

NUCLEAR REGULATORY COMMISSION

ORIGINAL

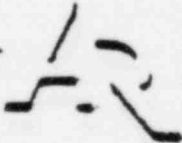
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of: :
LONG ISLAND LIGHTING COMPANY :
(Shoreham Nuclear Power Station) : DOCKET NO. 50-322-OL

DATE: November 12, 1982 PAGES: 13,907 - 14,025

AT: Bethesda, Maryland

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

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

-----x

Bethesda, Maryland
Friday, November 12, 1982

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

BEFORE:

- LAWRENCE BRENNER, Chairman
Administrative Judge
- JAMES CARPENTER, Member
Administrative Judge
- PETER A. MORRIS, Member
Administrative Judge

1 APPEARANCES:

2 On behalf of Applicant:

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

8 On behalf of the NRC Regulatory Staff:

9 BERNARD BORDENICK, Esq.
10 Washington, D.C.

11 On behalf of Suffolk County:

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

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C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>
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T. Tracy Arrington, Frederick B. Baldwin, William M. Eifert, T. Frank Gerecke, Joseph M. Kelly, William J. Museler and Robert G. Burns (Resumed)					
By Mr. Lanpher				13,912	
By Mr. Bordenick				13,940	
By Mr. Ellis			13,943		
By Judge Morris					13,944
By Judge Carpenter					13,946
Arthur R. Muller and Edward J. Youngling (Were recalled and joined the above panel)					
By Mr. Dynner			13,953		

E X H I B I T S

<u>NUMBER</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>BOUND IN TRANSCRIPT</u>
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Suffolk County 80	13,912		13,913
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Recesses:

Morning -	13,951
Afternoon -	13,992
	14,013

P R O C E E D I N G S

1

2

9:00 a.m.

3

JUDGE BRENNER: Let's go on the record.

4

Briefly on the subject of the proposed depositions for
5 emergency planning and the filings thereon, I did want
6 to note that my office received a call, I guess
7 yesterday, from Mr. Shapiro that he does intend to file
8 views on behalf of his client on the 18th, to be
9 received on the 18th. So that just re-emphasizes the
10 dialogue we had yesterday about making sure NSC and SOC,
11 as the other two parties, receive these copies timely as
12 the Board ordered unless other arrangements have been
13 mutually worked out between the parties.

14

MR. BORDENICK: Judge Brenner, I also wanted
15 to note that is going to be followed through this
16 morning. They will have it in their hands one way or
17 the other today.

18

JUDGE BRENNER: Again, can we finally
19 establish the plan for the emergency planning
20 discussions among counsel?

21

MR. LANPHER: Judge Brenner, we still have not
22 heard back from Mr. Latham.

23

JUDGE BRENNER: Okay. We're establishing it
24 for November 22nd at 10:00 a.m. because that is the time

25

1 and date that Mr. Shapiro said he could make it, and all
2 the other parties are here. And just inform Mr. Latham
3 that that is the time and place, and he is welcome. And
4 that will be in this room.

5 All right. We have nothing else. We are
6 ready to continue the cross examination by the county,
7 which was estimated to take about another hour, and I
8 hope that turns out to be reasonably accurate. And then
9 we will shift over to operating quality assurance.

10 Whereupon,

11 T. TRACY ARRINGTON,
12 FREDERICK B. BALDWIN,
13 WILLIAM M. EIFERT,
14 T. FRANK GERECKE,
15 JOSEPH M. KELLY,
16 WILLIAM J. MUSELER and
17 ROBERT G. BURNS,

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

21 MR. LANPHER: Judge Morris, where are we on
22 our exhibit numbers?

23 JUDGE MORRIS: Eighty.

24 MR. LANPHER: I would like to have marked as
25 Suffolk County Exhibit 80 a document entitled "SPCR

1 Response Summary Sheet" and that consists of three pages.
2 (The document referred to
3 was marked Suffolk County
4 Exhibit No. 80 for
5 identification.)

6 RE CROSS EXAMINATION -- Resumed

7 BY MR. LANPHER:

8 Q Mr. Museler, are you familiar with this
9 document?

10 A (WITNESS MUSELER) Yes, sir.

11 Q Can you describe briefly what it represents?

12 A (WITNESS MUSELER) It represents our attempt on
13 reviewing the seven SPCR reports that I believe were
14 Suffolk County Exhibit 71, to place those reports into
15 various groupings in a preliminary manner to facilitate
16 our review of various types of findings within the SPCR
17 reports.

18 JUDGE BRENNER: This is the actual one
19 prepared by you, Mr. Museler?

20 WITNESS MUSELER: Ours has all kinds of
21 scribbling on it. We retyped it last night.

22 JUDGE BRENNER: But this was retyped by you or
23 under your supervision and not prepared by the county?
24 That is my point.

25 WITNESS MUSELER: Yes, sir, that is correct.

1 BY MR. LANPHER (Resuming):

2 Q So in terms of the 12 categories which we
3 discussed yesterday in the Shoreham plant configuration
4 review area, this is your best understanding of how the
5 various findings or potential findings in those plant
6 configuration reports would break out in your 12
7 categories?

8 A (WITNESS MUSELER) Yes, sir, based upon the
9 definition of the categories we went through yesterday.
10 I also stated that there were a number of findings that
11 could probably be put in either category or in one of
12 several categories. We did not put them in more than
13 one because as I mentioned, they all fall under the
14 category of descriptive detail.

15 MR. LANPHER: Judge Brenner, I'm not intending
16 to pursue further questions on this at this time. I
17 don't know if the Board wants to go back to other areas
18 of examination.

19 JUDGE BRENNER: Well, let's bind it in for
20 convenience at this time.

21 (Suffolk County Exhibit 80 follows:)

22

23

24

25

INSERT #1

CDR RESPONSE SUMMARY SHEET

<u>CATEGORY</u>	<u>B31</u>	<u>C11</u>	<u>C41</u>	<u>E21</u>	<u>E32</u>	<u>E41</u>	<u>E51</u>
1 - Typos	03-1 05-1 09-1	05-3	05-1	07-2L	08-2	07-3a	
2 - Nonfindings		01-3 02-3 11-2 12 04	02-1A(a) 02-2C 09-1		07		
3 - Detailed Hardware Descriptions		01-2 09 13-1 01-1	04-1 02-1C	05-1 07-1a 07-2e 07-2g			
4 - Clarification of Wording	02-1 03-2 06-1	07-1b 07-2	07-1	07-2a 05-4 07-1b, c	08-1	02-3 04-1 05-1 07-4d	01-2 03-1 05-1
5 - No Discrepancy		08				11-1	02-2 02-3 06-1
6 - System Configuration Change 1 (No change in system logic)		03 05-1 05-2 06-1 02-2	02-1(e) 02-1B(a) 03-1(b) 03-1(c) 03-2(b) 03-2(c) 02-2(e)	02-1 04-1 06-1a 06-1b 06-1c 06-1d 06-1e 06-2	02-1 04-1 05-1 06-1 07-1	04-5 05-6 05-7 06-2 06-3 06-4 06-7	03-1 03-2 04-3 04-4 06-2 07-1 07-3 07-4 07-7

<u>CATEGORY</u>	<u>B31</u>	<u>C11</u>	<u>C41</u>	<u>E21</u>	<u>E32</u>	<u>E41</u>	<u>E51</u>	
7 - System Configuration Change II (Change in system logic)	04-1	02-1	01-1-2	02-2		02-1	03-3	
	07-1	06-2	01-1-4	03-1		02-2	05-3	
		06-3	01-1-5	08-1		03-1	06-4	
		07-1a	01-2			04-2	07-2	
		11-1				04-6	07-5	
		11-3	02-1A(c)			04-7	07-6	
		13-2	02-1A(e)			05-2	08-1	
			03-1(a)			05-3	09-1	
			03-2(a)			05-4		
				08-1		05-5		
						06-1		
						06-5		
						06-6		
						06-8		
						07-3b		
						07-3c		
						07-4c		
8 - Analog Trip						07-1a	10	
						07-4a		
9 - Vents, Drains Test Connections, and Samples	01-1	02-1	01-1-1	01-1	01-1	01-1	01-1 06-4	
	01-2	02-2	01-1-3		03-1	01-2	01-3 07-2	
	07-2		02-1(d)			02-1	01-4	
		10	02-1A(b)			02-2	02-1	
			02-1B(d)			03-1	04-1	
			02-1B(e)			04-3	04-2	
			02-1B(h)			04-4	04-4	
			02-1B(k)			05-8	05-1	
			02-1B(l)				05-2	
			02-2d				06-3	
			05-1					
				06-1	09-1		02-1	04-2
							02-2	06-3
							03-2	12-1
						03-2		
						04-3		
						04-4		
						05-8		
						06-2		
						08-1		

<u>CATEGORY</u>	<u>B31</u>	<u>C11</u>	<u>C41</u>	<u>E21</u>	<u>E32</u>	<u>E41</u>	<u>E51</u>
11 - Criteria Clarification	08-1					09-1	
12 - Torque Switches				07-1d 07-2b 07-2c 07-2d 07-2f 07-2h 07-2i 07-2j 07-2k	08-3	07-1b 07-2 07-3d 07-3e 07-4b	

1 MR. LANPHER: Judge Brenner, just so you know
2 and the parties know where I'm going, I'm going to
3 pursue recross examination, and then I think when I have
4 completed that, we should plan to take up the question
5 of moving audit findings into evidence, unless you would
6 rather do that first. I was going to complete the
7 recross first.

