it seems to be in the view of
23 the Salem events, which was considered in Board
24 Notification 83-26 and also from the statements in the
25 NUREG-0460, which points out that the Westinghouse plants

1 lack a diversity in scram breakers.

2 And this was pointed out many years ago, that we
3 would ask whether the staff or the applicant has any plans
4 with respect to improving those breakers in accord with
5 NUREG-0460.

6 And at the same time NUREG-0640 also mentions
7 that the scram system does not meet IEEE.279 criteria. And
8 since this deficiency was pointed out many years ago, we
9 would ask if the Comanche Peak plant has been modified in
10 such a way that it does meet the requirements of IEEE.279?

11 I thought, if you don't mind, we would bring
12 this up at the same time. And I am sorry to interrupt Dr.
13 McCollom.

14 JUDGE MC COLLOM: No problem.

15 JUDGE BLOCH: It's helpful. I would like to
16 interrupt also just to ask at this point, after the two
17 questions, whether there are any necessary questions to
18 clarify what Dr. McCollom is asking.

19 MR. REYNOLDS: Yes, Mr. Chairman. That would be
20 helpful from my standpoint. I realize you are new to the
21 case. But the parties filed pleadings with the Board just 4
22 weeks ago.

23 JUDGE JORDAN: Walter Jordan here, who is the new
24 one to the case.

25 JUDGE BLOCH: The chairman is newer than you. We

1 are both new.

2 JUDGE JORDAN: Yes, and do you have any Board
3 stand by, Dr. McCollom --

4 MR. REYNOLDS: No, my question relates to the
5 filings that were made, and specifically, the Board asked
6 for the positions of the parties on the relevance and
7 significance to this proceeding of the Board Notification.
8 And in those pleadings, the staff and the applicants both
9 agreed that there was no relevant source of significance to
10 any Board Notification except the CAT Board Notification.

11 The intervenor felt that several, if not all,
12 were relevant. I don't really recall.

13 Now, the Board seems to be probing in some depth
14 into the Board Notification. And my question is this: Does
15 this indicate that the Board has determined that these
16 Board Notifications raise issues which are relevant in this
17 case and to the contentions in particular; and if so, which
18 contentions? Or does it indicate that the Board has made
19 the determination set forth by the Commission in order to
20 raise issues to sua sponte by the Board?

21 VOICE: I am sure Mr. Bloch will reply to that,
22 but I would like to point out that I tied up BN 83-26 with
23 the determination that unresolved safety issues is an item
24 which must be addressed by this Board outside of the
25 contentions. So perhaps I know that you have had some

1 statements about that, and I think that perhaps Mr. Bloch
2 will want to mention that we will be having determinations
3 on the unresolved safety issues.

4 MR. TREBY: This is is Stewart Treby. The staff
5 agrees with Mr. Reynolds' statement that the only Board
6 Notification that we found was significant was the CAT.
7 However, there were one or two other ones that we didn't
8 know might have been relevant to matters here.

9 JUDGE BLOCH: Mr. Treby, I would like to follow
10 up on Dr. Jordan's point. Is that apart from the
11 Commission's insistence that sua sponte issues be declared
12 for the record for their review, that we are still under
13 the compulsion of the Monticello case and must inquire
14 until we satisfy ourselves about unresolved safety issues?
15 Would you comment on that?

16 MR. TREBY: I believe that is correct. My
17 understanding of both the North Anna case and the
18 Monticello case is that the Licensing Board needs to be
19 assured that it has sufficient information to pass on the
20 sufficiency of the unresolved generic KC items with resolve
21 to the plans under consideration.

22 JUDGE BLOCH: Mr. Reynolds, do you agree with
23 that?

24 MR. REYNOLDS: I agree with that.

25 JUDGE BLOCH: There is one other point. And that

1 is that to some extent we will ask questions that may not
2 relate to the unresolved safety issues, and at this point
3 we are doing that in order to retain flexibility.

4 Our purpose is to inquire into whether or not to
5 raise their sua sponte issue. I would point out that a
6 recent Point Beach appeal decision that the Appeal Board
7 did just that.

8 In fact, it was in an amendment proceeding in
9 which the Appeal Board affirmed the decision of the Board
10 below in deciding that the intervenor must be dismissed and
11 also about something in the contentions. But the Appeal
12 Board nevertheless went ahead and asked some questions for
13 the purpose of informing itself whether or not to take up a
14 matter sua sponte.

15 We will, if we find that there is a serious
16 problem, declare that there is an important safety issue
17 and declare it to be a sua sponte issue. But unless the
18 applicant insists, we believe that we should be able to
19 make some preliminary inquiries before we place ourselves
20 in that formal position.

21 Do you disagree with that, Mr. Reynolds?

22 MR. REYNOLDS: No, I don't disagree with that. My
23 point in raising the issue was simply to remind any members
24 of this Board that it was in this case that the Commission
25 itself gave its most recent guidance on when Boards should

1 and should not raise issues sua sponte, and if they intend
2 to so raise issues, then the proper way to do it.

3 JUDGE BLOCH: I appreciate that, Mr. Reynolds.
4 We are aware of that.

5 MR. REYNOLDS: Do you have the cite for that
6 Monticello case?

7 JUDGE BLOCH: Mr. Treby, do you happen to know
8 it? I would have to look it up.

9 MR. TREBY: Yes, I believe I do have a citation.
10 I have two citations. The first one is ALAB-611, dated
11 September 3, 1980, which can be found at 12 NRC 301. The
12 second -- that was the order in which the Appeal Board
13 directs the staff to provide some additional information on
14 NRC safety regulations.

15 On ALAB-620, dated November 24, 1980, which is
16 located at 12 NRC 5-74, the Appeals Board issued its ruling
17 finding that the staff had provided additional information.
18 Those are the two citations that I have.

19 JUDGE BLOCH: Judge McCollom, would you please
20 resume asking your questions?

21 JUDGE MC COLLOM: I think the last three that I
22 have are maybe more closely related to the contentions that
23 we have than the others might have been. The welds in the
24 main control panel covered by IE Report 50/44 -- no, it's
25 50/445 and 446/83-02. There is a reference to a report of

1 the result of the February 9 and 10, 1983, testing of
2 similar control panels at Reliance Electric, which was to
3 have been completed by the end of March 1983. That was in
4 the applicant's statement. I wonder if that is available
5 and if we could have it.

6 MR. REYNOLDS: This is Reynolds, Dr. McCollom. We
7 will just have to check that out and get back to the Board.

8 JUDGE MC COLLOM: All right. The next one is on
9 the superstrip material referred to in Board Notification
10 83-14. In this notification there is an implication, mainly
11 by omission, that the superstrip material was not used at
12 Comanche Peak, yet the response of the NRC staff indicates
13 that both superstrip and a similar unistrip product was
14 used at Comanche Peak.

15 I would like to see some resolution to that as
16 to what the situation actually is.

17 MR. REYNOLDS: Reynolds here. I thought that our
18 submission to the Board indicated that superstruc material
19 was used and that it was fabricated on site by the
20 applicant. If my recollection fails me, what would you have
21 us do to clarify the point?

22 In other words, I don't think we are
23 inconsistent with what the staff said.

24 JUDGE MC COLLOM: The Board Notification is what I
25 am referring to.

1 MR. REYNOLDS: I see.

2 JUDGE MC COLLOM: That might be that maybe it is
3 sufficient to be sure that this has not been used in an
4 inappropriate way. I wouldn't want to do that. It may be
5 that it is there so that it would be satisfactory to point
6 it out.

7 The last Board Notification I have is on outage
8 design deficiency, Board Notification 82-105. In that Board
9 Notification there is a reference to some newly developed
10 dynamic application pipe plants. I wonder if they had been
11 installed at Comanche Peak; and if so, how they were
12 evaluated.

13 That completes my questions on that, Mr.
14 Chairman.

15 JUDGE BLOCH: Are there any questions seeking
16 clarification?

17 MR. REYNOLDS: Perhaps my question should await
18 the end, but it is basically how would you have us address
19 these? By affidavit, for example? Maybe we can address that
20 later.

21 JUDGE BLOCH: I think the problem is to make a
22 clear response that the applicant will stand behind. We are
23 not now taking evidence because we have what were declared
24 to be sua sponte issues, but we want to have a clear
25 explanation that will satisfy the Board.

1 MR. REYNOLDS: Thanks for the clarification.

2 JUDGE MC COLLOM: Mr. Chairman, this is McCollom
3 here.

4 My feeling on this, Mr. Reynolds, was that if we
5 could bring these things to your attention, it would be
6 perfectly satisfactory to have it taken care of in an
7 evidentiary hearing as responses just like any other Board
8 question we have had. It's just that to bring it to you
9 immediately at the hearing without having any preliminary
10 information about it would not be very productive.

11 MR. REYNOLDS: Well, perhaps we will attempt to
12 satisfy the Board in writing, and if we can't do that, we
13 will bring someone to the hearing. Would that be
14 acceptable?

15 JUDGE BLOCH: Judge McCollom, I think if we have
16 problems being satisfied with the written submissions, I
17 think we should just notify the parties that we still
18 intend to pursue it at a hearing.

19 JUDGE MC COLLOM: That's what we have done
20 before.

21 JUDGE BLOCH: Judge Jordan.

22 JUDGE JORDAN: I guess I wanted to question, it
23 was to ask Mr. McCollom and Mr. Bloch if the questions that
24 we are talking about now are only those with respect to
25 Board Notifications, or did McCollom have questions with

1 respect to the Walsh-Doyle staff, the paper the staff
2 prepared in answer to Walsh-Doyle?

3 JUDGE BLOCH: Mr. McCollom, did you have a
4 further question?

5 JUDGE MC COLLOM: I think in the case of the
6 Walsh-Doyle concern, I believe we sort of agreed that those
7 could be handled just by the actual evidentiary hearing
8 because it is a rather complete response on the part of the
9 staff.

10 JUDGE BLOCH: Mr. Jordan, if you have a question
11 or two that you would like to ask on that subject, just go
12 ahead. What we discussed among the Board is that it would
13 be better in general for us to ask questions at the hearing
14 rather than in advance, but in certain cases, advance. The
15 questions would be preferable because they may require
16 some preparation for response.

17 Judge Jordan?

18 JUDGE JORDAN: Yes, that was my understanding,
19 that the nature of the questions now and particularly the
20 questions that I may ask would not be expecting any
21 affidavits or responses immediately but rather as to put
22 the parties on notice that this is the areas of concern
23 that I will be pursuing at the time of the hearing.

24 JUDGE BLOCH: Okay, Judge Jordan, you don't
25 object, though, if the parties do respond?

1 JUDGE JORDAN: Oh, no.

2 JUDGE BLOCH: I think it might advance things so
3 the people will know.

4 JUDGE JORDAN: Very true. But I guess I have a
5 warning that it is, at least in my questions, it is
6 unlikely that they will be able to anticipate all of the
7 concerns in my brief summary and that it would probably
8 perhaps be a waste of time.

9 But I have no -- I am not going to advise any of
10 the parties as to how they can best pursue their case.

11 JUDGE BLOCH: I will advise the parties if I may
12 that we would like to see responses in writing even though
13 Judge Jordan thinks it might not fully satisfy him, by
14 getting the responses in writing, we will advance the
15 consideration of those issues somewhat.

16 Please continue, Judge Jordan.

17 JUDGE JORDAN: All right. I have only a couple of
18 questions outside of those asked by Judge McCollom, and
19 partly because you have to recognize that I am a new member
20 of the Board.

21 But one question did have to do with the
22 inspection report 82-26/82-14, I believe. It has been
23 referred to. And in reading it, I was not able to determine
24 whether the safety-related equipment located inside of that
25 containment, whether that equipment must be designed to

1 withstand the LOCA environment.

2 I realize that there were statements made that
3 it had to meet the design criteria GDC-1 and GDC-2, which
4 applied to all safety-related items, but it never did say
5 whether the design criteria itself must include the ability
6 of the equipment to withstand the LOCA environment.

7 And that was one of the matters that I had that
8 I was particularly concerned about.

9 JUDGE BLOCH: Judge Jordan, we discussed dividing
10 that concern into two parts. I am going to ask for briefs
11 on the legal status of the design criteria under the rules
12 and regulations of the NRC. I believe that we agreed that
13 the question you are asking would be more in the nature of
14 what the actual criteria were that were applied by the
15 applicant with respect to LOCA.

16 JUDGE JORDAN: I would indeed ask what the design
17 criteria were that the applicant used with respect to the
18 equipment inside containment.

19 JUDGE BLOCH: That clarification. Does any other
20 party to wish a further clarifying question?

21 MR. REYNOLDS: Are we talking about pipe support
22 design?

23 JUDGE JORDAN: Chiefly pipe support design
24 because it came up with regard to the Walsh-Doyle
25 allegations, whereas Mr. Doyle said that he was told to

1 stop applying LOCA criteria to those pipe supports and was
2 so advised, had been advised previously by his boss to
3 apply them, and was told to stop applying.

4 MR. REYNOLDS: That is a necessary clarification.
5 No, we are not asking for the entire design criteria.

6 JUDGE JORDAN: No, that's all right.

7 MR. TREBY: This is Stewart Treby. There is a
8 discussion on page 24 of the staff's question report that
9 concludes that with respect to Messers. Doyle and Walsh's
10 concerns regarding the failure to consider load stresses
11 due to differential thermal stresses and pipe supports
12 under LOCA conditions where a special investigation team
13 found that the applicant does not consider these loads and
14 stresses.

15 JUDGE JORDAN: That is right. And I guess that is
16 one of the reasons why I am particularly concerned as to
17 why it is that the applicant has decided that the harsh
18 environment is not necessary to include in their designs.

19 VOICE: I would say that if the staff and
20 applicant agree with that statement, that they have not
21 applied the LOCA criteria, then let me just merely state
22 that in the filing of that question, we are going to ask
23 for a legal brief on how the regulations come up with that
24 result.

25 MR. TREBY: I believe it goes on to say that the

1 special investigation team agrees that those things need
2 not be considered in the design of the pipe support.

3 VOICE: I understand that.

4 MR. REYNOLDS: Mr. Chairman, this is Reynolds. I
5 believe that is interpreted in the ASME code.

6 JUDGE BLOCH: It may be, but the ASME code must
7 also be interpreted in the light of Criterion 1 and
8 Criterion 2, and I think that the issue is not so simple as
9 just interpreting the ASME code.

10 MR. REYNOLDS: But what I am saying is I am not
11 sure it lends itself to legal argument as far as actual
12 questioning of expert testimony.

13 JUDGE BLOCH: Our opinion is that the
14 interpretation of the General Design Criteria in light of
15 rules, regulations, standard review plans, guidance of the
16 staff, and the ASME code is a question which is, in part, a
17 legal interpretation and is not just a question of expert
18 testimony.

19 Am I really wrong in that?

20 MR. REYNOLDS: So far I would agree with you.

21 JUDGE JORDAN: I believe you have one more
22 question.

23 JUDGE BLOCH: Before Judge Jordan asked that, am
24 I right that this is in the area that Judge Jordan is
25 concerned with, the information that is on page 24?

1 JUDGE JORDAN: Yes. And it starts on pages 18
2 through 24, which addressed the designs and said that it
3 was not necessary that in some cases to meet these, the
4 pipe stress criteria. And I was really rather surprised
5 that the General Design Criteria 1 and 2 did not apply to
6 all equipment inside of the containment and would therefore
7 necessarily be part of the Design Criteria.

8 And if I am wrong about that, then I want to be
9 apprised as to why, why it is that they do not have to be
10 designed to meet a LOCA accident.

11 JUDGE BLOCH: Thank you. That clarifies your
12 concerns.

13 MR. TREBY: This is Mr. Treby speaking.

14 JUDGE JORDAN: Now, I did have other questions,
15 please.

16 JUDGE BLOCH: All right.

17 JUDGE JORDAN: This may be one that has been
18 covered previously, I am not sure. And if it has been, then
19 just tell me so. I would like to know how the staff and the
20 applicant have interpreted Appendix B at Comanche Peak;
21 namely, does it apply only to safety--related equipment or
22 does it apply to all equipment important to safety?

23 And I am talking now of the Denton memo of
24 November 20, 1981, and Board Notification 83-13.

25 JUDGE BLOCH: Judge Jordan, please continue.

1 JUDGE JORDAN: All right. I have already
2 mentioned that I will have a few questions concerning the
3 staff's justification in Appendix C of the SER with respect
4 to certain unresolved safety issues. I have already
5 mentioned A-9, which is the ATWS issue. Let me lay my phone
6 down a moment.