8 JUDGE BRENNER: Is there going to be a dispute
9 on it?

10 MR. LANPHER: We have some differences, yes.
11 I don't know if it is a dispute. We've got some
12 differences.

13 JUDGE BRENNER: If the differences are over
14 how much of the audit was cross examined on, I'm not
15 going to be able to resolve that in a minute or two. We
16 will have to pull it out and take a look at what was
17 involved, and the best thing to do might be for you to
18 just ask your questions on the parts you thought were
19 asked about.

20 MR. EARLEY: Judge, we gave the county a list
21 of the exceptions we would take to moving Mr. Lanpher's
22 findings into evidence once he proposed. Maybe we
23 should get together at the break and see if we can
24 resolve the differences.

25 JUDGE BRENNER: It is acceptable to the Board

1 if you resolve the differences after today with the
2 caveat that if in the end the only way to resolve it is
3 to have Mr. Lanpher ask the questions, you will have to
4 make the witnesses available. That is why I had urged,
5 going back sometime now, that this be resolved. I don't
6 want it thrashed out in front of me unless it's
7 absolutely necessary because I'm going to have to go
8 back to the transcript myself.

9 MR. LANPHER: Well, we have not had an
10 opportunity this morning to talk about it. I got their
11 summary at a little after 8:00 this morning and I have
12 gone over it myself, but it took until almost 9:00
13 o'clock to go over it. I would be happy to ask
14 questions about certain -- there are certain ones that I
15 did not ask questions about, but I think they fall into
16 areas that we have inquired about, and I didn't think it
17 was necessary to ask questions about every finding.

18 I think basically, LILCO's objection, as I can
19 see it, is that if I didn't ask a question about a
20 specific finding in a calculation in the E&DCR area,
21 besides their standing objection, they are objecting to
22 that finding or subpart thereof.

23 JUDGE BRENNER: Well, I don't have to hear the
24 argument now. I don't know if that is their position --
25 and I won't ask -- as you stated it. That is not the

1 test. It was if the witness was able to affirm that it
2 would have been the same as one of the others asked
3 about. Then they can be moved into evidence, also.

4 MR. LANPHER: Let me just proceed with my
5 cross, then. I guess I will then will go -- it is going
6 to expand my cross a little bit because those areas
7 where there are objections, there are several of the
8 objections that I'm not going to oppose because I don't
9 think it is material. There are some that I definitely
10 want in so I'm going to ask the necessary questions this
11 morning.

12 That is going to be in addition to my estimate
13 of an hour probably, but we'll see how it goes. I will
14 go as quick as I can.

15 JUDGE BRENNER: Why don't you see if you can
16 work out a little bit of it during the first break and
17 if you can't, we will let you ask the questions or make
18 arrangements to take more time to try to work it out
19 with the caveat that witnesses might have to come back.
20 Whatever the parties prefer.

21 BY MR. LANPHER (Resuming):

22 Q Mr. Eifert, in answer to redirect questions by
23 Mr. Ellis in the area of calculations, we were talking
24 about EAP 5.3, and you testified regarding revisions to
25 that Engineering Assurance Procedure. Now, if you would

1 refer to transcript page 13,334, and that is on November
2 9, I understood that testimony to indicate that
3 revisions to make the procedure more strict were
4 instituted in 1975. And this is at line 2 of that page.

5 MR. ELLIS: We don't have a page number.

6 MR. LANPHER: That's 13,334.

7 BY MR. LANPHER (Resuming):

8 Q This is really to clarify a later statement.
9 If you would also look at page 13,337, line 20, it
10 indicates that 5.3 was not changed until 1979. Were
11 there multiple changes, or is there a mistake in the
12 transcript between the 1975 date, which is on 13,334,
13 and the 1979 date that is on 13,337?

14 A (WITNESS MUSELER) The next page was 337?

15 Q Yes, 337, line 20, sir.

16 (Panel of witnesses conferring.)

17 A (WITNESS EIFERT) There is not a conflict
18 there. They are two different changes that I was
19 discussing, and I guess there were more than the one
20 change in EAP 5.3 that I mentioned in 1979.

21 The change that I discussed on page 13,337 was
22 in '79 and dealt with the specific detail with respect
23 to identifying input sources to such things as the page
24 number in the input source document. On page 13,334, I
25 was referring specifically to what we require with

1 respect to identifying computer programs, and a change
2 in our program that in addition to identifying the
3 program, that they also identify the specific version or
4 level of that computer program. And my best
5 recollection is that that change was in approximately
6 1975.

7 Q That was a change to EAP 5.3 also?

8 A (WITNESS EIFERT) Yes, sir.

9 Q Okay. Turning your attention to page 13,389,
10 you were testifying, Mr. Eifert, relating to Engineering
11 Assurance Audit 28, Observation OAO, Part 1, and I
12 believe you testified -- well, the audit observation
13 indicates that one of the calculations had not been
14 checked prior to the time it was used. Is that correct?

15 (Panel of witnesses conferring.)

16 MR. LANPHER: Judge Brenner, could we go off
17 the record for a moment?

18 (Discussion off the record.)

19 BY MR. LANPHER (Resuming):

20 Q Mr. Eifert, my question initially is just in
21 this audit observation, the auditor had identified a
22 calculation that had been used prior to being checked.
23 Is that correct?

24 A (WITNESS EIFERT) That is correct.

25 Q Now, if you look at lines 19 and 20 on page

1 13,389 you're talking about the follow-up activity and
2 it says that four additional -- you established that
3 four additional calculations existed which were
4 preliminary where the results had not been used.
5 Shouldn't that read -- where the results had been used?

6 A (WITNESS EIFERT) Yes, it should. We go on and
7 explain the corrective action that we have taken on
8 that, and that is apparently a mistake there. They were
9 used.

10 Q Okay, thank you. From the later context I
11 thought that was the case but I wanted to be sure. So
12 if we take out the "not" in line 20, that would be a
13 correct statement, the way you intended to testify?

14 A (WITNESS EIFERT) Yes, sir.

15 Q Mr. Gerecke, turning your attention to page
16 13,481, you testified, am I correct, there with respect
17 to QA Audit 81-11, which is tab 24 in Suffolk County
18 Exhibit 68. Is that correct?

19 A (WITNESS GERECKE) Yes, Mr. Lanpher.

20 Q Now, you testified between lines 15 and 22,
21 sir, that the personnel preparing the procurement
22 documents, which are the subject or discussed in that
23 audit, were aware of and were complying with essential
24 quality program requirements. Do you see that testimony?

25 A (WITNESS GERECKE) Yes, I do.

1 Q You also testified that they overlooked the
2 requirements to use the purchase release forms in some
3 cases to note the quality assurance category on the
4 procurement documents; correct?

5 A (WITNESS GERECKE) That is correct.

6 Q Now, those -- the use of purchase release
7 forms and the notation of the quality assurance
8 category, that is part of your overall program
9 requirements; correct?

10 (Pause.)

11 A (WITNESS GERECKE) These two requirements were
12 part of the overall requirements established in the
13 program. These two are essentially administrative
14 requirements to assist in our internal handling of the
15 procurement documents.

16 Q But it is part of your overall quality
17 program? These two items? That's use purchase release
18 forms, and notation of QA categories on the procurement
19 documents. That is part of the overall requirements?

20 A (WITNESS GERECKE) They were part of the total
21 program established for procurement.

22 A (WITNESS MUSELER) Mr. Lanpher, those
23 particular requirements are in the implementing project
24 procedures. We published a specific purchase release
25 form requirement; an administrative procedure is a

1 project procedure.

2 Q Gentlemen, you testified -- I'm not sure which
3 of you did -- at page 13,539. I think it was you, Mr.
4 Museler. We were discussing whether specifications are
5 significant documents in terms of the actual field
6 implementation. Do you see that testimony on page
7 13,539?

8 (Panel of witnesses conferring.)

9 A (WITNESS MUSELER) Yes, sir. What I said was
10 that the actual field work is generally performed to
11 specifications, cable tickets and other design
12 documents; not to the specification. Those
13 requirements, the requirements of the specification, are
14 applicable to the field installation, but the craftsmen
15 do not utilize the specification in their actual field
16 installation.

17 Q Gentlemen, in our review of the LILCO field
18 audits -- and we don't need to go through each of them
19 by any means at this point -- a large number of those
20 audits involved auditors going to the specifications and
21 seeing if they were up to date in terms of having the
22 proper E&DCRs referenced or posted and that kind of
23 thing. Would you agree?

24 A (WITNESS KELLY) Yes, that is correct.

25 Q Well, if the specifications are not

1 particularly significant documents, as testified to by
2 Mr. Museler on 13,539, can you explain why such a
3 relatively large amount of audit activity was devoted to
4 the auditing of specifications?

5 A (WITNESS KELLY) Sure. They are control
6 documents. We were measuring the system for controlling
7 of documents. As we said throughout the testimony, the
8 selection of specifications or drawings was done
9 strictly from the standpoint of what documents, control
10 documents, that holder had with no regard whatsoever,
11 even if that contractor used that document whatsoever.
12 I think we noted that several times in the testimony.

13 MR. ELLIS: May I have that last answer read
14 over again, please?

15 (The reporter read the record as requested.)

16 WITNESS KELLY: I don't know if that needs
17 clarification as far as what I said.

18 BY MR. LANPHER (Resuming):

19 Q If you want to clarify, --

20 A (WITNESS KELLY) I will clarify just to make
21 sure.

22 Q If you think it needs clarification;
23 otherwise, you ought to wait for redirect by your
24 counsel. But I don't want to cut you off.

25 A (WITNESS KELLY) Okay, fine.

1 Q Mr. Museler, I would like you to look at the
2 transcript on 13,659 and for context, Mr. Museler, we
3 were talking about the additional programs, CONQUIP,
4 CONSAP and CABTRAP at this point. And looking at the
5 top of 13,659, you testified regarding why these
6 programs are, in your view, extra or unique in some
7 way. Looking at lines 3 and 4 on 13,659, you state the
8 second aspect of them that is unique is that they
9 provide a more rigorous engineering assessment of how
10 the specification requirements as implemented in the
11 field are met.

12 More rigorous than what, Mr. Museler? Were
13 you comparing it to something else?

14 A (WITNESS MUSELER) Yes, Mr. Lanpher, I was
15 comparing it to what we discussed later in the redirect
16 where I mentioned that the accepted industry practice in
17 this area was to install the conduit, the conduit
18 supports, to field run them and to have walkdowns
19 conducted by engineering or construction personnel and
20 have engineering judgment applied to adding additional
21 supports or changing supports or modifying a cable tray
22 support, for example, as opposed to getting the final
23 as-built condition and having engineering compare the
24 as-built condition reflected on the drawing directly to
25 the design guide requirements.

1 So the comparison I'm trying to make here is a
2 comparison between an on-the-spot field judgment by
3 engineering personnel and the taking of the physical
4 dimensions and the physical field conditions and putting
5 them on paper and having that done in the office,
6 bearing those numbers, dimensions, actual arrangements,
7 with the design guides.

8 I should note that in this discussion it was
9 not my intent, nor do I believe that the other practice
10 that I'm comparing what we're doing against, is in any
11 way deficient. I believe all the plants that in the
12 past have used that system are perfectly adequate.

13 Q Mr. Museler, do you have a copy of Suffolk
14 County Exhibit 74 for identification? That is the
15 CONSAP status report that was marked.

16 A (WITNESS MUSELER) I don't think so. Let me
17 take a look.

18 (Pause.)

19 No, Mr. Lanpher, I'm afraid I don't.

20 Q Mr. Museler, let me give you my copy. I have
21 just a couple of questions to clarify. You testified,
22 Mr. Museler, regarding your understanding of the term
23 "rework" in the normal sense as being rework after the
24 final FQC inspection had taken place, and we talked
25 about how it would be off that chart on page 2 of

1 Suffolk County Exhibit 74. There is not a column 4. Do
2 you recall that testimony?

3 A (WITNESS MUSELER) Yes, sir, I do. And I
4 believe I said that rework is not used in universally
5 the same way. The rework definition I discussed at that
6 time was in the context of your cross examination at the
7 time, and Judge Morris's question. So in that context,
8 yes, sir, the rework we were trying to define earlier
9 this week is rework associated with the FQC final
10 inspection on the chart. But the rework itself, the
11 final rework in that context, to correct the minor item
12 found during the final FQC inspection is not shown on
13 this table.

14 Q And in terms of the CONSAP program, I believe
15 you stated that your best estimate of a quantification
16 of the amount of rework that is taking place after the
17 final FQC inspection would be about four percent of the
18 conduit supports having to require some rework?

19 A (WITNESS MUSELER) That is correct; four
20 percent of the supports -- and that is a fairly good
21 number, up to date in the final FQC inspection -- have
22 required some minor touch-up rework in the definition we
23 have been using.

24 Q Now looking at that chart page 2 of Suffolk
25 County Exhibit 74, there is a column entitled, "FQC

1 Initial..." -- I don't have the rest of it. Initial
2 something.

3 A (WITNESS MUSELER) It does just say "FQC
4 Initial," Mr. Lanpher.

5 Q What does that involve?

6 A (WITNESS MUSELER) That involves the equivalent
7 of the construction inspection which we utilize FQC for,
8 for these programs. At that point in time we have gone
9 through the initial installation and we have gotten the
10 detailed, or at least the first revision of the as-built
11 drawings produced. We then send those to -- excuse me.
12 I misspoke.

13 At that point in time we have the first
14 revision of the as-built drawings. We send them out to
15 -- and they have been through the engineering analysis
16 the first time. We then send them out with the
17 inspectors to verify that what is out there is what is
18 on that first revision of the as-built drawings. And
19 also, to note any other criteria; not necessarily a
20 drawing criteria, but a design guide item in the case of
21 a conduit. For the CONQUIP program it would be whether
22 the labels are on it and everything.

23 At any rate, it is the inspection that, in the
24 rest of the construction process, we would be conducting
25 ourselves before turning it over to FQC for their final

1 inspection. So it is an inspection after the contractor
2 has done the majority of his work, and it is an
3 inspection by other than the contractor installing
4 personnel to get the final items that need to be created
5 or nailed down before we turn it over to Mr. Arrington
6 for his final sign-off.

7 Q But in this instance, it is your group, Mr.
8 Arrington, that does both what is called FQC initial and
9 the final FQC inspection? Is that correct?

10 A (WITNESS ARRINGTON) That is correct.

11 Q And in the stage between the FQC initial --
12 well, is that an inspection really, FQC initial?

13 A (WITNESS ARRINGTON) Yes, it is. It is a
14 preliminary inspection on that system.

15 Q Between that preliminary inspection and the
16 FQC final inspection, you identify items which do not --
17 that need additional work, and the construction
18 personnel will, in that interim period, perform that
19 work so that you may then perform your final
20 inspection. Is that correct?

21 A (WITNESS ARRINGTON) Basically, that's true.
22 The results of the inspection are turned back to the
23 contractor for the rework of those items before they are
24 returned for final inspection.

25 Q Does it surprise you, Mr. Arrington, that

1 after preliminary inspection, the final inspection still
2 reveals that approximately four percent of the supports
3 need some further rework, or some further work? I don't
4 want to get caught up in the definition of rework here,
5 but some further work?

6 A (WITNESS ARRINGTON) I'm not quite sure what
7 you mean by surprised.

8 Q Do you think that is a high number, a low
9 number or what?

10 A (WITNESS ARRINGTON) I consider it to be a low
11 number, given the type of items that are picked up in
12 the final inspection. I think Mr. Museler has testified
13 that these items that are picked up at the final review
14 of these components that are listed on these as-built
15 drawings are markers, identification tags, things of
16 that nature.

17 Q Why wouldn't that have been picked up in the
18 FQC preliminary inspection, or the initial inspection?

19 A (WITNESS ARRINGTON) I think they would have
20 been picked up in the initial inspection. It could have
21 been a condition that the contractor did not completely
22 rectify prior to them being sent back to FQC for final
23 inspection. Occasionally it is an oversight on the
24 contractor's behalf in not clearing these items up.
25 Sometimes he works off of a punch list that has been

1 changed from one organization to another, and they may
2 not have transposed the correct numbers to him, but I
3 don't consider them to be significant.

4 The number of four percent or whatever the
5 actual figure is, I consider that to be an acceptable
6 number.

7 Q Do you have a criterion, or is that just based
8 upon your judgment and experience that four percent
9 would be acceptable under those circumstances?

10 A (WITNESS ARRINGTON) Based upon my judgment and
11 experience.

12 Q Gentlemen, I want to turn to the question we
13 pursued yesterday I believe. Gentlemen, yesterday in
14 response to some questions by Judge Brenner, there was a
15 discussion regarding Field Audit 644, Item 4.4 relating
16 to whether --

17 JUDGE BRENNER: Do you mean 444?

18 MR. LANPHER: I meant to say 444. I didn't --

19 JUDGE BRENNER: I heard it differently. You
20 may have said it, thought.

21 BY MR. LANPHER (Resuming):

22 Q I'm sorry. 444, and this was the audit
23 finding where there was severe corrosion noted. Do you
24 recall that testimony, Mr. Kelly?

25 A (WITNESS KELLY) Yes.

1 MR. ELLIS: Do you have a page number?

2 MR. LANPHER: The page number was around
3 13,745. I'm not going to be referring to the specific
4 statements on that.

5 BY MR. LANPHER (Resuming):

6 Q Mr. Kelly, do you have Field Audit 444
7 available?

8 A (WITNESS KELLY) Yes.

9 Q Would you look at Finding 4.2 at the bottom of
10 the first page? Is this another instance when the
11 auditors found some actual damage to the components or
12 weld pipe hanger material which had been stored?

13 A (WITNESS MUSELER) Yes, Mr. Lanpher, we recall
14 that.

15 Q I'm having trouble hearing you today, Mr.
16 Museler.

17 A (WITNESS MUSELER) We may have missed your
18 question. Did you just ask us if we noted that?

19 Q Is this another instance where actual damage
20 was reported by the auditors as a result of some
21 problems in the storage process?

22 A (WITNESS MUSELER) It was reported by the
23 auditors, Mr. Lanpher. I believe when we discussed this
24 -- and this is going back quite a while now - when we
25 discussed this field audit initially, we were able to

1 determine, and I believe we so stated on the record,
2 that the auditor correctly noted those conditions. The
3 turn buckles and the joint were, in fact, corroded.

4 We also were able to determine that those
5 components were temporary components and not part of the
6 permanent plant equipment. The condition noted was
7 correct, and the turn buckles were corroded.