7 (Pause)

8 JUDGE JORDAN: I will have a very brief question
9 or two on ATWS, unresolved issue A-12 asking if there has
10 been any -- does it apply to Comanche Peak or not, and it
11 was not all that clear.

12 I do want to, however, want to spend more time
13 on A-17, which is systems interactions, and I wanted to ask
14 if the -- well, as you all are aware, I am sure, there has
15 been a Board Notification BN 83-17, which bears very
16 heavily on the question of the matter of systems
17 interactions.

18 And in view of that Board Notification, it seems
19 to me that there will have to be some additional
20 justification or some additional statements on the part of
21 the staff with respect to the standing of progress,
22 particularly on resolution of A-17.

23 And I will also want to ask has there been any
24 attempts at all in the case of the Comanche Peak to
25 investigate systems interactions such as there has been in

1 some other cases like Shoreham and Indian Point.

2 There will be a fair amount of discussion
3 necessary. I realize that there have also been some answers
4 by the staff with respect to the Shoreham and the staff may
5 want to file those in this case. I am not sure. That is up
6 to the staff.

7 I now would like to go on to the next one, which
8 is A-45, which has to do with the shutdown heat removal and
9 the Board Notification that Dr. McCollom mentioned, I guess
10 it was 82-124.

11 And the Zimmer Semi-Scale's results seems to me
12 bears very heavily on the Comanche Peak ability to handle
13 decay heat removal. So although it bears on that, and it
14 also raises a question with regarding safety, in my mind,
15 with respect to Comanche Peak. And I am not sure how the
16 Comanche Peak system works well enough, whether the
17 injection, high-pressure injection systems of Comanche Peak
18 will work against the safety valves so that feed-and-bleed
19 is possible or whether it would require the operation of
20 the PORV

21 I do have one last unresolved safety issue. And
22 that has to do with A-47, safety implications of control
23 systems. And I find some differences in the language
24 between the staff's justification that they use in Appendix
25 C of the SER and the NUREG-0705 document, which is the

1 identification of unresolved safety issues.

2 One of them refers to either single or multiple
3 failures while the staff in their justification only refer
4 to single failures. And so I was alerted about whether the
5 staff meant that we should only refer to single failures
6 now.

7 I held also questions concerning -- and I have
8 alerted you before that I would have questions on the
9 emergency plan, and I also told you before that my chief
10 concern with the emergency plans was with the wisdom of
11 delegating a county judge, an elected official, with the
12 responsibility for deciding whether to evacuate, what to
13 tell the public.

14 And I raise the question, will the health and
15 safety of the public be adequately protected under such
16 arrangement? And I will have questions for both FEMA and
17 witnesses on their conclusions that the public will be
18 adequately protected. And I believe that this is as
19 relevant to contention 22(a) and (b). But they are genuine
20 concerns of mine with respect to the adequacy of the plan
21 anyhow.

22 Now, I will also have questions for FEMA outside
23 of that. They have recently put in their emergency
24 preparedness plans, and during the last hearing in Staff
25 Exhibit 203 Mr. Benton and Mr. Lucaba that the state and

1 county plans contain adequate provisions for the
2 notification and evacuation of the public in the 10-mile
3 EPZ.

4 They further said this will be documented in
5 FEMA's preliminary findings.

6 Now, my question therefore will be directed
7 toward the extent of that documentation and the evidence in
8 the interim findings to support the FEMA conclusion that
9 the health and safety will be adequately protected and also
10 to show that the plans are in conformance with 0654.

11 I had a lot of trouble reading the plans and
12 showing that there was a basis for such conclusions.

13 I think maybe -- oh, yes, and I will have only a
14 few questions for the staff witness on the -- who will be
15 introducing SER Number 3 and Appendix G, which also deals
16 with the emergency plan. This comes as new information. I
17 will be having some questions with respect to SER Number 3,
18 Appendix G.

19 And I am particularly concerned with some of the
20 statements which claim that they show compliance with
21 NUREG-0654 Appendix E, and although there were some matters
22 that they claimed were to be left for later justification,
23 the other matters which they claim has now been
24 demonstrated in compliance, and I fail to see that.

25 MR. REYNOLDS: Dr. Jordan, this is Reynolds. Can

1 you be more specific on those areas that you question?

2 JUDGE JORDAN: On Appendix G?

3 MR. REYNOLDS: Yes.

4 JUDGE JORDAN: Yes, I can.

5 JUDGE BLOCH: Dr. Jordan, I just wonder, in order
6 to expedite the call, whether we might not send the parties
7 in written form the additional questions?

8 JUDGE JORDAN: No, this is the last one.

9 JUDGE BLOCH: Okay.

10 JUDGE JORDAN: And I think maybe if I -- I think
11 I can find my notes on this.

12 MR. REYNOLDS: Mr. Chairman, while Dr. Jordan is
13 looking, it would be helpful from the applicant's standpoint
14 if the Board could provide any specifics beyond what you
15 have given us on the call today with regard to the areas
16 that the Board members seek to inquire in.

17 JUDGE BLOCH: You're talking about primarily the
18 emergency planning areas, because we were somewhat specific
19 in the other areas.

20 MR. REYNOLDS: Yes.

21 (Pause)

22 JUDGE JORDAN: I am about to come to it. Yes. I
23 have a question on Section D of Appendix G.

24 JUDGE BLOCH: Was that b as in "boy"?

25 JUDGE JORDAN: D as in "dog," which is -- I will

1 try to amplify later, but I think it is not very important
2 at the moment. I would rather go to Appendix G.6(h). It
3 states that the facilities have been compared against the
4 criteria of NUREG-0696, and I wanted to ask if there has
5 been any deficiencies noted and had the applicant asked for
6 any exceptions to the criteria of NUREG-0696?

7 With respect to Appendix J, the staff says that
8 the time estimates have been provided, and I wanted to ask
9 has the staff reviewed the time estimates for their
10 adequacy, and has the applicant met the criteria of
11 NUREG-0654, 6.EJ.8 and Appendix 4? And if so, would they
12 please document that, because I do not find any evidence
13 that the staff has made a comparison of the time estimate
14 studies as in the criteria of NUREG-0654.

15 Also, the emergency plan for -- the staff
16 mentions the emergency plan provides for prompt
17 notification of protective action recommendations. And
18 again, I want to ask has the criteria of NUREG-0654 been
19 met? And I will ask for documentation to that and whether
20 these are considered open items or not?

21 I will then only have a brief question with
22 respect to Sections 4 and 5, having to do with the
23 conclusions. That finishes up my questions.

24 JUDGE BLOCH: I understand that it would be
25 difficult to ask clarifying questions because of citations

1 to portions of documents like that. Is there any request
2 for clarification at this point?

3 There being none, the chairman has two very
4 brief factual questions. The first could be answered either
5 by citations in the record or by brief summary from the
6 staff and applicant. I would like to have information about
7 the QA/QC procedures for assuring the accuracy of the
8 "as-built verified" drawings.

9 The second question comes from my reading of the
10 investigative report, which it seems to me it was a review
11 by the staff with some thoroughness of the technical
12 problems that were pointed out by Mr. Doyle.

13 However, there did not seem to be an inquiry
14 into the way in which the problems arose. I would like the
15 staff's view concerning the reason for each of the open
16 items in the October-to-January report and the staff's
17 conclusions accompanied by reasons as to whether these
18 items are isolated instances or whether they indicate a
19 general problem in applicant's procedures.

20 I understand that there were general conclusions
21 that there was more to the QA/QC program that had not yet
22 been implemented with respect to some of these problems.
23 But I am interested in the genesis of the problems
24 themselves and whether there was a problem at that point.

25 MR. REYNOLDS: Mr. Chairman, Dr. McCollom will

1 recall that we had some rather lengthy testimony on the
2 question of the as-built program and the procedures used
3 for verification of final design and construction.

4 We filed testimony regarding the as-built
5 verification program in our Exhibit 142 at pages 34 and 35.
6 We also submitted an ample package of an as-built
7 verification for a particular support. That was Applicant's
8 Exhibit 147. And the discussion regarding that document is
9 found at transcript pages 5,194 through 5,200 and 5,399
10 through 5,400.

11 In addition, we submitted procedures governing
12 the as-built verification program for pipe supports. Those
13 documents are Applicant's Exhibits 150 that is, the
14 as-built piping verification construction; and Applicant's
15 Exhibit 151 that is the general program for as-built piping
16 verification.

17 These latter two exhibits are discussed at
18 transcript pages 5,286 through 5,291.

19 JUDGE BLOCH: That has seemed to be a fairly
20 complete response. I see no reason for further response
21 unless when the applicant or staff reviews those documents
22 they think they would prefer to pick additional responses.

23 MR. MATTHEWS: This is Matthews of Texas.

24 JUDGE BLOCH: Yes, sir.

25 MR. MATTHEWS: Do I understand that Mr. Reynolds

1 has been previously informed of the questions to be asked a
2 this time or to be identified?

3 JUDGE BLOCH: I did the same with Mr. Reynolds as
4 I did with each of the parties. I gave a brief discussion
5 of the agenda to every one of the parties that is on the
6 line. In this case I did not speak to you, sir, but I --

7 MR. MATTHEWS: I understand you had a
8 conversation with Mr. Burn. There is no question that I am
9 talking about the specific question.

10 JUDGE BLOCH: I believe I mentioned to him that I
11 was interested in the as-built verified volumes, the QA/QC
12 procedures for them. I think I mentioned that to Mr.
13 Berwick as well.

14 MR. MATTHEWS: All right. I was just curious.

15 JUDGE BLOCH: There is a matter that I did want
16 to disclose, and that is that I had a brief discussion with
17 the intervenor before this call this morning. And it had
18 to do with the question of whether or not you should be
19 permitted to tape this call. I consider this to be a public
20 proceeding, and there is an official transcript being
21 taken. But I see no problems with a party taping the call
22 or allowing other members of the public to be present
23 during this proceeding, as I do consider it to be public.

24 MRS. ELLIS: Yes, sir, and I am taping the call.
25 And I might add that I have been contacted by a reporter

1 who asked if they could sit in and listen in on our call.
2 And I suggested it would be better to tape it.

3 JUDGE BLOCH: Unless one of the parties should
4 object, I consider that to be the standard procedure on all
5 further calls for hearings, and that that subject need not
6 be brought up again.

7 MR. REYNOLDS: Mr. Chairman, this is Reynolds.
8 Any time we discuss anything we ask if we are being taped.
9 So we are not surprised we are being taped here.

10 JUDGE BLOCH: Off the record, please.

11 (Discussion off the record.)

12 JUDGE BLOCH: Back on the record.

13 Incidentally, any time that I go off the record
14 and a party would prefer that they must be on the record,
15 they have a right to request that their remarks be on the
16 record.

17 MR. REYNOLDS: I assume that when we go off the
18 record, the taped portion is not there for public?

19 MRS. ELLIS: I in that case don't think I can
20 manipulate fast enough to get them on and off. I guess they
21 should all be off the record.

22 JUDGE BLOCH: No, sir. The only purpose for my
23 going off the record is not to keep things secret, it is to
24 keep things out of the official record so that it is not an
25 official statement of the Board.

1 I understand your problem, but it is really to
2 avoid a cluttering of the record that I might go off the
3 record, not because I want to keep it private.

4 The Board now wishes to request two briefs from
5 the parties.

6 MR. MATTHEWS: Judge Bloch, excuse me.

7 JUDGE BLOCH: Yes, sir.

8 MR. MATTHEWS: The questions you raised which Mr.
9 Reynolds responded, as I understood it, raised the question
10 of why the problems which were covered by the NRC staff's
11 response to the Walsh-Doyle allegations, why those problems
12 arose in the first place.

13 Do I understand that his response was responsive
14 to your question?

15 JUDGE BLOCH: My understanding was he had
16 supplied the question. The first question I asked is to
17 verify drawings. But then he had not satisfied the Board
18 further into the depth of how these things arose.

19 MR. MATTHEWS: Thank you.

20 JUDGE BLOCH: The two briefs which we would like
21 to have, the first one, collateral estoppel, and the second
22 one was the design criteria applicable to pipe hangers.

23 The first question is: Was the effect of the
24 Department of Labor's decision concerning Mr. Atchison on
25 this proceeding.

1 In that regard, I would just like to have the
2 parties file briefs discussing the legal implications of
3 that case. I would cite as one source of the legal brief a
4 decision in St. Lucie antitrust case, 14 NRC 11.57 1981. at
5 11.72-11.95. That case discusses the precedent, including
6 Supreme Court precedent on questions of collateral
7 estoppel.

8 And the second brief requests that all of the
9 applicable legal material be discussed in order to provide
10 correct interpretation of the application of the
11 Commission's regulations to whether or not LOCA conditions
12 must be considered in the criteria for pipe support, the
13 design criteria for pipe support.

14 And in doing that, I would like to have a
15 logical discussion of the relationship between the
16 different regulatory materials, including the design
17 criteria, the standard review plan, staff guidance, staff
18 practice, and applicable industry codes.

19 MRS. ELLIS: I would like to pause just for the
20 clicking that you every once in a while have a call
21 waiting, and it will stop after a couple of times. One more
22 click and they'll hang up.

23 JUDGE BLOCH: Okay. We don't need to be reminded
24 of that in the future. But thank you for this time.

25 Now, I would like to suggest a 2-week deadline

1 on the staff and applicant briefs on these subjects with a
2 right to reply within 10 days.

3 Are there any objections to that schedule?

4 MR. REYNOLDS: I am not sure I understand, Mr.
5 Chairman.

6 JUDGE BLOCH: The staff and applicant will file
7 their briefs on collateral estoppel and on design criteria
8 within 2 weeks from today, and that the intervenors would
9 then have 7 days within which to reply. The intervenors are
10 -- there may be a comment.

11 VOICE: Yes, I would submit that it would be more
12 equitable and it would be more consistent with the practice
13 in this case that all of the parties file simultaneous
14 pleadings. I recognize that you, of course, have the
15 discretion to structure it the way you choose. But I would
16 urge you to maintain the consistency which we have had
17 throughout in filing simultaneous pleadings.

18 JUDGE BLOCH: Speaking on this, my thinking on
19 this, Mr. Reynolds, is that I would often like simultaneous
20 filings, but in this case I recognize that one of the
21 parties is not represented by a lawyer and that the
22 materials that we are talking about are first -- first,
23 they are legal materials which require substantial legal
24 expertise; and secondly, they are materials with which
25 applicant and staff deal on a regular basis.

1 (Pause)

2 MR. REYNOLDS: I take it that that is a no for my
3 request for reconsideration?

4 (Pause)

5 MR. REYNOLDS: Mr. Chairman, I asked whether that
6 was a denial of my request if you would reconsider your
7 schedule.

8 JUDGE BLOCH: Those are my reasons. I would like
9 to hear your further comments, and then I would like to
10 have staff have its chance to comment also.

11 MR. REYNOLDS: Mrs. Ellis and her organization
12 have been represented on and off by counsel who is quite
13 knowledgable in NRC affairs. She has access, I assume,
14 still to those people, and I am speaking of Mr. William
15 Jordan, who is here with the Harmon and Weiss firm in
16 Washington.

17 In addition, she has been assisted quite ably on
18 occasion by a law student down in Texas and as well has
19 been assisted in representative time by a lawyer in Texas
20 who is counsel to one of the other intervenor groups and
21 subsequently withdrew from this case.

22 I don't think that the record at all reflects a
23 lack of understanding or difficulty that Mrs. Ellis and her
24 people have with understanding legal principles and
25 advocating them quite well in this proceeding.

1 JUDGE BLOCH: Mr. Treby, your comments?

2 MR. TREBY: I would also support simultaneous
3 filing. Mrs. Ellis, while she is not a lawyer, has been
4 filing papers in this proceeding which show an
5 understanding of legal matters. And I think that she would
6 be able to provide good papers on these questions,
7 especially with regard to collateral estoppel.

8 I would think that since in fact the parties to
9 the Department of Labor proceeding, the applicant and Mr.
10 Atchison, which is one of her witnesses, he would be in a
11 very good position to assess her objections.

12 JUDGE BLOCH: Mrs. Ellis, do you want to comment?

13 MRS. ELLIS: Yes, sir. I want to take one at a
14 time if I can remember all of them.

15 MR. REYNOLDS: Mr. Chairman, I interject one
16 thing. I don't want to interrupt Mrs. Ellis, but I have one
17 point of clarification. I must make it one time.

18 JUDGE BLOCH: Is this Mr. Matthews?

19 MR. REYNOLDS: Mr. Reynolds.

20 JUDGE BLOCH: Mr. Matthews, please.

21 MR. REYNOLDS: Mr. Treby just said this was a
22 Department of Labor case involving Mr. Atchison and the
23 applicant. He could not be further off base. I cannot let
24 this record, even though it is not evidentiary, go without
25 clarifying that that case involved Brown & Root and not

1 Texas Utilities Generating Company.

2 MR. TREBY: Sir, I was aware of that.

3 JUDGE BLOCK Mrs. Ellis?

4 MRS. ELLIS: If I can recall all the points,
5 first of all, in regard to William Jordan, in the June
6 hearings in 1982 Mr. Jordan represented us during that
7 time. He has represented us in no other hearings. And
8 unfortunately, it looks as though --

9 JUDGE BLOCH: Please, off the record.

10 (Discussion off the record)

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5-djk-1 1 MS. ELLIS: With regard to Mr. Jordan representing
2 the hearing, he represented us in one hearing in June of 1982,
3 and he has not represented us since then, and it is not antici-
4 pated that we will have the funds to have him represent us in
5 the future.

6 As far as the other gentleman that Mr. Reynolds was
7 referring to, he is a third-year law student, going on his
8 fourth year, I guess, now, at UC in Boston, and he is currently
9 involved very heavily in Texas hearings, and also with his
10 school work and is not really available except on a very occa-
11 sional basis to help with some particular point.

12 As far as --

13 JUDGE BLOCH: Would he be available on this issue?

14 MS. ELLIS: No. As far as I know he will not.

15 The other gentleman that was referred to, Marshall
16 Gilmore, to my recollection has not officially represented us
17 at any time in these proceedings, and it is certainly not expected
18 that he will be representing us at all or that he will be
19 available to help us.

20 JUDGE BLOCH: And you are without access to legal
21 counsel in these two issues?

22 MS. ELLIS: That is correct.

23 MR. REYNOLDS: Mr. Chairman?

24 JUDGE BLOCH: Yes?

25 MR. REYNOLDS: Mr. Reynolds here. One other point I

5-djk-2 1 should add is that this intervenor has had access to and has
2 received aid from the Government Accountability Project here in
3 Washington, and I don't know the extent of the aid lent there,
4 but I believe it involves consultation from lawyers.

5 MS. ELLIS: The consultation in that regard was regard-
6 ing some specific whistle blowers who needed access to legal
7 counsel. It has nothing to do with the filing of pleadings or
8 anything of that sort at all.

9 JUDGE BLOCH: So you have no help from them on this
10 issue, either?

11 MS. ELLIS: That is correct.

12 There was one other point, and I have forgotten what
13 it was.

14 Oh, yes, regarding the comment that Mr. Atcheson would
15 be available to us. Mr. Atcheson is currently employed, working
16 at least five days a week, which would render him available only
17 on weekends, which is the same time frame in which I will have
18 to be working with Mr. Marks Walsh because he is also working
19 and it will probably be impossible for you to get together with
20 Mr. Atcheson regarding these matters. As far as knowing about
21 the collateral estoppel, I didn't even know what the word meant.

22 JUDGE BLOCH: Is that all, ma'am?

23 MS. ELLIS: That's it.

24 JUDGE BLOCH: Mr. Matthews?

25 MR. BERWICK: This is the Attorney General's office.

5-djk-3 1 It certainly seems to me, Judge, that a system of briefing where-
2 by the staff and applicants would go first and any persons who
3 wished to respond would be given ten days to respond would be
4 more fair in these circumstances. My understanding is that Ms.
5 Ellis doesn't have legal help available. However, Texas is in
6 the position wherein all of the material she mentioned is at
7 time Greek to us. And we will certainly need to dig very deeply
8 into them in an awful hurry. It would be beyond our power to
9 file a simultaneous brief.

10 I would urge you to stick with your original notion
11 that sequential briefing would be fairer.

12 JUDGE BLOCH: Well, the Board has considered the
13 argument of the parties and we have concluded that on the legal
14 issue of collateral estoppel that the parties represented by
15 attorneys should be able to respond within 14 days, and that
16 includes the State of Texas. However, on the issue involving
17 design criteria which involves the sometimes arcane regulatory
18 materials of the Commission, we think even the presence of a
19 lawyer at the State of Texas would not make it feasible for them
20 to respond at the same time as the other two parties.

21 I adopt the suggestion that the response from Ms.
22 Ellis and the State of Texas may be ten days from their receipt
23 of the briefs of the other two parties.

24 Now, I am only requiring a 14-day filing, not in hand.
25 But, of course, anything faster than that, if the Applicant can

5-djk-4 1 arrange it, will result in the responses being received faster
2 as well.

3 MR. REYNOLDS: Mr. Chairman, in arguing this point,
4 I was only arguing on the first briefing, that is, on collateral
5 estoppel. I had not addressed myself to the second, regarding
6 the design criteria, because I didn't think we were talking
7 about that yet.

8 Let me say a few brief words, if I may, about that.

9 JUDGE BLOCH: We would reconsider our decision, with
10 reason to.

11 MR. REYNOLDS: This issue does not involve much in
12 the way of pure legal analysis. It is really more a technical
13 matter. It is a matter that has a reason in this case because
14 of the witnesses of this Intervenor. One must presume that this
15 Intervenor has access to its own witnesses and that those
16 witnesses are well versed in all matters relating to such design
17 criteria. Therefore, there is absolutely no justification for
18 allowing the Intervenor an additional time once they have seen
19 the other pleadings of the parties.

20 MR. BERWICK: Judge, this is Berwick from Texas.

21 JUDGE BLOCH: Yes, sir?

22 MR. BERWICK: Mr. Reynolds' argument fails to take
23 account of Texas' posture.

24 JUDGE BLOCH: May I ask for clarification? Mr. Rey-
25 nolds, you agree that the State of Texas should have additional

1 time even though the Intervenor should not?

2 MR. REYNOLDS: I have no problem with granting the
3 state additional time.

4 JUDGE BLOCH: Staff?

5 SPEAKER: The staff has no problem with granting
6 the state additional time. I guess our only point was that we
7 felt that the Board would get more complete filings on this
8 matter if the Board came up with a system of all parties filing
9 simultaneous filings initially and then all parties having an
10 opportunity to reply.

11 The argument has been raised here that Ms. Ellis does
12 not have an attorney, and therefore she couldn't be expected to
13 come up with an initial pleading. It seems to me to be equally
14 apropros to whether she can come up with a reply. But the staff
15 will leave it up to the Board's discretion.

16 JUDGE BLOCH: May I ask Mr. Reynolds if he also thinks
17 that simultaneous filings and simultaneous replies would be
18 appropriate?

19 MR. REYNOLDS: Surely. It sounds like a fine idea.

20 MS. ELLIS: I am not sure I understood what that means.

21 JUDGE BLOCH: It means that anyone who would like to
22 may make their filings in 14 days, and that anyone who would
23 like to make it ten days later respond to the filings of the
24 other party. Do you have any problem with that?

25 MS. ELLIS: I would still have the same problem in

5-djk-6 1 having it done in time.

2 MR. REYNOLDS: Mr. Chairman, that is not quite what I
3 understood Mr. Treby to say. The way you phrased it would allow
4 CASE to not fall under the second go-around, in which case the
5 reply pleading by the staff and the Applicants would be a nullity
6 because there would be nothing to reply to.

7 MR. TREBY: Thank you. I appreciate that. We could
8 reply to each other?

9 MR. REYNOLDS: Yes, but CASE doesn't file something
10 with the other simultaneous pleadings, there is nothing to reply
11 to.

12 MR. TREBY: As far as CASE is concerned?

13 MR. REYNOLDS: Right.

14 JUDGE BLOCH: Okay, the Board believes it is ready to
15 rule. Do the parties have anything that has not been said to
16 bring forward for us?

17 MR. REYNOLDS: Yes, Mr. Chairman, the Applicants in
18 this have the burden of proof. Therefore, in fairness, I think
19 the Applicant should be given at least a simultaneous say if not
20 the last say in any matter that is to be brief before the Board.

21 MS. ELLIS: Mr. Chairman, I have one further comment.

22 JUDGE BLOCH: Yes, ma'am.

23 MS. ELLIS: Regarding the availability of our witnesses.
24 As I mentioned, Mr. Walsh is working full-time, and that leaves
25 only the evenings and weekends that he is available. And Mr.

1 Doyle is working out of state, probably about 1,000 miles from
2 here and is virtually unavailable to help in any great capacity
3 at this point.

4 MR. REYNOLDS: Mr. Chairman, I would only respond to
5 that that the Intervenor has the responsibility to meet the
6 burdens of the parties in this proceeding, and really, the
7 unavailability of a certain person or two people should not
8 weigh in the Board's mind. We have a proceeding to conduct.
9 The parties must be responsible in meeting their obligations.
10 The Board should move forward on that basis.

11 JUDGE BLOCH: The Board is prepared to rule once
12 again. We appreciate the additional information from the parties,
13 but the general rule will be that of the initial filing, will
14 be within 14 days. They should be delivered to the other
15 parties by the end of that 14 days. Responses may then be ten
16 days later. Should that be on a weekend, it may be filed on
17 a Monday, and may be received on a Monday.

18 We would make two exceptions from the general schedule.
19 The State of Texas will be relieved of the obligation of making
20 an initial filing on the design criterion question. And Mrs.
21 Ellis will be relieved of the obligation of an initial filing
22 on collateral estoppel. The reasons for those two exceptions
23 are different.

24 In the case of the state because of lack of familiarity
25 with the legal materials from the NRC. And in the case of Mrs.

5-djk-8 1 Ellis it is because she is not represented by a lawyer and has
2 no legal advice on this purely legal issue concerning collateral
3 estoppel.

4 MR. REYNOLDS: Mr. Chairman, I have one point of
5 clarification.

6 JUDGE BLOCH: Yes, sir?

7 MR. REYNOLDS: I understand what you have said, and
8 I of course will go along with it. Since the Applicants have
9 the ultimate burden of proof, would it be fair to allow the
10 Applicants a short reply brief to follow the submission of the
11 Intervenors, a brief ten days after the original filings?

12 In other words, 14 days plus ten days, and then per-
13 haps five days for the Applicant to reply to the brief of the
14 Intervenors?

15 JUDGE BLOCH: The Board's initial response is that it
16 is not necessary for a matter of proof. We would understand
17 for the reason that the burden of proof would require that. We
18 are talking about legal questions here, not the burden of proof.

19 Would the staff like to comment on that?

20 MR. TREBY: The staff agrees with the Board. We are
21 not talking about matters of proof. We are talking about legal
22 concerns. And I would think that if Mrs. Ellis files something
23 which the Applicant believes is necessary for response and
24 requests permission to do so, the Board can rule on it.

25 JUDGE BLOCH: And now we are prepared to go on to the

1 questions concerning discovery.

2 MS. ELLIS: Mr. Chairman?

3 MR. TREBY: This is Mr. Treby. I guess I have some
4 questions with regard to the brief on collateral estoppel.

5 JUDGE BLOCH: Yes, sir?

6 MR. TREBY: I would like some expansion on just what
7 it is the Board would like us to brief. I am aware of the St.
8 Lucie decision that the Board made reference to, and I am some-
9 what familiar with the collateral estoppel. It appears that
10 one of the criteria for the exercise of collateral estoppel is
11 that we have a final decision. My understanding is that the
12 posture we presently are in here is that we do not have a final
13 decision from the Department of Labor, and in fact the Applicants
14 are in the process -- not the Applicants, but Brown and Root
15 were in the process of filing some sort of appeal to the Depart-
16 ment of Labor.

17 The reason I say that is that at one point we were
18 going to have witnesses, and they got a special exception for
19 one of them to assist them in some sort of pleading.

20 JUDGE BLOCH: It may well be that your argument will
21 prove to be determinative, but there is a discussion of the
22 St. Lucie decision. But whatever the final decision is, I believe
23 there is at least some room for argument that the pendency of
24 appeal is not something -- does not stop something from being
25 a final decision.

5-djk-10 1 I do think that the question to be briefed is whether
2 anything that has happened in the Department of Labor proceeding
3 is binding on the Board at this time.

4 MR. TREBY: Thank you for the clarification.

5 MR. REYNOLDS: Mr. Chairman, may I ask for a clarifica-
6 tion? The previous Board chairman has required the parties to
7 serve any pleadings which are called for by the Board by over-
8 night mail so that they are received by the parties on the due
9 date. Is that your policy?

10 JUDGE BLOCH: It requires that they be received, but
11 it does not require overnight mail.

12 MR. REYNOLDS: Well, however they be transmitted, they
13 should be transmitted on the date that you have set for filing.

14 JUDGE BLOCH: In this case, yes, I did change that.
15 My last statement said that.

16 MS. ELLIS: Yes, sir. Could I get a clarification?
17 We have had some problem, apparently, with having things not
18 delivered the next day when we sent them overnight delivery.

19 JUDGE BLOCH: Well, we would allow any reasonable
20 attempt to meet the deadline. We will not penalize you for the
21 delinquency of an overnight carrier.

22 MS. ELLIS: All right. And also, I wanted to be sure,
23 are we talking about beginning two weeks from tomorrow?

24 JUDGE BLOCH: No, two weeks from today.

25 MS. ELLIS: Two weeks from today. So the initial one

5-djk-11 1 should be in the hands of all parties by the 21st?

2 JUDGE BLOCH: Right.

3 MS. ELLIS: All right. And then any answers --

4 JUDGE BLOCH: First --

5 MS. ELLIS: I beg your pardon?

6 JUDGE BLOCH: First would be the answers.

7 MS. ELLIS: Okay.

8 JUDGE BLOCH: That is the weekend, which I am not
9 going to check on. That is on a Monday.

10 MS. ELLIS: So it would be the second?

11 JUDGE BLOCH: Ms. Ellis, I would like for you to raise
12 one at a time any issues of discovery that you have between your-
13 self and the Applicant or the staff. Raise only one at a time.
14 Although you think that issues are inextricably intertwined,
15 if they are so close to each other that you can't tell them
16 apart and you can mention the general matter, we will discuss
17 it together.

18 MS. ELLIS: All right. I have some further notes here.
19 Just one second.

20 (Pause.)

21 All right, sir, one of the problems we have had is
22 that this has been sort of a continuing saga, and we are con-
23 tinuing to get information from the Applicant. In fact, I just
24 spoke with the Applicant right before this conference call, and
25 we were assured that we would be receiving some of the information

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1 already.

2 What I would propose to do is go ahead and state what
3 is still outstanding at this time, if that would be a -- if you
4 think that would be a good way to do it.

5 JUDGE BLOCH: State one matter that is outstanding at
6 a time, and tell my why you want it and what the problem is.

7 MS. ELLIS: All right.

8 First, I would like to state that in regard to the
9 items we have requested, they were attached to a letter which
10 was sent to the Applicant and to the staff on March 11th. The
11 major list itself was attached to the letter to the Applicant.
12 But it was a listing for either/or, if you will. And we advised
13 the staff that we would attempt to talk with the Applicant and
14 find out which of the items they felt they needed assistance from
15 the staff in identifying.

16 It turned out that there were several items such as
17 that, and the Applicants have stated on some that they need
18 clarification from the staff. And we have passed that word along
19 to the staff. And then the staff has briefly gotten back with
20 us regarding those items.

21 At the present time, I guess the easiest way would be
22 to refer to them by item number as we listed them with our March
23 11th letter.

24 Now, there were some, I believe 202 items which were
25 mentioned directly or indirectly by the staff or the special

5-djk-13 1 inspection team.

2 JUDGE BLOCH: Off the record, please.

3 (Discussion off the record.)

4 JUDGE BLOCH: We are back on the record.

5 MS. ELLIS: The first item is Item 27, which is on page
6 two of the attachment to the March 11th letter.

7 JUDGE BLOCH: When you say the first item, do you mean
8 the first 26 are taken care of?

9 MS. ELLIS: What we have done, at the request of the
10 Applicant -- I believe it was on March 16th -- we went through
11 and knowing the time restraints we were under, we felt that we
12 needed all the documents. We stated that we felt we needed all
13 the documents, although realistically there was no way we could
14 deal with all of them in the matter of time that we had. So we
15 went through and tried to prioritize the items.