8 Q Mr. Museler and Mr. Kelly, I would like to
9 turn your attention to the transcript at 13,750 and 51
10 where we were discussing storage in the area of end caps
11 and covers. Would it be a fair characterization of your
12 testimony that you do not believe that the lack of
13 covers or end caps was a significant deficiency because
14 you have procedures for cleaning and inspecting the
15 components whether or not end caps are on or not?
16 You're going to go through, you're going to clean the
17 items, inspect them, et cetera, even if the end caps are
18 there?

19 A (WITNESS MUSELER) I think it would be a fairer
20 characterization of our testimony, Mr. Lanpher, that
21 first, we don't believe the lack of end caps was
22 widespread with regard to the total number of components
23 that had end caps on the site. We did add, as you note,
24 that we believe that the other measures that are in
25 place, irregardless of whether end caps are on a

1 component or not, would ensure that even where end caps
2 may have been left off that would not result in a
3 condition which would harm or which would result in our
4 installing components which were inadequate or damaged.

5 Q Why do you provide for end caps at all if you
6 go through these steps anyway, as a routine matter?

7 (Panel of witnesses conferring.)

8 A (WITNESS MUSELER) Mr. Lanpher, I think your
9 question is why do we put end caps in at all if we're
10 going to do all these other things. And I think our
11 answer is that we are not indicating that it is not a
12 good idea to have end caps on piping, on pipe that is
13 stored or on instruments that are stored or being
14 installed. They do perform a useful function. In the
15 case of pipe, for instance, they do protect the weld
16 prep. Even though we have to clean it anyway, there are
17 no pipes that we can weld without cleaning because of
18 the oxidation requirements. The end caps do provide
19 protection.

20 If the weld prep were banged into by something
21 significant that the end cap might have prevented, that
22 could cause additional damage which we would then have
23 to spend man hours repairing. So it certainly makes
24 sense to do this.

25 We were trying to be clear in the context that

1 we don't believe that these findings indicate anything
2 that could cause a problem with regard to the plant, but
3 end caps as an industry -- it is an industry practice in
4 any plant in the case of pipes to try to protect the
5 weld preps.

6 Q Mr. Museler, is it your testimony that do the
7 inspection and preparation process, cleaning process.
8 Then you testified to a number of activities that take
9 place to get items for installation or for welding, that
10 those processes are sure to pick up any problems or
11 deterioration that may have occurred in the component
12 during the storage process?

13 A (WITNESS MUSELER) Are we speaking in the end
14 cap area?

15 Q Yes.

16 A (WITNESS MUSELER) It's my opinion that all of
17 those processes that we discussed ranging from the
18 construction processes to the flushing processes through
19 the start-up testing processes would insure that the
20 lack of end caps would not result in a condition in the
21 plant that would be unsatisfactory. Yes, sir.

22 Q Mr. Museler, I want to briefly touch on the
23 CAT inspection which you addressed yesterday. With
24 respect to item 1 in Appendix A of the CAT inspection, I
25 believe you declined to accept that as a violation using

1 the NRC's terminology. Am I correct that LILCO's
2 position is that this constituted a deviation from an
3 FSAR position or commitment, but not a violation?

4 (Panel of witnesses conferring.)

5 A (WITNESS MUSELER) Mr. Lanpher, I don't believe
6 we discussed this item in terms of utilizing the
7 terminology of violation at all.

8 Q Well, it's listed as a violation by the NRC;
9 correct?

10 A (WITNESS MUSELER) Yes, sir, it is.

11 Q And I'm trying to understand your testimony
12 yesterday. I believe LILCO disputes that this, in fact,
13 is a violation. Correct?

14 (Panel of witnesses conferring.)

15 A (WITNESS MUSELER) Mr. Lanpher, we don't debate
16 the NRC's terminology when they write an inspection
17 report. If we disagree with the finding, as we do on
18 item 2 of Appendix A where we believe we are in
19 compliance, we will disagree; we will say it is not a
20 violation because we just don't believe that the proper
21 guidelines were applied by the NRC in making their
22 determination in that case.

23 In the case of item 1, the item per se,
24 without regard for the moment -- with regard to whether
25 or not we agree with the NRC, we would characterize

1 using the definitions we discussed during Mr.
2 Bordenick's cross examination -- we would characterize
3 the substance of this item as something that would fall
4 into the category of important or significant detail, in
5 those three categories.

6 We believe that the situation here is that we
7 did provide that information in one location in the
8 FSAR; however, the NRC certainly has an arguable point
9 that we should have also pointed it out explicitly in
10 the section dealing with containment isolation valves
11 where we sought to obtain the NRC's concurrence that
12 specific exemptions were in order in this particular
13 case.

14 So this is far from a black and white matter.
15 In fact, our response to the NRC stated that we intended
16 to amend the document and to put it in the right
17 location, and we provided the information we believe is
18 necessary for the NRC to conclude as we have, that these
19 valves are appropriate and do meet the requirements, the
20 overall requirements for that type of valve.

21 Our basis for that is that there are a number
22 of identical situations at Shoreham and in other BWRs
23 that fall into this category, so the NRC's concern is
24 that we had it in one place on the drawing but we did
25 not call it out in the text section where we did call

1 out other valves that were not in letter compliance with
2 the general design criteria.

3 Q Mr. Museler, my question is whether --
4 frankly, I had trouble understanding from Suffolk County
5 Exhibit 70 the LILCO July 28 response to the CAT
6 inspection, whether it is LILCO's position that this was
7 a violation or was not. I understand there's a lot of
8 explanation but, for instance, in Item 2 you clearly
9 dispute that it is a violation. Are you disputing that
10 item 1 is a violation?

11 (Panel of witnesses conferring.)

12 JUDGE BRENNER: Mr. Lanpher, this may be clear
13 to everyone but just to make sure, -- I'm not sure
14 anyway -- you're talking about a violation in the sense
15 that the NRC staff is using it?

16 MR. LANPHER: Yes, using the NRC staff
17 enforcement policy, since it was their words that were
18 cited as a violation. I'm trying to find out what
19 LILCO's position is regarding item 1.

20 WITNESS MUSELER: Mr. Lanpher, in that
21 context, seeing how the NRC characterizes its
22 inspection findings in the same manner as the same
23 inspection finding they have characterized a few
24 housekeeping items as a violation, we don't dispute that
25 that is how they characterized this.

1 We would dispute a statement that this was a
2 violation of an FSAR commitment. As I said, we placed
3 this item, the substance of this item, in the category
4 of descriptive detail. And secondly, the FSAR did
5 contain very clearly on the appropriate drawing the
6 condition as installed in the field. And the NRC has
7 had that drawing for I think quite a while.

8 So we don't dispute that given how the NRC
9 terminology goes for I&E inspection findings, that this
10 is characterized as a violation in the same manner they
11 characterize a single housekeeping deficiency. If they
12 consider it of such a magnitude in their view that they
13 will call that a violation, they will call this a
14 violation, and our concern is that we resolve the items
15 with the NRC. If any corrections are needed, our
16 concern is that we make the appropriate corrections.

17 And we don't, frankly, spend a lot of time
18 arguing with the NRC about what they call violations and
19 deviations. We correct them all, and we make sure we
20 reach resolution on all of them.

21 BY MR. LANPHER (Resuming):

22 Q Mr. Museler, you stated at some point in that
23 answer I believe that you do not believe that this is a
24 failure to comply with an FSAR commitment, or words to
25 that effect. Do you recall that?

1 A (WITNESS MUSELER) Yes, sir, that is what I
2 said.

3 Q Looking at page 5 of Suffolk County Exhibit 7,
4 which is the LILCO CAT response, under the heading,
5 "Steps taken to prevent recurrence" it states that LILCO
6 considers this case to be a deviation from FSAR
7 requirements. And you go on to explain why. You don't
8 interpret that to be a statement that it is a deviation
9 from an FSAR commitment?

10 A (WITNESS MUSELER) Not at all, sir. If you
11 recall Mr. Eifert's definitions when we went through the
12 Appendix A and Appendix B of the I&E inspection report,
13 Appendix B to that report is characterized as
14 deviations. That is the level below violations. And
15 while, again, we don't attempt to get into too many
16 semantic differences, the statement we make in this
17 report says that we consider it to be a deviation from
18 an FSAR requirement, and we believe that that
19 requirement -- again, we believe this is in the nature
20 of significant detail; that we should have put those
21 valves in the text sections dealing with the containment
22 isolation valves, as well as in the figure where they
23 were noted. We don't dispute that.

24 We should have put that information in the
25 test section of the FSAR, also. But we don't believe

1 that constitutes a violation of an FSAR commitment.

2 MR. LANPHER: Judge Brenner, I am prepared to
3 go on to the matter of moving audit findings into
4 evidence, or asking additional questions on that.

5 JUDGE BRENNER: You mean you've finished
6 everything else?

7 MR. LANPHER: I am finished the other areas,
8 and I would like to note that the time is five of 10:00.

9 JUDGE BRENNER: Yes, it is. Congratulations.
10 (Laughter.)

11 MR. LANPHER: The rest of my questions may
12 take the rest of the day. Who knows.

13 (Laughter.)

14 But maybe it makes sense if we took -- I know
15 you wanted to take just two breaks this morning, but it
16 might make sense, since I and Mr. Ellis and Mr. Earley
17 haven't had an opportunity to talk about their response
18 to our motion in this area, maybe five or ten minutes
19 will save time ultimately.

20 JUDGE BRENNER: Let's see if we can finish
21 everything else up first. That is, any further
22 questions from the parties on your questions so far, so
23 we can isolate totally this one potential remaining area.