16 JUDGE BLOCH: What we are asking now is that you state
17 all remaining arguments you have about discovery, so if you
18 don't state them now, they will be waived.

19 MS. ELLIS: Right. Okay.

20 All right, number 27 -- and do I need to read these
21 items?

22 JUDGE BLOCH: I don't think so; we all have them in
23 front of us.

24 MS. ELLIS: All right.

25 Number 27, as I understand it, and you can tell me if

5-djk-14 1 I am not correct, that is an item which they believed the scales
2 may have, but they are not positive that there is anything on
3 that, and they are checking it out. Item 27, as I understand
4 it, is a given Hill item, that architect in New York, that the
5 Applicant states that they may have, but they are not positive
6 what the status is of it at this time, but they are checking it
7 out.

8 JUDGE BLOCH: Okay, that is one item. Okay, now,
9 Mr. Reynolds, what is the date on which you think that will be
10 made available?

11 MR. REYNOLDS: Well, there is the date on which we
12 expect to hear back from Houston Grenell is today, and assuming
13 there is something, I think we could probably have it available
14 tomorrow.

15 JUDGE BLOCH: And if there is a problem you will let
16 us know on the record as soon as possible?

17 MR. REYNOLDS: That is your wish?

18 JUDGE BLOCH: Yes, please.

19 MR. REYNOLDS: This is a complete turn around from
20 what we have been told before.

21 JUDGE BLOCH: I want to expedite all of these matters
22 so that they get finally resolved, and I also want a formal
23 close to the discovery process subject to reopening for good
24 cause.

25 MR. REYNOLDS: We agree with that result and we will

5-djk-15 1 abide by your wishes.

2 MS. ELLIS: All right.

3 JUDGE BLOCH: The next item?

4 MS. ELLIS: Number 47, which is also tied and very
5 similar to 56. We had asked, I believe, for three specific
6 items within those two, and we have received one. There are
7 two more to come. And, let's see -- I believe that is the
8 status of it.

9 JUDGE BLOCH: Mr. Reynolds?

10 MR. REYNOLDS: With regard to item one in number 47,
11 that ceiling support number was canceled, so there are no data
12 for it. With regard to items two and three, we will have
13 information tomorrow.

14 MS. ELLIS: Does "information" mean the items?

15 JUDGE BLOCH: Yes.

16 May I ask for a clarification? When an item is can-
17 celled are all documents about that item discarded?

18 MR. REYNOLDS: The calculations are, yes, sir.

19 JUDGE BLOCH: Okay, so there is no data available on
20 that?

21 MR. REYNOLDS: That is correct. That is my under-
22 standing.

23 JUDGE BLOCH: Presumably there were none when they
24 were initially requested?

25 MR. REYNOLDS: Well, this request was only filed on

5-djk-16 1 March 11th, and I am certain that it was cancelled well before
2 then.

3 JUDGE BLOCH: Okay. Ms. Ellis, the next item?

4 MS. ELLIS: Yes, sir.

5 Mr. Reynolds stated, I believe, that the calculations
6 were destroyed. Our request asked for including notes, memoranda
7 and calculations. Would there be anything else?

8 MR. REYNOLDS: Mr. Chairman, suffice it to say that if
9 there is information we will provide it.

10 JUDGE BLOCH: You just said there is no data, and that
11 means anything at all, right?

12 MR. REYNOLDS: That is my understanding, yes.

13 JUDGE BLOCH: Is there a change in your understanding?
14 You understand -- all the parties should understand -- that there
15 is an obligation to correct the record should there be any errors.

16 Ms. Ellis?

17 MS. ELLIS: All right, these are not necessarily in
18 exactly numerical order that I am giving.

19 JUDGE BLOCH: That's okay.

20 MS. ELLIS: As I understand it they are not completed
21 yet, certainly. And initially we were told that it would be
22 completed March 1st, and as I understand it it is not complete
23 yet, but we do feel that it is very important to some of the
24 items that we are working on now.

25 JUDGE BLOCH: Mr. Reynolds?

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MR. REYNOLDS: Mrs. Ellis' understanding is correct, that the analysis is not yet complete. It should be completed within the next two weeks.

JUDGE BLOCH: Provided it is available?

MR. REYNOLDS: Of course.

JUDGE BLOCH: I think it would be helpful if that particular item were served so that the Board may see them at the same time.

MR. REYNOLDS: We will do so.

JUDGE BLOCH: Ms. Ellis, please continue.

MS. ELLIS: Items 116 and 117, I believe -- correct me if I am wrong, Mr. Reynolds, but I believe that that consisted only of one letter, and that is to be provided tomorrow.

MR. REYNOLDS: That is correct.

MS. ELLIS: All right.

JUDGE BLOCH: What number?

MS. ELLIS: Item 121.

JUDGE BLOCH: All right.

MS. ELLIS: Initially the Applicant said that they believed that was the same as item 169. However, item 169 does not contain the effects of the rotational restraint, and I believe that the Applicants are going to supply what they have on that.

JUDGE BLOCH: Is that correct, Mr. Reynolds?

MR. REYNOLDS: Let me confer for a moment.

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(Pause.)

MR. REYNOLDS: My understanding, Mr. Chairman, is that no more than two or three hours ago we told Mrs. Ellis that we were virtually certain that this item was covered in 169, and Mrs. Ellis, we were given to understand, was going to go back and check on that.

Is that right, Mrs. Ellis?

MS. ELLIS: Let me take a look here.

(Pause.)

My note really isn't clear. I have a pipe support number or something down here that was submitted to 119.

MR. REYNOLDS: Right.

MS. ELLIS: I am not sure whether that refers back to 169 or not.

MR. REYNOLDS: It does.

MS. ELLIS: All right.

And that is all that is available in 121?

MR. REYNOLDS: Yes.

JUDGE BLOCH: We understand that subject to your discovering something else very shortly, Mrs. Ellis, that that question is resolved at this time.

MS. ELLIS: All right. Yes, I believe so. We haven't checked it or anything, but subject to check, yes.

JUDGE BLOCH: All right, now, the rule will be that if there are any problems that you have to discuss now you must

5-djk-19 1 call us as soon as possible.

2 MS. ELLIS: All right.

3 MR. REYNOLDS: Both us and the Applicant?

4 JUDGE BLOCH: Yes.

5 MS. ELLIS: The next item is 145, and on that one I
6 have not had an opportunity to get back with the Applicant be-
7 cause since I spoke with Mr. Walsh further about this one, what
8 he wanted CMC's or component modification cars or NCR's, which
9 is nonconformance reports. That one is still in somewhat a
10 state of flux since I just got this additional information from
11 the Applicant.

12 MR. REYNOLDS: Mr. Chairman, we understand that ball
13 to be in Mrs. Ellis' court.

14 MS. ELLIS: That is what I was just telling him.

15 MR. REYNOLDS: I was saying it more simply.

16 JUDGE BLOCH: It has been, I think. What she is saying
17 is she thinks she handled the ball a bit and she threw it back
18 into your court. Now, isn't that correct?

19 MS. ELLIS: Yes, sir.

20 JUDGE BLOCH: She says what she wants is a nonconformance
21 report and modification cards.

22 MR. REYNOLDS: Well, the Interrogatory itself doesn't
23 ask for anything. It states a fact or a purported fact, but it
24 doesn't ask for anything.

25 JUDGE BLOCH: Okay, but I think she is now asking for

5-djk-20 1 modification reports and NCR's.

2 MS. ELLIS: Right.

3 JUDGE BLOCH: It is the new Interrogatory of this
4 moment. The question is, how are you going to react? Are you
5 going to wait to react or are you going to do it now?

6 MR. REYNOLDS: Well, sir, I haven't memorized all the
7 files down there, so I will just have to look and get back to
8 you and to Mrs. Ellis.

9 JUDGE BLOCH: Okay. If you could file that in the
10 next few days, that would be appreciated by the Board.

11 MR. REYNOLDS: And would you just simply have us make
12 it available to Mrs. Ellis, or do you want to be involved as
13 well?

14 JUDGE BLOCH: If you are going to make it available,
15 then you don't need to respond. But if there is anything other
16 than complete availability in your response, we would like it
17 filed just so that we would be on notice as to what the contro-
18 versy is.

19 MR. REYNOLDS: I understand.

20 JUDGE BLOCH: Ms. Ellis?

21 MS. ELLIS: All right, and I believe the next is another
22 batch of the staff's March 30th letter, which we received on
23 March 31st. There were certain things which the staff said
24 that we should get from the Applicant, and those are number 66 --

25 JUDGE BLOCH: Is Mr. Reynolds aware of what these

1 March 30th items are?

2 MS. ELLIS: I believe so. I believe Ms. Tory has been
3 handling this primarily, but we do have a lot to open with. Yes
4 we are, Mr. Chairman.

5 JUDGE BLOCH: Do you have anything further to add to
6 those items, other than just listing them, Ms. Ellis?

7 MS. ELLIS: This is something which I believe there
8 is one Applicant document which the NRC staff stated that they
9 had reviewed and we have so informed the Applicant. It is my
10 understanding that they are obtaining it or reviewing it. We
11 haven't received it yet.

12 JUDGE BLOCH: Mr Reynolds?

13 MR. REYNOLDS: Again, Mr. Chairman, these documents
14 will be available tomorrow. We have already discussed this
15 with Ms. Ellis. All of the material will be available tomorrow.

16 JUDGE BLOCH: Okay, then we will put it down on the
17 record now.

18 Ms. Ellis, the next item?

19 MS. ELLIS: Item 89, another one in the same category.
20 In fact, these next several are in the same category.

21 JUDGE BLOCH: Well, Mr. Reynolds, was your response
22 as to all their items in that category?

23 MR. REYNOLDS: Well, how many are there?

24 Let me confer for a moment.

25 JUDGE BLOCH: Surely.

5-djk-22 1 (Pause.)

2 MR. REYNOLDS: Sir, there are only about three more.
3 I would suggest that we have Ms. Ellis read them into the record
4 so that we have made the proper record.

5 MS. ELLIS: All right. Shall I do that?

6 JUDGE BLOCH: Well, I have the document in front of
7 me. It is in the record of the case. Why don't you just refer
8 to them by item number?

9 MS. ELLIS: Item 89, I believe, is one that for some
10 reason when we talked today we failed to discuss, as of today.
11 I believe the situation, when I talked to the prior was that
12 they were reviewing it to be sure that it was relevant. However --

13 JUDGE BLOCH: Ms. Ellis, I don't see any March 30th
14 letter.

15 MS. ELLIS: Shall I go on with the list?

16 JUDGE BLOCH: Well, are you talking about the March 30th
17 letter or are you talking about item 89 in the original list?

18 MS. ELLIS: Well, they are reviewing apparently some-
19 thing with the staff reference or, I believe, the staff said
20 to them -- I am not sure of the status. I can check back through
21 all of my notes to find out, but they either -- the staff either
22 said get it from the Applicant, or, I believe, in this case they
23 actually send a document to the Applicant which the Applicant
24 had given to the staff.

25 JUDGE BLOCH: Well, Mr. Reynolds, if you understand

5-djk-23 1 this, please fill me in.

2 MR. REYNOLDS: We are here and conferring, Mr. Chair-
3 man. Apparently the staff provided Applicants with some documents
4 for proprietary review. We have reviewed them and have told
5 Ms. Ellis that they will be made available.

6 MS. ELLIS: Yes, I believe 89 is the one that we have
7 not really discussed.

8 The next one is items 107 and 128, which the Applicants,
9 I believe, stated they believe were the same or could be answered
10 with the same information as 106 and 110. However, in checking
11 with Mr. Walsh on that, he indicated that what he was interested
12 in and still had not received apparently needed the information
13 we got for any of those items. It was that they did not have
14 the stresses due to the moment, and the pipe, because it apparent-
15 ly had not been analyzed yet. Maybe that was "type" and please
16 don't ask me to explain what that means by what he told me.

17 JUDGE BLOCH: Mr. Reynolds, do you understand that?

18 MR. REYNOLDS: Not really, sir.

19 MS. ELLIS: I think if there are further questions
20 that perhaps Mr. Walsh could get together with one of the engineers
21 and clarify it.

22 MR. REYNOLDS: We prefer that discovery be conducted
23 through counsel. Mr. Chairman, maybe Ms. Ellis could give
24 clarification from Mr. Doyle and provide it. I believe that
25 is clarification which the engineer probably could understand.

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JUDGE BLOCH: Let's have you say it once again and see if I can understand it.

MS. ELLIS: All right.

Apparently the information which we received from these four items, none of the information contained the information Mr. Walsh was interested in getting.

JUDGE BLOCH: And what is missing is what?

MS. ELLIS: It did not have the stresses due to the moment from the pipe, apparently because it had not been analyzed yet.

JUDGE BLOCH: So I guess the question is whether there is any additional documentation dealing with the stresses due to the moment of the pipe.

MR. REYNOLDS: I cannot answer that question here today. We will explore the issue.

JUDGE BLOCH: Okay. And, again, if in the next three days your answer is other than full disclosure, we just would like to know it for the record.

MR. REYNOLDS: Certainly.

JUDGE BLOCH: Ms. Ellis, the next question?

MS. ELLIS: All right. Item 132. Let's see. This, I believe we clarified yesterday, and I believe this is one which is to be supplied tomorrow. Is that correct?

MR. REYNOLDS: That is correct, Mr. Chairman.

MS. ELLIS: The next is item 166. This is one where

5-djk-25 1 I believe the staff sent some documents back to the Applicant
2 which has been supplied to the staff previously, and the Appli-
3 cants are reviewing it, and am I correct that it is to be pro-
4 vided tomorrow?

5 MR. REYNOLDS: Correct, Mr. Chairman.

6 MS. ELLIS: All right. And the same thing on 198.

7 MR. REYNOLDS: Correct, Mr. Chairman.

8 MS. ELLIS: All right.

9 The next item, there are -- let's see, there are a
10 few items. I think we will take this one here, which I have
11 not -- I have just talked with Mr. Walsh right before this
12 conference call, and there were -- it looks like maybe four
13 items which he had identified as being additional items that he
14 was interested in based on what he had seen from the documents
15 we just received.

16 MR. REYNOLDS: Mr. Chairman, that is where I suggest
17 we draw the line. Counsel is now coming up with a new round
18 of Interrogatories.

19 MS. ELLIS: These are all on the original list. It
20 is just because the information that we have received on some of
21 the others did not seem as complete as we had hoped it would be,
22 and we just need a little additional information.

23 JUDGE BLOCH: I am not sure that I understand. But
24 was there a cut-off set on additional Interrogatories?

25 MS. ELLIS: No, sir.

5-djk-26 1

MR. REYNOLDS: The previous Board chairman had ruled,
 2 sir, in an order dated March 9 that limited discovery of an
 3 informal nature was appropriate. I submit that 202 Interrogatories,
 4 most, if not all of which have been responded to, constitutes
 5 a great deal more than a limited discovery. And, you know, this
 6 is an issue that has been around for a while. Discovery has
 7 been open for quite a while, and this discovery has to end at
 8 some point. And we feel that it is overdue.

9 MS. ELLIS: Mr. Chairman, may I address that?

10 JUDGE BLOCH: I would like to comment. I don't think
 11 it is necessary, Ms. Ellis, because I would like to ask one more
 12 question, whether there ever was a formal ending set to discovery.
 13 And if there wasn't, I am not sure how I could just automatically
 14 cut it off now with no warning. Wouldn't that be depriving
 15 Ms. Ellis of her right to get information?

16 MR. REYNOLDS: Well, I think not, Mr. Chairman. Ms.
 17 Ellis has received 20,000 or 30,000 pages of documents from us.
 18 She has had free reign in our files for two years. This issue
 19 has been around for nine months, I don't know, quite a long time --
 20 six months? She has had free access to take discovery all that
 21 time.

22 MS. ELLIS: Mr. Chairman, may I --

23 MR. REYNOLDS: May I finish, please?

24 JUDGE BLOCH: Let him finish, and then you may talk,
 25 Ms. Ellis.

-djK-27

1 MR. REYNOLDS: The Board, in its March 9th Order
2 obviously contemplated that discovery was winding down, but that
3 in view of the fact that one additional document had been genera-
4 ted, that is, the staff's investigation report, that some addi-
5 tional limited discovery was appropriate.

6 The obvious connotation of the Board's statement was
7 that that would be the end of discovery.

8 JUDGE BLOCH: The Board will take a brief recess to
9 read that order.

10 (Recess.)
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1 VOICE: Is it possible that while the Board may
2 have set a deadline on all discovery, is it possible that
3 order was merely a temporary cutoff anticipating an
4 evidentiary hearing that was coming up?

5 MR. REYNOLDS: No, I don't think that is a fair
6 reading of the Board's order in the context of this issue.
7 At the time the Board had determined the resumption of the
8 hearings was appropriate, the Board contemplated that those
9 hearings would be the last. I think the obvious implication
10 of the Board's order -- and it is really on the first page
11 of that, and that is the only page that they talk about
12 discovery -- is that is a limited discovery was reasonable
13 and indeed the Board contemplated that it would be informal
14 discovery. And it was through that informal discovery that
15 Mrs. Ellis generated 202 interrogatories, to which we have
16 been responsive.

17 JUDGE BLOCH: It's your turn now.

18 MRS. ELLIS: First of all, there is a missing
19 conference call which has not been formalized, which is the
20 March 28th conference call, where Case advised the Board
21 chairman that we had not been given the cooperation that he
22 anticipated by the staff that he ~~was~~ in receiving items.
23 And I believe at that time that we had received 17
24 documents from the applicant and 4 from the staff. And as
25 of today, according to my records here, we have received 26

1 items from the applicants, not 202 or anywhere near 202.

2 Also, in the Board's order of March 9 it states,
3 I believe, at the bottom of the first page -- I don't have
4 it right here in front of me -- but it states that the
5 applicants and staff had agreed to promptly provide Case
6 with the documents which we wanted. That has not been done,
7 and that is one of the things that we informed the Board of
8 in our conference call of March 28.

9 JUDGE BLOCH: Could you tell me, in addition to
10 items you have been discussing with the applicants, how
11 much additional information are you now requesting as a
12 matter of follow-up?

13 MRS. ELLIS: I think there will be five
14 additional items.

15 JUDGE BLOCH: At most, five additional items?

16 MRS. ELLIS: Other than what we have stated. And
17 I have a --

18 JUDGE BLOCH: Okay. I think what I would like to
19 do is have you state all five of those items right now, and
20 then I would like the applicant's comments on how
21 burdensome it would be to supply those five items. Those
22 will be the last five on discovery on this issue.

23 MRS. ELLIS: Okay. I said five. I am looking at a
24 bunch of little notes here. Let me take a look and see if I
25 can identify some of them Mr. Walsh told me over the phone

1 today. And I do not have a number, just a general
2 description.

3 Item 42 -- and do you want me to go through the
4 whole list?

5 JUDGE BLOCH: I think that is the best way.

6 MRS. ELLIS: That is item 42. Item 82 --

7 MR. REYNOLDS: Mr. Chairman, unless this is going
8 to be helpful in providing me with information with which
9 to respond, I doubt we are going to discuss a specific or
10 specifically worded interrogatory. Just by saying 42, 82
11 doesn't really give me any guidance as to what we're
12 looking for.

13 JUDGE BLOCH: I think she is referring to the
14 March 11 documents. 42, 82 in March 11.

15 Isn't that right, Mrs. Ellis?

16 MRS. ELLIS: Yes, sir.

17 MR. REYNOLDS: All right, Mr. Chairman. But my
18 understanding is that when we were generally discussing
19 this discovery with Mrs. Ellis, she withdrew that
20 interrogatory and therefore documents were not produced
21 pursuant to it. Now it is being reinstated.

22 JUDGE BLOCH: I think what she is saying is that
23 she has pared down the documents, and now in light of the
24 responses she felt there were five documents. And all I am
25 asking her to do is state -- five numbers -- and I am just

1 asking her to state them, and I will allow you to respond
2 as to whether it is burdensome to require you to produce
3 them.

4 MR. REYNOLDS: All right.

5 MRS. ELLIS: All right. We have 42, 82, 83, 84,
6 and I do not have a number for the next item where
7 apparently there was only partial response from one item
8 because it does not include -- did not include the new tube
9 steel properties.

10 JUDGE BLOCH: Could you explain the significance
11 of these five answers, what the kind of information is that
12 you want and why it is different from what you have gotten
13 before or anything like that?

14 MRS. ELLIS: Oh, not without further conversation
15 with Mr. Walsh.

16 MR. REYNOLDS: Mr. Chairman, I would also ask the
17 Board to inquire into the relevancy, certainly, of 42, how
18 is that relevant to the issues before the Board?

19 MRS. ELLIS: It was referred to apparently in the
20 document by the staff on page 23 and apparently it is
21 something that Mr. Walsh is working on in regard to --

22 MR. REYNOLDS: The record should reflect that the
23 Board's inspection report went beyond the mere allegations
24 of Mr. Walsh and Mr. Doyle, and with other issues regarding
25 this aspect of plant design and construction, that doesn't

1 mean that it is relevant to the issues raised and the
2 issues that are in contention in the case.

3 The fact that the staff may have gone beyond and
4 inspected other systems or processes does not give rise to
5 a litigable issue in the case.

6 JUDGE BLOCH: You are saying that this does not
7 fall within the quality assurance contention?

8 MR. REYNOLDS: I am asking is it relevant?

9 MR. BROWN: To be arguing it is not relevant,
10 aren't you saying it's not relevant to the quality
11 assurance question?

12 MR. REYNOLDS: Yes.

13 JUDGE JORDAN: May I say something? The document
14 that we are talking about will be introduced into the
15 record by the staff, and there will be cross examination on
16 it, on the whole document, unless -- or does the applicant
17 envision that at the time that this document is introduced,
18 that motion to strike major portions of that document?

19 JUDGE BLOCH: Well, we wouldn't necessarily move
20 to strike. We haven't reached that subject because we don't
21 know what the staff is going to do. We don't know, for
22 example, whether they are going to file pretrial testimony.

23 My concern, Dr. Jordan, is that throughout this
24 case the issues have been broadened and broadened and
25 broadened. It started out as a simple QA/QC contention, and

1 we have gotten into how the plant is built. And I think it
2 is grossly unfair to this applicant to be put to the test
3 of justifying how every nut and bolt in the plant is
4 designed and built.

5 You know, we talk in NRC proceedings about
6 fairness to everyone. When does the applicant get its
7 fairness?

8 MRS. ELLIS: Mr. Chairman, I believe that our
9 wording in the QA/QC contention goes a little beyond what
10 Mr. Reynolds is indicating, and I think a reading of that
11 will so indicate.

12 Further, the Board previously --

13 MR. REYNOLDS: Would you refresh my memory as to
14 the wording you are referring to?

15 MRS. ELLIS: Beg your pardon?

16 MR. REYNOLDS: Would you refresh my memory,
17 having only read it Monday, just exactly what the wording
18 you are referring to?

19 MRS. ELLIS: I don't have it here in front of me.
20 It's rather lengthy.

21 JUDGE BLOCH: Do any of the parties have the
22 actual contention before them?

23 MR. TREBY: This is the staff. We have contention
24 5 in front of us. Would you like me to read it, Judge
25 Bloch?

1 JUDGE BLOCH: Please.

2 MR. TREBY: The applicant's failure to adhere to
3 the quality assurance/quality control provisions required
4 by construction permits in its Units 1 and 2, and the
5 requirements of Appendix B of 10 CFR Part 50, and the
6 construction properties specifically in regard to concrete
7 work, water blocks, steel, fracture testing, expansion
8 drawings, placement of the reactor vessels to Unit 2,
9 welding inspection and testing, materials used,
10 crafts labor qualifications and working conditions (as they
11 may affect QA/QC and the training and organization of QA/QC
12 personnel) have raised substantial questions as to the
13 adequacy of the construction of the facility.

14 As a result, the Commission cannot make the
15 findings supplied by 10 CFR Section 50.57(a) necessary for
16 issuance of an operating license for a CP.

17 JUDGE BLOCH: In the middle of that I thought I
18 heard you say testing. That is a very broad contention.
19 Didn't you say "inspection and testing"?

20 Mr. Reynolds, would you like to comment?

21 MR. REYNOLDS: I think the issue is submitted for
22 your decision.

23 JUDGE BLOCH: The objection on the ground of the
24 relevance is struck. I will so consider, after the five are
25 presented, arguments about the burdens imposed because it

1 might have been asked earlier. Please continue, Mrs. Ellis.

2 Mr. Reynolds, the next one, if you would, what
3 is your objection to it?

4 MR. REYNOLDS: 82?

5 JUDGE BLOCH: Yes.

6 MR. REYNOLDS: I have no objection on the
7 production other than it was previously withdrawn, now it
8 is being reinstated. We will have to check to see if it
9 exists; and if it does, it will be no problem.

10 JUDGE BLOCH: Is that also true of 83 and 84?

11 MR. REYNOLDS: Yes. On 83. As to 84, Mr.
12 Chairman, the question is better put to the staff than to
13 the applicant because we do not know all the documents that
14 the staff reviewed in its discussions with us.

15 JUDGE BLOCH: Does the staff agree with that?

16 MR. TREBY: Mr. Bloch, in the past when we have
17 had questions similar to the wording of 84, the staff has
18 identified to the applicant those documents which they
19 looked at. And in those cases where we had the documents,
20 whether they were applicant documents, we then provided
21 them to the applicant so that they could review them for
22 proprietary purposes and as they made them available.

23 MR. REYNOLDS: That has been the procedure, Mr.
24 Chairman.

25 JUDGE BLOCH: And assuming that we address this

1 overall burden question, is there a problem on doing that
2 again?

3 MR. TREBY: No. If we get the list from the
4 staff, we'll do it.

5 JUDGE BLOCH: Okay. And do you understand what
6 this new tube steel properties question is?

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a-djk-1 1 MR. TREBY: We will need an item number for that, Mr.
2 Chairman.

3 MS. ELLIS: I can supply that after I speak with Mr.
4 Walsh tonight.

5 JUDGE BLOCH: Okay, now, I would like to ask Mr. Reynolds
6 whether it is the understanding that these are the last five new
7 items.

8 MS. ELLIS: There is one more, I believe.

9 JUDGE BLOCH: There is one more? All right, Ms. Ellis,
10 what is that?

11 MS. ELLIS: Okay, on item 192 we received the UCR
12 question on page two of that, that the URE rod was salvaged from
13 the Fort Newberg CC-1-077-009-S33R -- as in Richmond -- and we
14 want revision zero of that drawing.

15 JUDGE BLOCH: Response on that?

16 MR. REYNOLDS: Well, I don't know. I guess we will have
17 to look for it. A lot of this discovery is really minutiae that
18 is not, in our view, going to lead to the production of anything
19 meaningful. But if Ms. Ellis wants it, if we have it, we will
20 provide it. Assuming the Board doesn't sustain our objection
21 on burdensomeness.

22 JUDGE BLOCH: May I ask if we understand that these are
23 the last six items. Is that going to be burdensome for you?

24 MR. REYNOLDS: Well, it is cumulative, Mr. Chairman.
25 We literally have produced over 30,000 pages of material. We

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1 have been extremely cooperative in all aspects of discovery.
2 Sometimes it takes a little longer than it should simply because
3 of the scope of these requests.

4 JUDGE BLOCH: From what I have heard I would agree
5 with your characterization of complete cooperativeness, but I
6 don't understand, you have been very cooperative in the past and
7 you say these items are burdensome. Why the last six?

8 MR. REYNOLDS: It is not literally burdensome, Mr.
9 Chairman, but when do we get our --

10 JUDGE BLOCH: I am going to impose a deadline, and
11 there will only be a breach of that deadline for material that
12 is introduced.

13 MR. REYNOLDS: Am I to understand, then, that these
14 are the last Interrogatories on these allegations?

15 JUDGE BLOCH: There are others regarding the staff's
16 information that we haven't gotten to.

17 MR. REYNOLDS: The last ones for the Applicant?

18 MS. ELLIS: I think some of the ones that the staff
19 has, they haven't come up with.

20 MR. REYNOLDS: But with that understanding, that's the
21 only possible exception?

22 MS. ELLIS: Right.

23 One other thing that we could probably take care of,
24 I would hope informally, but it probably should be in the
25 record -- there is, I think, one document and the Appendix F

6a-djk-3 1 which I believe we have a 1980 version and it should be a 1974.
2 We would like to get the pages from the other one.

3 MR. REYNOLDS: I am sorry; you have the 1980 and you
4 want the '74 or vice versa?

5 MS. ELLIS: I believe that is the correct version.
6 Whatever the correct version is that the Applicant is using.

7 MR. REYNOLDS: Mr. Chairman, that is a document that
8 is in the public domain, and we should not be harrassed with
9 further production of that document.

10 MS. ELLIS: Had we been able to find it we would not
11 be asking. We have attempted to, but we have been unable to
12 locate that particular one.

13 MR. REYNOLDS: Will the staff be able to provide that
14 one document?

15 JUDGE BLOCH: They will have to check with the staff
16 to see if they have it. We will undertake to check it.

17 MR. REYNOLDS: They must have an updated copy of the
18 code, don't you think?

19 MR. TREBY: I am not sure whether she wants the
20 updated one or the 1974 one.

21 JUDGE BLOCH: Which one do you want, Ms. Ellis?

22 MS. ELLIS: Whichever one is applicable to Comanche
23 Peak. I believe it is the 1974. We have a copy which is such
24 a poor copy we were not able to make copies from it with regard
25 to doing the deposition of Dr. Luchabe, I believe it was.

6a-djk-4 1 JUDGE BLOCH: Who supplied that to you?

2 MS. ELLIS: The Applicant, but the copies we had were
3 so poor we could not reproduce from it.

4 JUDGE BLOCH: I think it is fair that if you were sup-
5 plied that from that deposition that the Applicant should replace
6 it as an illegible copy.

7 Now, Ms. Ellis, we turn to the staff.

8 MS. ELLIS: All right.

9 What other major items still are outstanding as to
10 the design criteria. I take it we are going to take that com-
11 pletely separate.

12 JUDGE BLOCH: I have asked for briefs on that subject,
13 and we also have asked for the Applicant to consider what is
14 applicable, what they have been applying as the design criteria.

15 MR. JORDAN: I understood that the Applicant had
16 supplied design criteria at the plant, that you were able to go
17 and see those design criteria. Am I wrong, Mr. Reynolds?

18 MR. REYNOLDS: No, you are correct, sir.

19 MS. ELLIS: There is one problem there. They were
20 supplied on two days immediately after we were told they were
21 available. Mr. Walsh was unavailable to go, and this is one of
22 the problems. Mr. Walsh is on a new job; he started in January.
23 He will be able to take off during the next hearing, unless it
24 is the week of -- I believe it is the week of May 9th when he
25 will be finishing up a project that he alone is working on right

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now.

2 JUDGE BLOCH: But they were made available. They are
3 not being withheld now, if they are available, are they?

4 MS. ELLIS: They were available only those two days,
5 as far as I have been concerned.

6 JUDGE BLOCH: Why was that, Mr. Reynolds?

7 MR. REYNOLDS: Mr. Chairman, they were made available
8 on a Thursday and a Friday two weeks ago. Mrs. Ellis didn't ask,
9 to my knowledge, that they be made available any other time to
10 accommodate Mr. Walsh.

11 MS. ELLIS: We asked that they be made available on
12 Saturday.

13 MR. REYNOLDS: Let me finish, Mrs. Ellis. I see no
14 problem at all if she wants to bring Mr. Walsh down. Access
15 will be afforded.

16 JUDGE BLOCH: We understand that reasonable access
17 will be afforded.

18 Mrs. Ellis, next question.

19 MS. ELLIS: Would that include the prospect of Saturday?

20 MR. REYNOLDS: No. We are not required to pay overtime
21 for people to sit in an office with Mrs. Ellis.

22 JUDGE BLOCH: May I ask if there are people on site
23 on Saturday for security purposes?

24 MR. REYNOLDS: Security people may be on site, yes, sir,
25 but not administrative people, not office people.

6a-djk-6 1 JUDGE BLOCH: I see. And security people are not
2 adequate to sit down with Mrs. Ellis?

3 MR. REYNOLDS: I think not, Mr. Chairman, because,
4 after all, these are proprietary documents, and if Mrs. Ellis
5 would want copies of something then it would be up to her to
6 negotiate with the owner of the proprietary information.