24 MR. LANPHER: Fine.

25 JUDGE BRENNER: Does the staff have any

1 further questions?

2 MR. BORDENICK: Yes, Judge Brenner.

3 RE CROSS EXAMINATION

4 BY MR. BORDENICK:

5 Q This is directed principally to, I think, Mr.
6 Museler and Mr. Eifert. Throughout Mr. Ellis's redirect
7 of the panel, and also I think in part in response to
8 questions that Mr. Lanpher put to you on his recross,
9 there was a phrase used -- or actually, the question was
10 put to you whether certain audit findings were either
11 conditioned either significantly adverse to quality or
12 did they constitute a violation of Appendix B.

13 I think the record is pretty clear on what
14 your definition is as to a violation of Appendix B, but
15 I wonder if I could have a definition of what you
16 understand the phrase "adverse to quality" to mean.
17 More specifically, are the two phrases synonymous --
18 "significantly adverse to quality" and "a violation of
19 Appendix B" in your opinion?

20 (Panel of witnesses conferring.)

21 MR. BORDENICK: Judge Brenner, I don't know
22 how long the panel is going to be. If they want some
23 more time, perhaps they could consider it over the break
24 while their counsel is considering the matter with Mr.
25 Lanpher.

1 WITNESS MUSELER: This will just take us a
2 minute.

3 (Panel of witnesses conferring.)

4 WITNESS EIFERT: Mr. Bordenick, in response to
5 the second question, we do not correlate in our
6 discussions when we're talking violations versus
7 conditions, that may or may not have been significant.
8 They are totally different discussions.

9 With respect to your definition or asking for
10 a definition of what would be a significant condition
11 adverse to quality, I don't think we have a 25-word
12 definition. But what we would do is -- and what I think
13 we have all done in the panel in looking at all of the
14 findings that we've discussed is -- we have looked at
15 the audit observations and observations made in all the
16 various aspects of the auditing program and all of the
17 things we've discussed here in this hearing to assess
18 their potential or actual impact on the design or the
19 plant as constructed and evaluated it in that context.

20 And if something, indeed, did indicate that
21 there was a condition that was an inaccurate design or a
22 construction deficiency that did, indeed, have an actual
23 safety significance, that that would clearly fall into
24 what we would call a significant condition adverse to
25 quality.

1 But then you come back from there and have to
2 look at each observation itself, and determine if it is
3 that or if it is something that in some rather direct
4 way could have had the potential for having that impact
5 on the physical plant or the actual design of the plant.

6 I believe I recall my own testimony most
7 clearly, of course, but I discussed the items in my area
8 as in themselves they do not reflect that. The problems
9 in themselves were not situations that did or could have
10 adversely affected the plant.

11 BY MR. BORDENICK (Resuming):

12 Q Mr. Museler, did you have anything to add?

13 A (WITNESS MUSELER) No, sir. I concur with Mr.
14 Eifert's characterization on that.

15 MR. BORDENICK: I have no further questions,
16 Judge Brenner.

17 JUDGE BRENNER: Mr. Ellis, how do you have? I
18 will tell you what I want to do. I want to finish this
19 panel except for the one remaining item and get them off
20 the stand and take a break; get operating QA and let all
21 of you put your heads together on the other matter
22 while we do operating QA. And you may find the
23 assistance of the witnesses useful.

24 And then we can keep Mr. Dynner here and,
25 presumably, Mr. Ellis and go into operating QA. So I

1 don't want to sit around while you fight about details
2 on the others. So the immediate question is can you do
3 your construction QA follow-up questions in the next few
4 minutes, I hope. And I think the Board has maybe just a
5 couple of minutes of follow-up questions, and then we
6 will dismiss this panel subject to that one possibility.

7 MR. ELLIS: Yes, sir, I think I can finish
8 fairly promptly.

9 JUDGE BRENNER: Okay, let's go.

10 (Counsel for LILCO conferring.)

11 REDIRECT EXAMINATION -- Further

12 BY MR. ELLIS:

13 Q Mr. Kelly, you indicated in response to one of
14 Mr. Lanpher's questions that the holder of a control
15 document would be audited. Did you mean to say that he
16 would be audited with respect to that control document,
17 even if he wasn't a user of that document, or whether or
18 not he was a user of it?

19 A (WITNESS KELLY) Yes.

20 JUDGE BRENNER: Mr. Ellis, just ask questions
21 that we haven't already heard the answer to.

22 MR. ELLIS: The reason I asked --

23 JUDGE BRENNER: I know why you did, but it
24 wasn't just the immediate testimony today that we have
25 heard on that subject.

1 MR. ELLIS: No further re-redirect, Judge
2 Brenner.

3 (Laughter.)

4 BOARD EXAMINATION

5 BY JUDGE MORRIS:

6 Q Mr. Museler, I would like to ask a question or
7 two about the "extra" programs of CONSAP, CONQUIP and so
8 forth. I believe you testified earlier that the
9 manpower required was something like 200,000 man hours.

10 A (WITNESS MUSELER) That is correct, sir.

11 Q And you've also testified maybe for the second
12 or more time this morning that you felt that the
13 industry practice was perfectly acceptable, and that
14 what you're doing is above and beyond that. And I guess
15 I have forgotten if you told us why did you decide that
16 you needed to expend this amount of effort on those
17 programs?

18 (Panel of witnesses conferring.)

19 A (WITNESS MUSELER) Judge Morris, as we were
20 approaching this problem about two years ago we had a
21 lot of raceway installed in the plant but not a lot of
22 it inspected, and we knew we had to modify a lot of it
23 for the reasons I discussed earlier in the testimony.

24 We were also looking at an increasing need to
25 perform various analyses even at the current time in the

1 plant; items such as Appendix R, some separation
2 questions, the fire hazards analysis report that we
3 ourselves were doing. And we were looking at the trends
4 that were beginning to develop and are still developing
5 in terms of what the NRC is going to consider to be
6 acceptable practice in the future.

7 Taking all of those items together, we looked
8 at the way we could have completed that effort,
9 including the final inspection and whatever method of
10 documentation we would use, and we decided that for
11 current reasons and for future reasons, we believed it
12 was prudent to do what we are doing to be able to answer
13 frankly anybody's question on the rigorousness of the
14 implementation of the specification requirements.

15 The ability of the industry to utilize
16 engineering judgment, undocumented or loosely
17 documented, is becoming less and less, and whether we
18 agree with that or not it is a fact of life. So for our
19 own reasons, to frankly not have any questions on how
20 that system was installed, to aid in the analyses that
21 we have already had to do and to aid in the analyses
22 that we will undoubtedly have to do in the future.

23 And all those analyses involved, knowing
24 exactly where every component is in the plant; ergo, the
25 as-built drawing feature of this, we decided that it

1 would be prudent to do it -- quite frankly, do it now in
2 such a manner that we're not going to have to back and
3 redo anything either analysis-wise or plant-wise or
4 construction-wise that may develop -- that has not
5 developed yet but may develop in the future.

6 We just thought that was a prudent decision at
7 the time, and it is costly.

8 JUDGE MORRIS: Thank you.

9 BY JUDGE CARPENTER:

10 Q I just have one question. Mr. Eifert, earlier
11 this morning Mr. Lanpher asked you about provisions in
12 the audit procedures for calculations, and you, I
13 believe, stated that there were changes made which made
14 those audits more strict. And I would like to get a
15 little help on understanding what the word "strict"
16 means. I am particularly interested in whether that
17 goes in the direction of improving the possibility of
18 finding erroneous calculations, or some other aspect of
19 the audit.

20 A (WITNESS EIFERT) The questions in the exchange
21 that Mr. Lanpher and I had this morning dealt with the
22 Stone & Webster procedure EAP 5.3, which is the
23 procedure that we require our engineers to follow when
24 they prepare calculations. It is not the procedure or
25 checklist that we use to audit the changes that we

1 discussed or the level, the identification of computer
2 programs that occurred approximately sometime in 1975
3 and the later changes in 1979 with respect to our
4 stricter requirements for identification of input
5 sources.

6 The audit program or auditing procedures would
7 have changed at the same time with respect to any new
8 requirements that we put into the procedures for the
9 preparation of calculations. I think I would ask that
10 with that information, can I help you with any further
11 information? Could you ask another question with that
12 in context?

13 Q Well, I'm specifically trying to understand
14 the attributes of "strict" in the sense of accurate and
15 properly formulated calculations that might reflect on
16 the safety of this plant. The implication I think
17 that's in the record is that there was a change. What
18 I'm really trying to distinguish is whether these are
19 administrative niceties or fundamental attributes that
20 are implied in the word "strict."

21 A (WITNESS EIFERT) The changes that we discussed
22 this morning, again, are with respect to how we identify
23 the computer program or the degree to which an input
24 source document is referenced with respect to the author
25 of the addition, the page number and so forth, or the

1 addition of administrative detail to the documentation
2 and did not affect the longstanding requirements that
3 correct and current input, for example, be used, and
4 which our program had always required and we have always
5 been auditing.

6 These clearly were administrative detail; what
7 we have required in the documentation of that analysis.

8 JUDGE CARPENTER: Thank you.

9 JUDGE BRENNER: All right. I think we are at
10 the end maybe. When you are done, I was planning to
11 tell you that all good things must come to an end, but
12 perhaps it is typical of your own view of things that
13 you are not sure if you're at an end or not. Well,
14 regardless of how you yourselves characterize the
15 experience, it is essential the process that we have
16 witnesses involved before us who can enlighten us.
17 Sometimes, witnesses have to resurrect items from a few
18 months or a few years ago. In your cases, sometimes
19 you've had to resurrect items from over ten years ago,
20 and we know that is not an easy task. And we appreciate
21 your having done it in order to inform us of the
22 situation to the best you can.

23 I think we have a good view of what went on,
24 and what we think of that we'll know later when we put
25 the record together. But it was important to get the

1 opportunity to have that view.

2 We appreciate it. If we see you back again on
3 that one brief matter it will be brief, so I will take
4 this opportunity now to thank all of you, and we
5 appreciate it.

6 We will take a 15-minute break. If you can
7 resolve the matter of what is being designated into
8 evidence, we will do that right after the break. If you
9 cannot yet resolve it, we will go to the county's cross
10 on operating QA and then come back after the second
11 break and tell us what the situation is with respect to
12 this other matter.

13 Where are we going to start in operating QA,
14 because I don't have a cross plan here?

15 MR. DYNNER: I will give you a cross plan,
16 Judge Brenner, as soon as we break.

17 JUDGE BRENNER: Okay. Are you going to pick
18 up with the matters that we said we would give you
19 additional time for in the offer of proof, or do you
20 prefer to pick up with the NOMIS and the PRDS-related
21 matters?

22 MR. DYNNER: We will go to the offer of proof
23 now. I talked briefly with Mr. Ellis, and it is our
24 tentative arrangement that we should continue with the
25 cross examination on the matters referred to in the

1 offer of proof; that perhaps it would be more efficient
2 to combine the NOMIS and the NPRDS matters with ISEG.
3 And on that basis, if you want to proceed afterwards we
4 can do it either with the Board preceeding my
5 examination on those matters or vice versa; whatever you
6 feel it is in your discretion.

7 JUDGE BRENNER: Okay, we will think about it
8 in terms of combining it. That is all right with us.
9 It is partially up to LILCO as to making sure they have
10 the right witnesses here that can cover both ISEG and
11 this matter.

12 MR. ELLIS: Judge Brenner, may I, since the
13 responsibility is mine for having the right witnesses
14 here, I think I concur, as we did speak about this. But
15 let me be more precise about my understanding.

16 I understand that the questions today will go
17 to the end of today on OQA on the offer of proof, and
18 that we'll pick up on Tuesday on the offer of proof
19 until such time as the Board deems it appropriate.

20 JUDGE BRENNER: Well, you work it out so that
21 you have approximately six actual hearing time hours,
22 Mr. Dynner, on the matters covered by the offer of
23 proof. And I assume you've seen the transcript of the
24 other day. If you made a mistake the first time, don't
25 make a mistake this time in picking what your best stuff

1 is.

2 MR. ELLIS: And I will have the ISEG panel
3 here prepared for Tuesday afternoon at the end of that
4 six-hour period, and then the NOMIS and NRPDS matters
5 will be taken up with the ISEG panel rather than with
6 these people.

7 JUDGE BRENNER: Well, they will be taken up in
8 the same timeframe. You decide which people they should
9 be taken up with.

10 MR. ELLIS: All right, sir.

11 JUDGE BRENNER: At one time, I thought you
12 said that maybe you need people other than just the ISEG
13 people. And at another time, you said either one could
14 answer, and I got the impression it didn't matter. If
15 you need Mr. Muller or Mr. Youngling as part of the
16 NPRDS matters, that is up to you. You know what the
17 subjects are, and we will leave it up to you.

18 MR. ELLIS: Yes, sir, thank you.

19 JUDGE BRENNER: Okay, let's break until 10:35.

20 (A short recess was taken.)

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1 JUDGE BRENNER: All right, we are back on the
2 record. I infer from the presence of this panel -- all
3 of them have been previously sworn, I said good-bye to
4 you too soon, Mr. Kelly -- that the other matter is
5 still being looked at.

6 MR. ELLIS: Yes, sir.

7 JUDGE BRENNER: How can it be looked at with
8 Mr. Lanpher here? I'm just curious. I'm sure there's a
9 reason.

10 MR. LANPHER: At the start of the break I sat
11 down with Mr. Earley and Mr. Eifert and told them our
12 position on the various items which they had identified
13 and why, and what I was proposing to do, and if they
14 didn't agree to them being moved in, the way I would
15 proceed in my examination. And they said they needed
16 some additional time until the second break in order to
17 look at it. So I'm waiting to hear back from them.

18 JUDGE BRENNER: And then you will check with
19 them over the second break?

20 MR. LANPHER: Whenever they come down. They
21 wanted to go upstairs and do whatever they're going to
22 do. And when they show up, I will meet with them.

23 JUDGE BRENNER: Okay, very good. We have
24 received but not yet read what appears to be quite a
25 detailed cross plan in response to our request, from the

1 county on operating QA/QC, and we appreciate that and we
2 think it will be a big help to us.

3 Mr. Ellis, you wanted to say something a
4 moment ago?

5 MR. ELLIS: No, sir.

6 JUDGE BRENNER: Obviously, you decided to put
7 Mr. Kelly on the panel, or else on his own he wanted to
8 be there; one or the other.

9 MR. ELLIS: No, sir. It was involuntary.

10 (Laughter.)

11 JUDGE BRENNER: Okay, we are ready to proceed,
12 Mr. Dynner.

13 Whereupon,

14 ARTHUR R. MULLER and

15 EDWARD J. YOUNGLING

16 were recalled as a witnesses and, having been previously
17 duly sworn, joined the panel and were examined and
18 testified as follows:

19 CROSS EXAMINATION

20 BY MR. DYNNER:

21 Q Thank you. Good morning, gentlemen. I would
22 like to ask just a few preliminary questions of Mr.
23 Kelly who has joined the panel for the first time
24 today. Mr. Kelly, what is your present position with
25 LILCO?

1 A (WITNESS KELLY) I'm the Manager of the Field
2 Quality Assurance Division.

3 Q And is that part of the Quality Assurance
4 Department?

5 A (WITNESS KELLY) That is one of the two
6 divisions that make up the QA Department.

7 Q In your capacity, do you have any authority
8 over the OQA Section?

9 A (WITNESS KELLY) Are you talking about
10 administrative authority?

11 Q Any type of authority.

12 A (WITNESS KELLY) As far as activities of
13 auditing, as far as requiring corrective action from
14 audits, yes, I do. As far as procedural reviews in
15 areas like that, if you consider that authority. As far
16 as administrative authority as far as salaries and such,
17 no.

18 Q So that your responsibility with respect to
19 the on-site station quality assurance and quality
20 control matters is with respect to the audit function of
21 the OQA Section, and what else did you say? I'm sorry.

22 A (WITNESS KELLY) Let me define that. My
23 organization does the auditing of the Operational
24 Quality Assurance organization to assure that they are
25 meeting all of their requirements. In addition to that,

1 we review all non-conformances that are written at the
2 station. We review the QAPS procedures of the OQA
3 staff. We run the review cycle for that.

4 We also receive copies of all of their NDE
5 reports, and as far as directly with the station, that
6 is the most direct involvement. There are other areas
7 of the operational activities that I am involved in but
8 not directly at that station.

9 Q Would you say that you are thoroughly familiar
10 with the Quality Assurance Manual?

11 A (WITNESS KELLY) I'm not sure I know what you
12 mean by thoroughly familiar. I have not memorized it.
13 I have read it and am cognizant of its contents.

14 Q Are you familiar with the quality assurance
15 procedures for the OQA Section?

16 A (WITNESS KELLY) Generally.

17 Q Are you familiar with Chapter 17.2 of the FSAR
18 for the Shoreham plant?

19 A (WITNESS KELLY) Yes.

20 Q Gentlemen, I would like you to turn this
21 morning to Section 12 of the Quality Assurance Manual.

22 (Pause.)

23 The document is entitled, "Control of
24 Measuring and Test Equipment, Revision 0" and dated June
25 1, 1982. Is that the copy that you have before you?

1 A (WITNESS MUSELER) Yes, it is.

2 Q And is that the latest copy of this document?

3 A (WITNESS MUSELER) Yes, it is.

4 Now, let me refer you to Subsection 12.2.1
5 under the heading of Responsibilities. There is no
6 specific designation of who the organizations that are
7 responsible are, is there?

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) Mr. Dynner, there's no direct
10 reference in this procedure to all of the organizations
11 that are involved in the M&TE program. The NOC policy,
12 Section 10, provides additional information. In
13 addition, the QA Department is aware of the
14 organizations that are involved in the control of the
15 measuring and test equipment process.

16 Q Yes. Well, Mr. Muller, I'm speaking now
17 specifically about Subsection 12.2.1, which refers to
18 organizations that requisition products and services,
19 doesn't it? And my question to you is there is no
20 identification here as to what the organizations are
21 that requisition products and services, is there?

22 MR. ELLIS: Objection. Asked and answered.

23 JUDGE BRENNER: That was answered. His answer
24 was broader than that, but included in the answer was
25 the answer to that. I will note that we believe the

1 answer has been no, in case you have a problem with that
2 perception.

3 BY MR. DYNNER (Resuming):

4 Q Now, Mr. Muller, how many organizations are
5 there in LILCO that requisition products and services?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) Mr. Dynner, the organizations
8 involved in procurement are defined in the NOC policy 4,
9 which is entitled "Corporate Procurement Document
10 Control." That procedure lists the departments involved
11 in the corporate procurement document system.