7 MS. ELLIS: This is another problem, Mr. Chairman. We
8 have been told to contact NPSI and Grenell regarding these docu-
9 ments. We contacted them by letter on October 1st. We followed
10 it up with several phone calls. We were assured that probably
11 something would be forthcoming from them within a week or two.

12 Subsequent phone calls were unanswered, and in one
13 instance I was even hung up on. And we have been unable to do
14 that. We filed Motions and so forth regarding all of this, and
15 I can provide you with those names and numbers and so forth if
16 you would like.

17 MR. REYNOLDS: Mr. Chairman, maybe some background
18 would be helpful for the Board.

19 JUDGE BLOCH: Yes.

20 MR. REYNOLDS: The specifications controlling the de-
21 signs of the hangars at Comanche Peak are contained in specifica-
22 tion of the Applicant. The specification has been made available
23 to Mrs. Ellis. That was provided in August of 1982 to Mrs. Ellis.
24 Now, that is the general specification to provide the information
25 necessary for pipe support designs, applicable design requirement,

1 consideration for seismic load, appropriate loading combinations
2 and so forth.

3 JUDGE BLOCH: Those are all the requirements required
4 for regulatory purposes?

5 MR. REYNOLDS: Yes, those are the principal general
6 design criteria. Now, those general design criteria are imple-
7 mented by three pipe-support design organizations. One is
8 pipe support engineering, or PSE, which is the Applicant in-house
9 organization. They have their own guidelines, and that material
10 has been provided to Mrs. Ellis.

11 There are two contractors on site who also provide
12 design support services. One is MPSI, the other is IPT Grenell.
13 Now, those organizations have both developed their own specific
14 implementing design criteria to implement and apply the general
15 criteria set forth by the Applicant. Those organizations own
16 their specific criteria. They consider them to be proprietary.

17 JUDGE BLOCH: Might I ask, aren't those criteria sup-
18 posed to be available for NRC review? What is there about them
19 that makes them different from the criteria of the Applicant?

20 MR. REYNOLDS: Yes, they are supposed to be available
21 for NRC staff review, and indeed, the staff, I am sure, reviews
22 them from time to time.

23 Now, I am not arguing for IPT Grenell and MPSI because
24 it is a matter of indifference to us whether they give them up
25 or not. The problem is that apparently there are subtle differ-

a-djk-8 1 ences in these criteria that have commercial value to these
2 companies.

3 Mrs. Ellis has, as helpers on her staff, and the wit-
4 nesses Walsh and Doyle, both well-versed in pipe support design
5 in general. For those companies to allow those individuals,
6 Walsh and Doyle, access to sensitive commercial information
7 without any sort of protective agreement, I assume is inconsistent
8 with what they think is a good idea.

9 JUDGE BLOCH: Well, why can't we have a protective
10 agreement?

11 MR. REYNOLDS: Because, Mr. Chairman, Ms. Ellis has
12 never pursued that avenue. It is not the obligation of the
13 Applicant, and I am sure you would agree, sir, for us to develop
14 a way for Mrs. Ellis to go out and get documents from someone
15 other than the Applicant. We don't control the documents; we
16 never have. She has been flailing away for six months trying
17 to get to them, and it is not our job to produce them.

18 If she would subpoena them or call the people and ask
19 to work out a protective agreement, I am sure they would do it.
20 But to burden the Applicant with something which we don't control
21 is totally unreasonable.

22 JUDGE BLOCH: I think the only problem is that if this
23 information is important to Ms. Ellis that she ought to have it,
24 and if the question is the issuance of a protective order, we
25 ought to do that efficiently and get the information to Ms. Ellis.

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The efficient proceeding here, I think, requires that we just proceed efficiently rather than trying to work over a long period of time of arduous negotiation for necessary information.

MR. REYNOLDS: We agree with you, and that is why we interceded in behalf of CASE with these organizations to see if they would produce material voluntarily. They have agreed to do so. It has been sitting down there at the site for a couple of weeks waiting for someone to come look at it, and no one has looked at it. The companies have simply said please come look at it. If you want some of it it may not be proprietary and we will give it to you. If it is proprietary we will work out a protective agreement. Or whatever.

But that isn't my job.

JUDGE BLOCH: Okay, so now it is sitting there on the site.

Ms. Ellis, why is this not satisfactory?

MS. ELLIS: There are some things that must be corrected for the record. First of all, to begin with, when we first asked for the information it was immediately prior to the last hearing. We did not have time to file a Motion to Compel or anything like that.

The Board Chairman advised us in the hearing when we asked that the information be supplied that we should file a Motion under --

6a-djk-10 1 JUDGE BLOCH: Let us not rehash that. I just want to
2 know why the present arrangement isn't satisfactory.

3 MS. ELLIS: All right, the problem is that it would do
4 me no good to go to the site and look at the documents. I would
5 not know what I was looking at. Mr. Walsh cannot take off to go
6 and look at that and also take off to cross examine --

7 JUDGE BLOCH: Well, what do you want?

8 MS. ELLIS: I would like to be able to look at them on
9 Saturday and to get the portions of the documents that we need,
10 or at least try to make arrangements for it.

11 JUDGE BLOCH: How will you know which portions you
12 would need?

13 MS. ELLIS: Mr. Walsh would have to determine that. I
14 can't.

15 JUDGE BLOCH: He would be there?

16 MS. ELLIS: Yes, he would have to be there.

17 MR. REYNOLDS: The problem is Saturday, as I understand
18 it.

19 JUDGE BLOCH: And the problem, therefore, is overtime?

20 MR. REYNOLDS: Mr. Chairman, why doesn't Mrs. Ellis
21 talk to IPT and MPSI and see if she can work something out?

22 MS. ELLIS: I will. However, I only received the number
23 of the person with MPSI this morning, and was only told that this
24 was a possibility yesterday.

25 And, for the record, the documents have not been sitting

6a-djk-11 1 there for two weeks. Under cover letter of March 29, 1983, the
2 Applicants informed us of what had gone on in that regard.

3 JUDGE BLOCH: Okay, what I want to do is resolve this
4 efficiently. It seems to me, Mr. Reynolds, the best way to do
5 that is to call the companies and try to work it out efficiently.
6 If there is any problem, check back with Applicant's attorney.
7 We want this resolved efficiently, and if it isn't resolved to
8 the satisfaction of either of the parties we expect a call. And
9 then we will resolve it at that time.

10 MS. ELLIS: Very good. That's fine.

11 Thank you.

12 JUDGE BLOCH: Now, the other discovery items.

13 MS. ELLIS: Yes, sir.

14 While I think about it, there is one other matter. I
15 believe the Applicants are going to supplement an exhibit of
16 theirs. I believe it is 148. And I believe it was incomplete
17 and also CASE will be supplementing our Exhibit 303 which somehow
18 got into the records with a page missing.

19 JUDGE BLOCH: Please continue. Are there any objections
20 to that?

21 MR. REYNOLDS: It is a housekeeping detail. I don't
22 think we have to take up a conference call with it.

23 JUDGE BLOCH: Let's continue.

24 MS. ELLIS: In regard to the staff item, as of today
25 it is my understanding from talking with the counsel yesterday

6a-djk-12 1 that they were going to send by expedited mail yesterday a letter
2 addressing many of these items. However, we have not received
3 it and don't really know exactly what exists at this point. So
4 we will go through them and perhaps staff counsel can help us
5 out on it.

6 JUDGE BLOCH: Could staff counsel clarify what we have
7 just heard?

8 MR. TREBY: Yes. Staff counsel had a discussion with
9 Mrs. Ellis yesterday as to what items we understood involved
10 the staff. And it was my understanding that we had resolved
11 all of those matters. And we sent the letter, dated April 6,
12 by express mail.

13 MR. REYNOLDS: I think, sir, that we have just received
14 it.

15 MR. TREBY: And you are --

16 JUDGE BLOCH: And you said that staff responds to all
17 these items?

18 MR. TREBY: That is correct.

19 JUDGE BLOCH: All right.

20 Ms. Ellis, if staff's response is not complete on all
21 these items, please address us on that matter.

22 MS. ELLIS: I don't know. I don't know what the letter
23 says. I can go through the items and perhaps we can find out.

24 JUDGE BLOCH: Somehow that doesn't seem efficient to
25 me.

6a-djk-13 1

MS. ELLIS: Perhaps we could --

2

MR. REYNOLDS: Can't we wait until --

3

JUDGE BLOCH: Can't we wait and see if she gets the letter? If there are any problems you can call Mr. Treby and if the two of you can't resolve it then you immediately call me.

6

MS. ELLIS: All right.

7

And there is one other item on here that I know that we had asked for which we should address at this time, I believe. It is in regard to item 135.

10

JUDGE BLOCH: I will read to you from the letter with the staff response on 135, the staff's response completed by letter to you of March 30, 1983.

13

Off the record.

14

(Discussion off the record.)

15

JUDGE BLOCH: We are back on the record.

16

Staff response was treated by letter to you of March 30, 1983 which transmitted to you the SIC Document responding to this request. "Memorandum 4JIDS from R.G. Taylor, subject Load Tests on CPSES Support CP1107008E23R, January 6, 1983."

20

"Considering the request of April 4, 1983 for the proposed notice of violation mentioned in this document, this document exists only in draft and as it relates to potential enforcement action it cannot be released outside the NRC."

24

Do you have a comment?

25

Would you explain the relevance to me of this notice

6a-djk-14,

of violation, Mrs. Ellis? Do you know?

MS. ELLIS: I will try. As I understand it, when we received this item, 135, Memorandum, and this Memorandum reference in it, a proposed violation, one of the concerns raised by Mr. Walsh was that the staff, as I understand it, changed part of their testimony -- on March 30th, we received ours on March 31st. And page 11, on page 11, at the very bottom, answer 23, the staff changed part of their answer regarding this particular item, and we feel that it increased the significance of this matter considerably, and apparently led to the proposed notice of violation.

We think that it has a relevance to the concerns raised by Mr. Walsh and Mr. Doyle regarding the excessive deflection, and we feel that we should have whatever information is available.

Apparently at this time it is not known whether they will be issuing the Notice of Violation or not. And I don't know if there is any time to be involved with that or not, but we feel that we should have the information.

JUDGE BLOCH: Mr. Treby, could I ask whether the Notice of Violation is based on material based in the inspection report that has been released?

MR. TREBY: My understanding is --

JUDGE BLOCH: Is it a proposed Notice of Violation?

MR. TREBY: First of all, it is a proposed Notice of Violation. It hasn't been issued, and there is no determination

that it ever will be issued.

2 JUDGE BLOCH: Okay. Are the facts set forth the same
3 as the facts in the inspection report? Or are they founded on
4 some other staff inquiry?

5 MR. TREBY: In relation to some other inquiry. As I
6 understand it, what it related to was whether or not a certain
7 matter had not been performed, and apparently the test has now
8 been performed, and the staff now has the information. And since
9 they now have the information there is some analysis going on
10 as to whether or not they need it from the Intervenor or whether
11 there was any reason that any citation or anything else --

12 JUDGE BLOCH: It is my recollection of the inspection
13 report that they discuss in some detail the question of deflection.
14 I have some concern that we need a complete and accurate record
15 on the staff's view on deflection. Do we have that now?

16 MR. TREBY: We have a complete record of deflection.

17 JUDGE BLOCH: So there is nothing in the Notice of
18 Violation that differs in any way from the inspection report
19 analysis of deflection?

20 MR. TREBY: That is my understanding.

21 JUDGE BLOCH: If you inquire into it further it seems
22 to me that we ought to have the facts, because, as I understand
23 it also, a statement of facts like that would have probably
24 less status than the rest of the Notice of Violation. The facts
25 just -- the factual conclusions about deflection.

6a-djk-16 1 I believe they might be able to be made available
2 under protective order. I am only concerned that the record
3 be full and complete.

4 I take it, Mrs. Ellis, that that is your principal
5 concern also, that the facts in our record on deflection be
6 accurate?

7 MS. ELLIS: Yes, sir, and we think it has great
8 bearing on this particular one, since it refers back directly
9 to a particular item that was brought up by Mr. Doyle. Additional
10 information on this is on page 41 of the staff investigation
11 report, beginning with the first full paragraph, and continuing
12 with the second full paragraph. It was the second full paragraph
13 that was changed in the pretrial testimony, on page 11, answer
14 23 at the bottom.

15 JUDGE BLOCH: Does Mr. Treby understand that if this
16 proposed order is issued we then would see it? Is that correct?

17 MR. TREBY: Yes.

18 JUDGE BLOCH: And if it was not issued we would never
19 see it?

20 MR. TREBY: That is correct.

21 JUDGE BLOCH: And the reason we wouldn't see if it is
22 not issued is in order to protect the reputation of the party
23 to whom it might have been issued?

24 MR. TREBY: No. The reason is because that this
25 determination was made not to do it. What we have here is a

6a-djk-17

1 draft document that has been prepared perhaps by one person. It
 2 has not been agreed to by all of the people that get involved in
 3 making determinations as to whether or not there is a violation
 4 or not. It is just a piece of paper to be used as some documents --

5 JUDGE BLOCH: Of course, it is more in the nature of
 6 an interagency document than an enforcement document?

7 MR. TREBY: Right. It is an interagency document that
 8 may or may not ultimately involve an enforcement matter. And not
 9 be made available until there has been some sort of a determination.
 10 At this time there is no --

11 JUDGE BLOCH: Should there be a determination that
 12 this document will not be issued, at that time the Board would
 13 request to see it in camera to decide whether it ought to be
 14 released in the public interest.

15 Now, is there any objection to that from any of the
 16 parties?

17 MR. TREBY: The staff has no objection to telling the
 18 Board matters in camera.

19 MR. REYNOLDS: I assume that the Board would make its
 20 intentions known to the parties with regard to its decision on
 21 disclosing it publicly and give the parties an opportunity to
 22 reply before releasing it?

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1 JUDGE BLOCH: Yes, the applicant would have a
2 chance to mention that, of course. I am not certain about
3 the agency's rights to reassert an intra-agency privilege
4 should we decide to release that. I don't think this is the
5 same thing as a matter that results in public reputation.
6 But Mr. Treby can, if that passes, Mr. Treby may accompany
7 with an appropriate memorandum about how we should treat
8 it.

9 But we will not release it until the applicant
10 gets a chance to comment also on it.

11 Okay, Mrs. Ellis, is there more?

12 MRS. ELLIS: May I address that?

13 JUDGE BLOCH: Do you mean our ruling? Sure.

14 MRS. ELLIS: Yes. I just want to make sure I
15 understand what you are saying. Will we be able to cross
16 examine regarding this matter?

17 JUDGE BLOCH: What we have said is that if the
18 document is issued as a violation, you will then see it; if
19 it's not, we will look at it and we'll rule after having
20 seen it.

21 MRS. ELLIS: All right, sir. But what if a
22 decision is not made before the hearing?

23 JUDGE BLOCH: If it is important enough so that
24 the record would have to be left open, we would have to
25 consider that possibility. It would depend upon the nature

1 of the information in the document.

2 MRS. ELLIS: All right.

3 MR. REYNOLDS: When Mr. Treby -- do you have any
4 idea about what the staff's deadline for reaching this
5 decision will be?

6 MR. TREBY: No, I don't. But I will inquire.

7 MR. REYNOLDS: If it can be done expeditiously
8 without prejudicing anyone's rights, it of course would
9 help us so that we will be placed in a position where we
10 might have to reopen.

11 MRS. ELLIS: This particular item is very
12 important in several ways, and we would definitely want to
13 pursue it in some fashion.

14 JUDGE BLOCH: Okay. Well, we have been assured
15 that there is no different information from what you have
16 already seen, and we have set it up in such a way that we
17 will be able to verify that whether or not it is issued.

18 MRS. ELLIS: All right, sir.

19 One thing too I would like to clarify in regard
20 to the document for the staff as to what is in the letter.
21 I would like to be assured too that whatever the staff said
22 to the applicant with that letter will be getting back to
23 us expeditiously as well.

24 JUDGE BLOCH: That letter is to you?

25 MRS. ELLIS: Yes, but I understand that there are

1 some things attached. Now, I may be wrong.

2 Is that correct, Staff? Are there some things
3 attachd to be sent to the applicant?

4 MR. TREBY: There were some enclosures sent to
5 the applicant for the proprietary review. They are noted on
6 the bottom of the letter that there were enclosures. They
7 are not identified.