12 JUDGE BRENNER: Mr. Muller, I guess I need
13 retraining after a few days away. Remind me again of
14 what policy that is referring to, and what the letters
15 stand for.

16 WITNESS MULLER: NOC standards for Nuclear
17 Operations Corporate Policy.

18 BY MR. DYNNER (Resuming):

19 Q Is that NOC policy a part of this QA Manual?

20 A (WITNESS MULLER) No, sir, it is a separate
21 manual.

22 Q And can you tell me how many organizations
23 there are in LILCO that requisition products and
24 services?

25 (Panel of witnesses conferring.)

1 A (WITNESS YOUNGLING) Mr. Dynner, do you mean
2 for all of Long Island Lighting Company, or those
3 involved in the nuclear program? Certainly, if it is
4 all of Long Island Lighting Company, that would be a
5 difficult number to come up with.

6 Q I'm speaking of those that are referred to in
7 Subsection 12.2.1.

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) There are nine organizations.

10 Q What does each one of those organizations do
11 to comply with requirements of Subsection 12.2.1?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) Those organizations are
14 responsible for preparing procurement documents as
15 referenced in this procedure, and forwarding them to the
16 Quality Assurance Department or Operational Quality
17 Assurance Section for review and through the further
18 procurement processing.

19 (Panel of witnesses conferring.)

20 What the organizations do is consider this as
21 part of their responsibility, and include the
22 requirement in the purchase document.

23 Q Is it your testimony that in carrying out
24 their responsibilities pursuant to Subsection 12.2.1,
25 each of the nine organizations includes in the

1 procurement document to their respective suppliers the
2 requirements of Section 12 of the QA Manual?

3 (Panel of witnesses conferring.)

4 A (WITNESS MULLER) Yes, they would if this
5 requirement is, in fact, required, depending upon the
6 type of equipment that they purchase.

7 Q Well, are the requirements of this Section 12
8 recited verbatim in the procurement documents, or are
9 they recited in some other form in the procurement
10 documents, if required?

11 (Panel of witnesses conferring.)

12 A (WITNESS MULLER) The document would have to
13 state the particular criteria that would apply. For
14 instance, criteria of Appendix B that apply. These
15 exact words may not appear on the purchase document;
16 there may be more specific terms that would appear.

17 Q And each organization would determine what
18 those specific words should be, wouldn't they?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) Each department would
21 determine the words. However, the procurement documents
22 for safety-related services and components would have to
23 be reviewed by the Quality Assurance Department. And if
24 those words were not adequate, the purchase order would
25 be returned to the requisitioning department.

1 Q Now, is the inclusion of the requirements of
2 Section 12 on the procurement documents the only way in
3 which each of the nine organizations imposes upon
4 suppliers the applicable requirements of Section 12?

5 (Panel of witnesses conferring.)

6 A (WITNESS MULLER) The purchase order is the
7 document that would include that criteria.

8 Q Let me turn your attention now to Subsection
9 12.2.3. How do you define the term "major
10 responsibility" as it appears in the first sentence of
11 that subsection?

12 (Panel of witnesses conferring.)

13 A (WITNESS YOUNGLING) What is meant by "major"
14 there is that the I&C's Instrumentation and Control
15 Section within the plant staff has the majority of the
16 measuring and test equipment under their jurisdiction.
17 However, the maintenance section, the chemistry section,
18 the health physics section do have devices that are
19 declared M&TE.

20 Q And by "majority" do you mean more than 50
21 percent?

22 A (WITNESS YOUNGLING) I would say they have more
23 than 50 percent, yes.

24 Q This section, however, does not contain any
25 definition of the term "major responsibility," does it?

1 (Panel of witnesses conferring.)

2 A (WITNESS YOUNGLING) No, there isn't a
3 definition of the term "major." However, within the
4 plant staff, each of the organizations that I spoke of
5 earlier does have an applicable procedure. There is one
6 for the instrumentation people, one for the maintenance
7 people, one for the chemistry organization and one for
8 the health physics section.

9 Q Are those the only LILCO organizations that
10 have any M&TE?

11 A (WITNESS YOUNGLING) No, they are not. The
12 Meter and Test Department in Hicksville, which provides
13 calibration services to the plant, does have M&TE, and
14 they also have procedures dealing with the control to
15 satisfy these requirements.

16 Q Does the OQA Section or the QA Department have
17 any M&TE equipment?

18 (Panel of witnesses conferring.)

19 A (WITNESS MULLER) Mr. Dynner, the equipment we
20 use is part of the I&C program.

21 Q Now referring back to Subsection 12.2.3, in
22 the last sentence of that subsection which states that,
23 "I&C is responsible for fulfilling the applicable
24 requirements of this section in the performance of these
25 duties." How do you determine what are the applicable

1 requirements, so far as I&C is concerned?

2 (Panel of witnesses conferring.)

3 A (WITNESS MULLER) Mr. Dynner, referring to the
4 first sentence in Section 12.2.3, I&C has the
5 responsibility for control, storage, recall, calibration
6 and servicing of the station M&TE and shop standards.

7 Q Is that the only requirement of this section
8 applicable to I&C?

9 (Panel of witnesses conferring.)

10 MR. ELLIS: Judge Brenner, this isn't an
11 objection. I'm not sure whether he meant that singular
12 or plural. I recall the answer as being plural and not
13 singular.

14 JUDGE BRENNER: I'm sorry, I don't understand
15 your comment.

16 MR. ELLIS: Well, in response to his earlier
17 question, Mr. Muller mentioned a number of things that
18 were in 12.2.3, and then in response -- the next
19 question, Mr. Dynner then asked if that was the only
20 requirement. I'm not sure whether Mr. Dynner
21 misunderstood the answer or whether I did.

22 MR. DYNNER: I thought the witness was
23 referring to the previous sentence. And when I said is
24 that the only requirement, I was referring to the
25 witness's reference to the previous sentence.

1 JUDGE BRENNER: I'm lost. Which sentence?
2 I'm just totally lost.

3 MR. DYNNER: The first sentence. The witness
4 answered my question by referring to the first sentence
5 of Subsection 12.2.3.

6 JUDGE BRENNER: And you want to know if those
7 are the only requirements; those contained in that
8 sentence?

9 MR. DYNNER: That was my question, yes, sir.

10 JUDGE BRENNER: Okay. So there is an "s" on
11 the word "requirement" as applied to everything in that
12 sentence. Is that your comment, Mr. Ellis?

13 MR. ELLIS: Yes, sir. I wanted to be sure I
14 understood and I think I do now.

15 JUDGE BRENNER: All right.

16 (Panel of witnesses conferring.)

17 WITNESS MULLER: Mr. Dynner, they would not be
18 the only requirements. The I&C Section would also be
19 responsible for requisitioning the products or services
20 as described in paragraph 12.2.1.

21 BY MR. DYNNER (Resuming):

22 Q Now, if you look carefully at the second
23 sentence of Subsection 12.2.3 you see that the proper
24 interpretation of that sentence is that the I&C is
25 responsible for fulfilling the applicable requirements

1 of this section in the performance of these duties. And
2 the term "these duties" refers to the things that are
3 outlined and referred to in the first sentence of that
4 subsection; isn't that correct?

5 (Panel of witnesses conferring.)

6 JUDGE BRENNER: I may be wrong and I will be
7 happy to be corrected by the witnesses, but that
8 question doesn't take all that much thought, I don't
9 think, and we're just going to have to pick up the pace
10 here.

11 WITNESS MULLER: Okay, Judge Brenner. My
12 interpretation is that this section applies to Section
13 12.2, which consists of paragraphs 12.2.1 12.2.2, et
14 cetera.

15 JUDGE BRENNER: The question is what does
16 "these duties" refer to. And in the question was
17 contained the proposition that it was the things listed
18 in the first sentence of Section 12.2.3. What is the
19 answer to that? Did I understand the question right,
20 Mr. Dynner?

21 MR. DYNNER: Yes, sir.

22 MR. ELLIS: I believe he just answered it,
23 Judge Brenner.

24 JUDGE BRENNER: No, he didn't.

25 (Panel of witnesses conferring.)

1 WITNESS MULLER: It applies to the whole
2 section.

3 JUDGE BRENNER: "These duties"? What are
4 "these duties", that is the question.

5 WITNESS KELLY: Judge Brenner, "these duties"
6 would be anything that related to the control or
7 measuring and testing equipment, whether it be the
8 procurement, the storage, the control, anything that
9 dealt with Section 12 of this manual.

10 JUDGE BRENNER: I know those are the things
11 listed in the first sentence of Section 12.2.3. Are
12 "these duties" something else?

13 WITNESS KELLY: It would be that plus
14 procurement, because procurement is not specifically
15 called out in 12.2.3. Procurement would also be
16 included.

17 JUDGE BRENNER: Okay. Next question.

18 BY MR. DYNNER (Resuming):

19 Q So, the Subsection 12.2.3 lists some of the
20 duties plus procurement in the previous subsection of
21 I&C, but there is no guidance in this section at all for
22 determining how the requirements of this section might
23 or might not be applicable to I&C in the performance of
24 those duties, is there?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) The QA Manual provides the
2 guidance, and the "how" in which these activities will
3 be performed is in the implementing procedures.

4 Q Well, let me suggest to you that if you turn
5 the page to page 2 of this section, you will see a
6 section entitled "12.3, Requirements." And let me ask
7 you whether there is anything in that long list of
8 requirements that indicates which of those requirements
9 is applicable to I&C and which is not. There aren't
10 any, are there?