8 JUDGE BLOCH: I think they are identified on
9 pages 5 and --

10 MR. REYNOLDS: Okay, the one at the end of the
11 letter. That's what I was looking at. They are identified
12 in the bottom of the letter, the staff says.

13 MRS. ELLIS: So we would like to know to be sure
14 that the applicants will provide those to us.

15 JUDGE BLOCH: I guess the procedure has been that
16 the applicant will look at them, will decide whether they
17 are proprietary, and then either will supply them or will
18 somehow arrange for a protective order. Is that the idea,
19 sir?

20 MR. TREBY: Yes, it is.

21 MR. BROWN: Well, I want applicant's word on
22 that, Mr. Reynolds.

23 MR. REYNOLDS: Yes.

24 JUDGE BLOCH: Okay. And if there is a problem
25 about that procedure, you will just notify us.

1 MR. REYNOLDS: Of course.

2 MRS. ELLIS: All right. I believe that there is
3 just one other item regarding this. And this is the matter
4 of some admissions which we had prepared prior to the
5 conference call of March 8 which we were unable to send
6 because of the Board's ruling on informal discovery
7 officially as to admissions.

8 We did arrange with the staff to submit to them
9 informally as stipulations, and those are all still
10 outstanding.

11 JUDGE BLOCH: Has the staff received them?

12 MR. TREBY: Yes, the staff has received them.

13 JUDGE BLOCH: Can you tell me how long it might
14 take you to respond?

15 MR. TREBY: There are 235 items. The staff made a
16 preliminary review of them, and it was our judgment that
17 the vast majority of them could not be answered yes or no.
18 Almost every one of them required an explanation. They are
19 working on that.

20 It was our understanding that what Mrs. Ellis
21 wanted us to do was to see if there were any that we could
22 see if we could reach some stipulation with her regarding
23 them. We will see if we can do that during the next week.

24 JUDGE BLOCH: That would be helpful if you could
25 proceed in that way because it benefits not only Mrs.

1 Ellis, but it tends to shorten the hearing.

2 MRS. ELLIS: Mr. Chairman.

3 JUDGE BLOCH: Yes.

4 MRS. ELLIS: There is one comment I do not agree
5 with, and that is that I do believe that most of these
6 questions were framed where they would not require
7 extensive answers.

8 JUDGE BLOCH: Okay. I understand that that was
9 your intent, but the staff evidently feels otherwise. And
10 that sometimes happens with people with adversary
11 positions. But the staff has said that it is going to try
12 to reach fair stipulations with you within the week. If
13 that doesn't occur, I expect to hear from the parties about
14 that.

15 MRS. ELLIS: All right.

16 JUDGE BLOCH: Is there anything else, Mrs. Ellis?
17 This is oral issue including emergency planning?

18 MRS. ELLIS: We have long since given up on
19 having enough time to do anything on emergency planning,
20 unfortunately.

21 MR. TREBY This is Stewart Treby. Perhaps to save
22 us having to have another conference call, there was one
23 other item that we --

24 JUDGE BLOCH: Let's let Mrs. Ellis finish first,
25 and then we'll go to your item. I don't think she is

1 finished yet.

2 MRS. ELLIS: I am just reviewing to be sure there
3 are no other items here.

4 JUDGE BLOCH: If that is what you are doing,
5 would you object to my continuing with Mr. Treby while you
6 continue with that?

7 MRS. ELLIS: No, that would be fine.

8 JUDGE BLOCH: All right, Mr. Treby.

9 MR. TREBY: What I was going to say is that there
10 was one other item that when we were discussing with Mrs.
11 Ellis we indicated that we had a document but that we were
12 not going to make it available to her. Perhaps we can take
13 care of that matter now.

14 JUDGE BLOCH: Let's have that one.

15 MR. TREBY: That's item 201.

16 JUDGE BLOCH: That's mentioned in your letter?

17 MR. TREBY: That is mentioned in our letter on
18 page 5.

19 MRS. ELLIS: Perhaps could you read me that
20 portion?

21 JUDGE BLOCH: Okay, off the record, please. We
22 will let you read that.

23 (Discussion off the record.)

24 JUDGE BLOCH: Back on the record.

25 MR. TREBY: The staff's position is that we have

1 two sheets of handwritten personal notes that are not part
2 of the official agency files, they are not part of any
3 record in this case. What they are is just the personal
4 notes of someone who was at this meeting and that they
5 don't need to be made available.

6 JUDGE BLOCH: Mr. Treby, there was an exit
7 interview report that was completed. Is that right? Is that
8 right or not?

9 MR. TREBY: That is not correct. Exit interviews
10 are not -- there are no minutes made of exit interviews.

11 JUDGE BLOCH: All right. So it was merely the
12 only thing mentioned about the exit interview is about one
13 sentence in the investigation report, that it was
14 conducted.

15 MR. TREBY: That's correct.

16 JUDGE BLOCH: Do these handwritten notes contain
17 facts or opinions?

18 MR. TREBY: One contains a list of names.

19 JUDGE BLOCH: YES.

20 MR. TREBY: One contains personal notes. I don't
21 know whether you would characterize them as opinions or
22 facts. They are just -- my characterization would be they
23 are the doodles of the person who was at the meeting.

24 JUDGE BLOCH: If they are doodles or opinions, my
25 understanding is that that might be different as to whether

1 or not they are facts. That is if he actually were
2 recording facts that were given to him, that is conceivably
3 different from the present standpoint that you are citing.

4 Can you assure us that there are no relevant
5 facts concerning the substantive matters before us that are
6 contained in that memorandum?

7 MR. TREBY: It's not a memorandum, and in my
8 opinion, there are no facts stated in this.

9 JUDGE BLOCH: Okay. They are just notes. I
10 understand that.

11 MR. TREBY: Right.

12 JUDGE BLOCH: But having reviewed them now, you
13 assure us that there are no facts, they are either doodles
14 or opinions but not facts?

15 MR. TREBY: That is correct.

16 JUDGE BLOCH: With the exception of the names,
17 which I think could be released. But it won't help anyone
18 much.

19 MRS. ELLIS: I assume there are already listed --

20 JUDGE BLOCH: The list of the attendees are
21 listed, I believe. I don't think it would help you very
22 much anyway, Mrs. Ellis.

23 MRS. ELLIS: No, I think that we were not
24 prepared to argue this because we don't have time, you
25 know, to go and check the reference to see whether it was

1 correct or not. And I think unless there is something
2 substantive in those notes, that we just assume --

3 JUDGE BLOCH: I did ask those questions about
4 whether or not there is something substantive. I think
5 under the law there could be a difference, but I am
6 satisfied that Mr. Treby has attempted to segregate factual
7 material and has found that it is not possible. So I would
8 encourage you to go ahead and drop that.

9 MRS. ELLIS: Yes, I would be glad to.

10 JUDGE BLOCH: Is there any other matter, Mrs.
11 Ellis?

12 MRS. ELLIS: I believe that is all with the
13 documents. There are some other things, I believe, here
14 that I have in my notes, questions.

15 JUDGE BLOCH: What kinds of questions?

16 MRS. ELLIS: Regarding the other Board
17 Notifications that were not specifically mentioned. Does
18 that mean that they will not be included in any way in the
19 proceedings, such as steam generator problems and so forth?

20 JUDGE BLOCH: Yes, unless we can declare them to
21 be sua sponte issues, they are merely preliminary inquiries
22 by the Board and are not open to discovery.

23 MRS. ELLIS: All right. That would not preclude
24 our entering into evidence documents that had to do with
25 the QA/QC contention, would it?

1 JUDGE BLOCH: No. The QA/QC Board Notifications
2 are subjected to your challenge.

3 MRS. ELLIS: All right.

4 JUDGE BLOCH: For use.

5 MRS. ELLIS: Okay. And -

6 JUDGE BLOCH: That is, of course, pending our
7 determination on relevancy, because some of them may be
8 arguably QA/QC and arguably not.

9 MRS. ELLIS: Right. It looks like most of them
10 here are -- if there are any other matters which we think
11 are of significance, the only one I can think of, it is
12 just the matter of the steam generators, which would
13 involve the staff restricting power operations to a 70
14 percent -- to 70 percent rather than -- this would involve
15 the matter of the steam generators and the fact that the
16 staff has stated that they will restrict our operation to
17 70 percent until approved modification has been made.

18 JUDGE BLOCH: Okay. Now, what about that?

19 MRS. ELLIS: We are concerned about that
20 particular item.

21 JUDGE BLOCH: I understand that. But I don't
22 regulate whether you are or are not concerned. What can I
23 do?

24 MRS. ELLIS: What I was wondering was if the
25 Board could entertain any motions regarding -- at this time

1 -- regarding some sort of limited discovery or a motion
2 even for new contention regarding that matter.

3 JUDGE BLOCH: You may always file a late
4 contention with good cause shown. There are standards
5 established on what good cause will be, and the applicant
6 will get a chance to respond.

7 MRS. ELLIS: All right.

8 JUDGE BLOCH: The applicant or staff. The State
9 of Texas will comment. But there are standards on what the
10 cause is on the late contention.

11 MRS. ELLIS: I wanted to inquire about something
12 regarding getting documents and so forth. I believe in
13 regard to procedural matters, you had stated something
14 about a 48-hour rule regarding getting documents to --

15 JUDGE BLOCH: Yes. I intend when we set a time
16 for the hearing to impose a 48-hour rule before which all
17 documents the parties know they will rely on at the hearing
18 should be exchanged.

19 MRS. ELLIS: All right. So you will be discussing
20 that later.

21 JUDGE BLOCH: Yes.

22 MRS. ELLIS: All right. We had informed the
23 applicant today -- haven't spoken with the staff today --
24 that we do plan to use sections of the Department of Labor
25 transcripts and exhibits.

1 JUDGE BLOCH: You intend to introduce them into
2 evidence?

3 MRS. ELLIS: Yes.

4 JUDGE BLOCH: Okay. And you will notify them
5 which sections you intend to introduce so that they can be
6 prepared with objections if there are any?

7 MRS. ELLIS: Yes.

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END T.7

8-djk-1 1 JUDGE BLOCH: We will not be addressing Atcheson
2 contentions in this hearing. We may later, but we can't now
3 because of the position's interest in confidentiality.

4 MS. ELLIS: All right, this would be merely not antici-
5 pate. There would be cross examination.

6 JUDGE BLOCH: When somebody comes around to the
7 Doyle contention?

8 MS. ELLIS: No, not with regard to the Doyle conten-
9 tion.

10 JUDGE BLOCH: We won't be supplementing the record.
11 We are just going to be hearing about an issue. We don't make
12 a record just to make a record.

13 MS. ELLIS: There are portions of this Department of
14 Labor transcript, two particular portions. One portion indicates --

15 JUDGE BLOCH: I don't think there is any reason for
16 us to discuss it now. If you think it is relevant you are going
17 to notify the parties before the 48 hours rule and move it into
18 evidence.

19 MS. ELLIS: All right. I'm sorry, I am a little con-
20 fused about what you said about Walsh-Doyle.

21 JUDGE BLOCH: We will have our hearing on Walsh-Doyle,
22 possibly as well on the emergency planning. We have to decide
23 that. And possibly on some of the Board inquiries that we have
24 already made. But to submit something in the hearing it would
25 have to be relevant to the subject matter of the hearing.

3-djk-2 1 MS. ELLIS: Okay.

2 Or, before the record is closed, is there some way that
3 we can make a motion to have something submitted into the record
4 before it is closed?

5 JUDGE BLOCH: If it is relevant to the issue before
6 the Board, you should have an opportunity to submit it at some
7 time. We won't be closing the entire record, but the Atcheson
8 issue is -- because the Atcheson issue is still going to be open.

9 MS. ELLIS: All right. I will send it all, I guess,
10 with a Motion.

11 Also, I wanted to advise that --

12 JUDGE BLOCH: Mrs. Ellis, before you send a Motion,
13 I think you should think through what you are trying to accom-
14 plish. I tried to explain what you can use that document for
15 at this hearing. I don't understand why you need a Motion.
16 Are you going to tell people when it is relevant, or are you
17 going to wait until the time when we hear that issue? I don't
18 want to encourage you to file a privileged Motion.

19 MS. ELLIS: No, I would just as soon not have to take
20 time to do that either. If I could explain what the purpose of
21 part of it is --

22 MR. REYNOLDS: Mr. Chairman, is this really all neces-
23 sary? It is 5:30 or 5:45 at night. I don't know what we are
24 accomplishing here.

25 JUDGE BLOCH: Mrs. Ellis, could you explain very

8-djk-3 1 quickly why this has to be discussed now?

2 MS. ELLIS: Well, I don't suppose it does, now.

3 JUDGE BLOCH: All right, then let's not.

4 MS. ELLIS: It is a procedural matter. All right.

5 I also wanted to advise the parties that Mr. Walsh
6 will be doing cross examination for us if the hearings are at
7 any time other than prior to after May 13th. He is working on
8 a project now which he cannot drop until then.

9 JUDGE BLOCH: Are we going to discuss the schedule?
10 Are you done with discovery matters? That is what the subject
11 is, Mrs. Ellis.

12 MS. ELLIS: Yes, I believe so, other than some problems
13 we have had with the Applicant, since we haven't had a chance to
14 talk with him about clean copies of Mr. Doyle's drawings. But
15 I believe we could work that out informally.

16 JUDGE BLOCH: If that subject can be -- if you attempt
17 to work that out in the next day, and then call me if there is
18 a problem. I just don't want it hanging on.

19 MS. ELLIS: All right.

20 JUDGE BLOCH: Have you rested, ma'am?

21 MS. ELLIS: I think there was one other thing. If
22 there will be additional direct testimony, in setting a deadline
23 for additional direct testimony.

24 MR. REYNOLDS: Scheduling?

25 JUDGE BLOCH: Yes, that is a scheduling matter also.

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1 I think we have an additional deadline for any additional testi-
2 mony before the direct hearing.

3 MS. ELLIS: I guess that is about it.

4 JUDGE BLOCH: All right.

5 The next matter for our consideration is the scheduling
6 of a hearing. Applicant?

7 MR. REYNOLDS: Well, Mr. Chairman, you have probably
8 had enough time to review the history of the case and see where
9 we have been and where we are attempting to go. Hearings were
10 scheduled to begin at the beginning of this week and hopefully
11 to conclude at the end of this week. That obviously hasn't
12 come to pass.

13 We would urge the Licensing Board to schedule hearings
14 for as early as it can. We are getting perilously close now to
15 a situation where licensing may be a critical pair of items for
16 this plant, and of course, we don't want that to happen and I
17 don't think the Board wants it to happen.

18 I have looked at the calendar in view of the schedule
19 that the Board has set for briefings and so forth. I think that
20 it would be reasonable to commence the hearings on the second
21 day of May.

22 JUDGE BLOCH: Okay.

23 Staff?

24 I'll tell you, do you think that one week is going to
25 be enough for these concerns?

8-djk-5 1 MR. REYNOLDS: Are you asking the staff or the Appli-
2 cant?

3 JUDGE BLOCH: The Applicant.

4 MR. REYNOLDS: Yes. I don't think it will take a
5 week.

6 JUDGE BLOCH: I think we should schedule a week for
7 safety, then.

8 MR. REYNOLDS: I agree.

9 JUDGE BLOCH: And is it that you understand that the
10 three matters I mentioned were to be the subjects?

11 MR. REYNOLDS: Yes, sir.

12 JUDGE BLOCH: Staff?

13 MR. TREBY: Yes. Also, the it is the staff's under-
14 standing that it is the three matters that would be the subject
15 of the next hearing would be the staff's inspection of the Walsh-
16 Doyle allegations, the emergency preparedness matters that have
17 been made by the Board, and any Board notification questions
18 which we received earlier in the conference call.

19 JUDGE BLOCH: Except for the unresolved safety issues.

20 MR. TREBY: And where the unresolved safety issues are
21 concerned.

22 The staff is prepared to go to hearing at any date
23 that is convenient to the Board. There are -- in the process of
24 scheduling things, of course, we are always concerned that there
25 may be some conflicts in scheduling between the hearing dates

1 that the Board chooses and the availability of our witnesses,
2 but rather than list all of our potential conflicts, I guess we
3 would like to hear what dates the Board believes it is ready to
4 go to hearing, and then we will indicate whether we have --

5 JUDGE BLOCH: Do you have any problems with May 2 or
6 May 9?

7 MR. TREBY: I believe we have some problems with May
8 9th. Some of the witnesses from the FEMA say that they have
9 some problems with it. This is May 9th. The staff doesn't
10 have any problems with the week of May 2nd.

11 JUDGE BLOCH: Mrs. Ellis?

12 MS. ELLIS: Mr. Chairman, as I mentioned, Mr. Doyle
13 will be available after May 13th. At this point he has stated
14 that he does not think he can possibly be available prior to
15 that time.

16 JUDGE BLOCH: The 13th? That is not a Monday, is it?

17 MS. ELLIS: No, that is a Friday. That week is what
18 I was referring to.

19 JUDGE BLOCH: You mean he would be available starting
20 on the 9th?

21 MS. ELLIS: Starting on the 16th.

22 MR. REYNOLDS: Mr. Chairman, we would point out that
23 Mr. Walsh is the person who has been conducting the cross exam-
24 ination, not Mr. Doyle?

25 MS. ELLIS: Did I say Mr. Doyle?

8-djk-7

1 JUDGE BLOCH: I think she meant Mr. Walsh.

2 MS. ELLIS: I meant Mr. Walsh. I am sorry.

3 MR. REYNOLDS: Well, our position would be that there
4 are inconveniences for everyone, regardless of what week you
5 pick. We think that the least inconvenient is May 2nd.

6 JUDGE BLOCH: What is the nature of this problem that
7 Mr. Walsh has?

8 MS. ELLIS: He is presently -- well, let me backtrack
9 a little bit. He had made arrangements at no small personal
10 risk and also no small personal cost to be off this week to
11 cross examine. However, when the hearings were cancelled, his
12 employer arranged for him to work on a certain project which
13 he alone is working on, which has to be completed by May 13th.
14 And he feels that it would jeopardize his job, and he would
15 probably not be able to be there at all if we have the hearing
16 prior to the week beginning the 16th or the 15th.

17 MR. REYNOLDS: Mr. Chairman, may I just say one more
18 word?

19 JUDGE BLOCH: Surely.

20 MR. REYNOLDS: We urge the Board to balance the equities
21 before it sets this hearing down. This case should have been
22 terminated and finished back in September of 1982. But it didn't
23 close at that time. Then we were scheduled for hearings this
24 week and they didn't come off. Now we are talking about further
25 postponing. When does the Applicant get its share of the equity

8-djk-8 1 and the fairness?

2 JUDGE BLOCH: May I ask Mr. Reynolds if it be the
3 determining factor in this case when we can complete the hearings
4 on Atcheson matters, is there really any serious problem concerning
5 deadlines for the plant and the Applicant as to whether we do it
6 one week earlier or later on this matter since the Atcheson
7 matter is the telling matter for scheduling?

8 MR. REYNOLDS: Judge, yes, I am not sure that this
9 Board, consisting of two new members, will even need to hear
10 more on the Atcheson matter. I am assuming that two new Board
11 members will be reviewing the record to determine whether you
12 and Dr. Jordan need to get into the Atcheson matter further.

13 It is conceivable in my view that it will conclude
14 that the record is adequate. We certainly believe that it is
15 adequate as it stands.

16 We also believe that there is some question -- policy
17 and legal -- as to whether or not the Licensing Board should be
18 looking behind staff investigations as independent arms of the
19 same agency. And that is an issue we are exploring and may be
20 filing something on with the Commission itself.

21 In short, I am not sure that we need a new hearing
22 or Atcheson. I think the record is adequate as it stands, and
23 therefore the answer to your question is that it may well be
24 that this is the pacing item, and that Atcheson is not.

25 JUDGE BLOCH: Would the State of Texas have a comment?

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MR. BERWICK: Well, yes, Mr. Chairman, it does. As we expressed in a Motion some days ago that was turned in, we have come into this matter only recently in an active way. We considered the Walsh-Doyle exchange to be a complex matter, and it is one in which we think the citizens of Texas have a distinct interest. We would like the maximum amount of time that would be allowable considering all the equities, to do our best to get ourselves prepared to meaningfully participate in a hearing.

1 JUDGE BLOCH: Would you explain what you mean by
2 "meaningful participation"?

3 MR. BERWICK: Yes.

4 And I guess that the generation of our own evidence,
5 and in the events of all of that, doing discovery, that the
6 way ought to lie open to all of those things, in fairness.

7 Now, as has been said by the previous Board, we are
8 "Johnny Come Lately" and are sensitive to that difficulty.
9 Nevertheless, the interests of the people are large in the
10 matter.

11 And as you said, Judge Bloch, very likely there will
12 have to be further hearings anyway. Accordingly, we would urge
13 you to give us the maximum amount of time that would be
14 possible. Certainly, toward the end of May would be much more
15 reasonable to us than if we had to go forward on May 2nd.

16 JUDGE BLOCH: You realize I'm about to close
17 discovery.

18 Would you like to address me on the question of what
19 discovery you want and whether or not I should not close
20 discovery now?

21 MR. BERWICK: Well, Judge, our difficulty is that in
22 an attempt to being able to review the Walsh-Doyle business or
23 the staff response in the detail that it needs, we are unsure.
24 Obviously, up to the present time we had not burdened anyone
25 with discovery because we had done none. We don't expect to

1 burden anyone, but we may, indeed, desire some discovery such
2 as depositions, or we may wish to send interrogatories
3 requesting documents and so on. Again, I cannot sign it in
4 blood that we will desire to do any of these things, but the
5 possibility certainly remains.

6 JUDGE BLOCH: I've been on this case for only days
7 regarding the investigation report in the Doyle testimony. Is
8 there some aspect of that report that you want to follow up on?

9 MR. BERWICK: I would think there might be, but
10 frankly, you are ahead of me on that matter.

11 JUDGE BLOCH: That's not really pardonable; is it? I
12 mean this is a serious matter for the State of Texas. It seems
13 to me that you should be able to have spent two days on it by
14 now.

15 MR. BERWICK: I'm not sure whether you would consider
16 it pardonable or not. I have a large case load and am not even
17 the lead lawyer in this case. The lead lawyer is trying
18 another case, a case in another city, at this moment. And, in
19 short, we cannot give our full attention to this; and yet,
20 that doesn't mean that it is not important. And we certainly
21 intend to get cracking on it.

22 However, I would say that I think that -- I am only
23 saying, give us a handful of extra days; in other words, begin
24 towards the end of May rather than at the very beginning, and
25 this would work additional fairness for us without

1 significantly burdening anyone else, from what I've heard
2 today.

3 JUDGE BLOCH: If I hear that argument, fine. But
4 when you start talking about discovery and depositions, I don't
5 understand at all.

6 MR. BERWICK: Well, I don't think that any depositions
7 have been taken in this case. Depositions, obviously, need not
8 necessarily be a tremendously time-consuming thing; in fact,
9 they can save time.

10 My impression is that part of the difficulty of
11 doing discovery in the present case is that intervenors
12 haven't done depositions for, no doubt, their own good reasons.
13 If we perceive the necessity of depositions, which I am sure
14 you will agree are a prime discovery tool or the best one
15 available, if we perceive the need for them, we feel as though
16 the way ought to lie open to do them.

17 MR. REYNOLDS: Mr. Chairman, may I comment?

18 JUDGE BLOCH: I don't think it is necessary. We are
19 going to close discovery. If the state wishes to request
20 depositions, it may do so; but it will have to show good cause
21 for the late filing of that request.

22 MR. REYNOLDS: Mr. Chairman, when counsel reviews the
23 record, he will find that the depositions of most, if not all,
24 Applicant's witnesses were taken by CASE.

25 MR. BERWICK: Of course, I mention the Doyle

1 deposition, also, which is a deposition in the case.

2 MS. ELLIS: Mr. Chairman, may I make a comment?

3 JUDGE BLOCH: Yes, Ms. Ellis.

4 MS. ELLIS: I would like to note one thing that
5 Mr. Reynolds said which has not told to us, and that is that
6 these hearings may delay the licensing of the plant. And I
7 would call the Board's attention specifically to the NRC
8 staff's March 3rd response to the Board Order requesting
9 information to attachment to enclosure 2. It states -- this
10 is a comment from the NRC resident inspectors at Commanche
11 Peak, and it states, quote:

12 "It appears this time that paper work, clean-up and
13 engineering in Q/A area may delay fuel-load, even though
14 physical construction is complete. Engineering change papers
15 have been so massive that Q/A may have problems accounting for
16 all of it and the hardware flash records for accepted
17 purposes," end quote.

18 And in that same document -- this is the same
19 document to attachment 2 -- it is stated that the Applicant
20 fuel-load date -- or completion date, excuse me -- has been
21 changed from June, 1983, to the end of September of 1983, and
22 that the staff has made a completion date, now the end of
23 December, 1983.

24 JUDGE BLOCH: Thank you, Ms. Ellis. That could still
25 create problems, given the times that are needed for appeals

1 and the like.

2 I guess I would like for the staff to comment on
3 whether they think that the difference of a couple of weeks on
4 this issue makes any difference to the likelihood that we'll
5 proceed fuel-load with our final decision in this case.

6 MR. TREBY: The staff believes that if you hold this
7 hearing in May, that we should be able to provide the Board
8 with any necessary proposed findings in time to render a
9 decision in a timely manner.

10 JUDGE BLOCH: Is there anything the parties would like
11 to add, that has not been said before, about the scheduling
12 question?

13 MS. ELLIS: There is one further thing.

14 If we go to hearing, for instance, May 2nd, it
15 probably will preclude our answering any briefs. We certainly
16 will have time to address ourselves to that in cross-
17 examination adequately. If we have to choose between them, we
18 will choose the cross-examination.

19 MR. REYNOLDS: Mr. Chairman, Applicants would just
20 conclude by saying that it is now time, after two years of
21 litigation in this case, to throw a little fairness toward the
22 Applicant. We're getting too close to fuel-load date to take
23 a chance and place the risk on the licensing case itself for
24 delaying fuel-loading.

25 JUDGE BLOCH: The Board is going to take the exact

1 day under advisement for the week and clear our own schedule.
2 However, we should know now. We'll notify you by tomorrow what
3 the date for the hearing will be.

4 You should know that there will be a 48-hour rule
5 which will require that the other party receive any documents
6 that you intend to rely on at the hearing, whether for direct
7 or cross, at least 48 hours before the hearing.

8 Excuse me. That is cross-examination documents.
9 Direct testimony should be filed at least ten days before the
10 hearing.

11 MS. ELLIS: Mr. Chairman.

12 JUDGE BLOCH: Yes.

13 MS. ELLIS: Could I suggest that you place a specific
14 time on it instead of a 48-hour rule, perhaps make it by the
15 close of business, say by 5:00 o'clock on Friday afternoon?

16 JUDGE BLOCH: I prefer to make it a 48-hour rule,
17 which means that you're going to have to safe on that, and if
18 you have to, you'll have to provide an extra day so that you
19 will attempt to make servicing time. You've got to make a
20 reasonably good-faith effort to be in the hands of the other
21 parties 48 hours in advance.

22 MS. ELLIS: I wasn't as concerned about our sending
23 as receiving it.

24 JUDGE BLOCH: Well, they, also, must make a reasonably
25 good-faith effort to do that.

1 Is your problem that you're going to be traveling?

2 MS. ELLIS: We will be going to Fort Worth over that
3 weekend. We will stay over there in hotels.

4 I assume it is going to be there.

5 JUDGE BLOCH: I think if any of the parties notify
6 one another about a preferred address for receipt of that
7 document, that that request should be acceded to.

8 I have only a brief statement that I would like to
9 make for the Board about procedures I would like to follow.

10 Boards I have been on before have issued orders -- I
11 think in both the Perry case and the Point Beach case, I'm
12 going to try to summarize those -- suggesting the form in
13 which findings should be filed.

14 The basic idea of the findings that we want in this
15 case are findings that would be as helpful as possible to us.
16 Our job is to review the record and reach a reasoned conclusion
17 concerning the issues before us. So, what we want is the
18 reasons for the Applicant, for the different positions of the
19 parties, logically stated and supported by a careful analysis
20 of the applicable legal material and by a statement of the facts
21 on which the party relies, cited to the record so that we can
22 check the documentation.

23 Now, we urge that these arguments be made in respect
24 to the whole record, which means that if there are facts adverse
25 to the parties' interests, those also should be somehow accounted

1 for or discussed either as irrelevant, or incredible, or as
2 discountable for some other reason. We have to look at all the
3 facts, and we want the parties to help us to look at all the
4 facts.

5 We are particularly interested that the regulatory
6 materials be discussed carefully, because sometimes these issues
7 are discussed in sort of an etherial way; and they are not
8 etherial issues, they are related to the rules and regulations
9 of the Commission. We want a reasoned interpretation of those
10 rules and regulations in light of practices and guidances that
11 have been issued.

12 (Pause for interruption.)

13 On cross-examination some Boards have required the
14 filing of cross-examination plans for that day and the other
15 party and there was no way that a cross-examination is going.
16 That would help us to be more efficient. We will not require
17 that; but we will require that each of the parties be carefully
18 prepared and organized, so that if at any time we don't
19 understand whether cross-examination is going, we can get a
20 reasoned answer. And if we don't get the reasoned answer, we
21 will just cut off that cross-examination at that point.

22 Are there any other matters that must be considered
23 at this very late time in the afternoon?

24 MS. ELLIS: There is one point of clarification.
25

1 The 48-hour rule, does that apply just to the parties
2 or does it apply to staff as well?

3 JUDGE BLOCH: That is just the parties. The purpose
4 is to allow the parties to anticipate the documents that will
5 be used and be able to prepare responses.

6 Now, if there is anything that, for some reason -- we
7 don't anticipate in this kind of a hearing that there will be
8 a surprise element, but if for some reason there was a surprise
9 element involved, there could be a waiver of the 48-hour rule
10 for cause.

11 MS. ELLIS: Well, I would like to just state for the
12 record, too, and see if there are any objections now, maybe
13 avoid some later on: We would like to, assuming that the
14 hearing goes forward, if Mr. Walsh is able to attend, we would
15 like to divide some of the work on the Walsh-Doyle cross-
16 examination between Mr. Walsh and myself, especially regarding
17 matters such as interface, in which he was involved somewhat
18 personally.

19 JUDGE BLOCH: Subject to the Board's control of the
20 proceeding in the interest of efficiency and objections of the
21 parties, that will generally be acceptable to start.

22 Is there any other matter that must be considered at
23 this time?

24 MS. ELLIS: There is one other matter.

25 For the record, we had mentioned to the staff, and to

1 Applicant, and to the state as well, previously, what we
2 understood to be a directive by the Deputy Executive Director
3 of the NRC, the Region 4 Administrator, calling them to get
4 together with Mr. Walsh and Mr. Doyle. And we have suggested
5 that the staff -- I want to check with Mr. Cullen to see his
6 views on that.

7 MR. REYNOLDS: Mr. Chairman, are these really matters
8 with which the Board needs to be concerned?

9 JUDGE BLOCH: It sounds to me like something you could
10 take up with the staff.

11 Could you explain what action you want me to take?

12 MS. ELLIS: It could have to do with scheduling,
13 because unless there is sufficient time allowed, we can't do it.

14 JUDGE BLOCH: Why does it have to be done before the
15 hearing?

16 MS. ELLIS: It could have an impact on what the
17 testimony of the staff --

18 JUDGE BLOCH: Your relationship to the staff is a
19 matter between you and the staff. There is no right to due
20 process before the staff; a fair hearing is a hearing before the
21 Board. The staff, I take it, will try to accomodate reasonable
22 request to meet with it, but that is not a direct concern of the
23 Board.

24 There being no further matters to raise, I would like
25 to think the parties for their cooperation today.

1 We will inform the parties tomorrow of our precise
2 schedule.

3 I would like to ask the Board to stay on the line at
4 the close.

5 Thank you for your participation.

6 Off the record.

7 (Whereupon, at 5:55 p.m., the telephone conference
8 was concluded.)

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CERTIFICATE OF PROCEEDINGS

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This is to certify that the attached proceedings before the
NRC COMMISSION

In the matter of:

Date of Proceeding: March 24, 1983

Place of Proceeding: Washington, D.C.

were held as herein appears, and that this is the original
transcript for the file of the Commission.

Official Reporter - Typed

James C. Early
Official Reporter - Signature