11 MR. ELLIS: Well, Judge Brenner, can he answer
12 one question rather than more?

13 JUDGE BRENNER: No, that's okay. That is one
14 question.

15 (Panel of witnesses conferring.)

16 JUDGE BRENNER: I tell you, in order to pick
17 up the pace I'm happy to have leading questions,
18 dragging questions, I don't care. Because I took a look
19 at the number of transcript pages when these witnesses
20 were on the stand, based upon what we usually get in a
21 day, and that in part influenced our decision. It was
22 about 40 pages short for the same time, and I'm not
23 assigning the blame, but the questions require that kind
24 of turning sometimes, but not at all times.

25 And at the end of today I'm going to suggest -- and

1 hopefully, the county won't have a problem -- that you
2 tell them what sections and procedures you're going to
3 go to next week. Not the questions you're going to ask,
4 but at least the procedure, the manual chapters and the
5 procedures, so they have a chance to have read them
6 without having to re-read them thoroughly again.

7 (Panel of witnesses conferring.)

8 WITNESS MULLER: Mr. Dynner, Section 12.3
9 provides that all organizations performing activities
10 shall provide and implement the procedures for control,
11 recall, calibration, storage, maintenance, servicing,
12 repair and proper usage of the equipment.

13 BY MR. DYNNER (Resuming):

14 Q So is it your testimony that all of the
15 subsections of 12.3 apply to I&C?

16 (Panel of witnesses conferring.)

17 A (WITNESS MULLER) Yes.

18 Q Thank you. Now let me turn your attention to
19 Subsection 12.2.4, please. The first sentence of that
20 subsection gives I&C the option "as necessary" to
21 request the Meter and Test Department to perform
22 calibration, repair and servicing of certain M&TE and
23 shop standards, et cetera. There is no guidance in this
24 section as to when it may be necessary and when it is
25 not necessary for I&C to make that request, is there?

1 A (WITNESS MULLER) There are no specific words
2 in that paragraph. However, this is a matter of
3 practicality and the types of equipment that I&C has.
4 I&C cannot perform a calibration because they do not
5 have the proper equipment. They would go to Meter &
6 Test if Meter & Test had the proper equipment.

7 Q So the standard that you apply is whether or
8 not I&C has the appropriate equipment. And are there
9 any other standards that you apply in determining when
10 it may or may not be necessary for I&C to go to the
11 Meter & Test Department?

12 (Panel of witnesses conferring.)

13 A (WITNESS YOUNGLING) Some of the other criteria
14 might be that the I&C Division had a piece of equipment
15 that was out of service and they would go to Meter &
16 Test to get a substitute piece of equipment.

17 In addition, it is possible that the Meter &
18 Test organization may be used to improve the response
19 time. We may choose to use their equipment as well as
20 ours to improve the response time. Work twice, if you
21 will.

22 Q And when I&C goes to Meter & Test to have
23 calibration, repair, servicing, et cetera prepared on
24 certain M&TE, the Meter & Test Department applies its
25 own procedures to that, doesn't it?

1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) That is correct, and Meter &
3 Test Department procedures have been reviewed and
4 approved by the Quality Assurance Department.

5 Q But Meter & Test Department procedures may
6 well be different from the I&C Department procedures,
7 mightn't they?

8 A (WITNESS MULLER) They may be different in
9 format, but the meaning and the quality requirements
10 would be the same.

11 Q To the extent that the procedures present
12 leeway or options for the determination of the
13 discretion of a particular department or LILCO
14 organization, that discretion could be exercised in a
15 different manner by M&TE than by I&C, couldn't it?

16 (Panel of witnesses conferring.)

17 A (WITNESS KELLY) The calibration that would be
18 done regardless of the organization would be to
19 standards that were traceable back to NBS, or where that
20 does not exist because there are no such standards,
21 industry standards would be used. So we're talking
22 about to the same base as far as the calibration and
23 tolerances would be specified, so it is regardless of
24 the format of the procedure. The results would be the
25 same.

1 (Pause.)

2 Q Subsection 12.2.4 also allows I&C to procure
3 calibration and other services from an "approved
4 external source." There are no standards and there is
5 no guidance in this section for determining what is an
6 approved external source, is there?

7 (Panel of witnesses conferring.)

8 A (WITNESS MULLER) Mr. Dynner, in order to send
9 something out to an approved external source, we would
10 have to follow the requirements of paragraph 12.2.1 and
11 we would be requisitioning a service. We would have to
12 include, upon the supplier of the service, applicable
13 requirements. And I would like to add that as far as
14 guidance to send the I&C items off-site for calibration
15 would, once again, be a matter of practicality and
16 whether or not LILCO had the proper equipment to
17 calibrate our own I&C equipment.

18 Q And this section does not provide who must
19 give the approval to send an item to an external source,
20 does it?

21 A (WITNESS MULLER) It does not say specifically,
22 but that is the responsibility of the I&C section head.

23 Q Now, Section 12.2.5 lists as examples a number
24 of LILCO organizations responsible for maintaining
25 control over M&TE that they utilize, doesn't it?

1 A (WITNESS MULLER) Yes, it does.

2 Q Why isn't that list complete?

3 (Panel of witnesses conferring.)

4 A (WITNESS MULLER) Mr. Dynner, it doesn't have
5 to be complete. This section of the QA Manual applies
6 to any organization involved with measuring and test
7 equipment that is used in safety-related activities.

8 Q So in developing your QA program you have
9 determined in this instance that it is more efficient
10 and more satisfactory to give mere examples in the QA
11 Manual and to force QA personnel to go to some other
12 document in order to determine who is responsible for
13 the requirements of this section, haven't you?

14 (Panel of witnesses conferring.)

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1 A (WITNESS KELLY) I don't know if I would go
2 along with your characterization of mere examples to
3 have controlled measuring and test equipment and a
4 quality program. That is not accomplished solely by the
5 existence of a section of a QA Manual. To have that
6 program you need the detailed implementing QA procedures
7 instructions, the individual's organization's
8 instructions. This is typical of what is done
9 throughout the industry.

10 Q And you don't think it would be helpful or
11 desirable in a QA program to state who the responsible
12 organizations are in the document that governs their
13 responsibilities, is that correct?

14 (Panel of witnesses conferring.)

15 A (WITNESS KELLY) They are defined in this
16 manual in this section and in Section 1.

17 Q Is it your testimony that Section 1 designates
18 all of the LILCO organizations that have responsibility
19 for M&TE under Section 12?

20 JUDGE BRENNER: I don't think that is the
21 question you want to ask. Forgive me for jumping in. I
22 think what you want to ask is whether by reading Section
23 1 one can identify all of the organizations which would
24 have responsibility in Section 12.2.5.

25 MR. DYNNER: Yes. I will accept your

1 rephrasing of my question. Thank you.

2 (Panel of witnesses conferring.)

3 WITNESS KELLY: The section does not
4 specifically cull out which organizations utilize
5 measuring and test equipment. However, all of those
6 organizations know the requirements of Section 12, and
7 that is why in that section it says organizations that
8 requisition parts and services, and it talks about
9 control and storage and recall.

10 There would be no reason why you should want
11 to put in this section of the manual a detailed listing,
12 so that if some other occasion came up where another
13 organization needed to utilize measuring and test
14 equipment that you would now have to revise a section of
15 your QA Manual rather than just have them implement the
16 requirements of that section.

17 BY MR. DYNNER: (Resuming)

18 Q Well, if it is not necessary or desirable to
19 state who is responsible for the requirements of Section
20 12 because each of those organizations just knows, then
21 why is it necessary or desirable to give examples of the
22 organizations in subsection 12.2.5?

23 A (WITNESS KELLY) That section describes the
24 people who are the primary users of the measuring and
25 test equipment. You may not care to address the .25

1 percent of the population. These are the major users of
2 the measuring and test equipment, and that is quite
3 sufficient, in our opinion.

4 Q But a QA person who is applying the program by
5 reference to this manual would be more likely to know
6 the major users of M&TE than the minor ones, and
7 therefore, it would be more important to list the minor
8 users, wouldn't it?

9 A (WITNESS KELLY) No. As far as you were
10 talking about -- I believe you said a QA person, QA
11 people involved, as we said before, review all of the
12 procedures, either a review by the QA department or the
13 station CQA sections. So at that section when the
14 reviews of various procedures are done, various people
15 would know if the requirements if this section needed to
16 be applied to that procedure. And also, through the
17 various inspection and auditing that is done of the
18 various organizations, they would know what is going on
19 in each of those organizations.

20 Q So each of these QA persons that is assigned
21 any duties with respect to M&TE has read and is familiar
22 with all of the procedures of all of the organizations
23 that might use M&TE, is that correct?

24 A (WITNESS KELLY) He would be familiar -- say
25 if he was doing an audit, he would be familiar with the

1 procedures of the organization he would be auditing,
2 yes, that is correct.

3 Q And similarly, if you will turn the page to
4 subsection 12.3.1, there is no definition in this
5 section as to which organizations have the
6 responsibilities set forth in that subsection or the
7 following ones, is there?

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) In Section 12.3 there is no
10 specific reference on a line-by-line basis of the
11 organizations that are required to meet the requirements
12 stated herein. The previous section responsibilities
13 provides examples of the organizations, but the section
14 states that all organizations that are involved in this
15 process are required to follow the requirements section
16 of this manual.

17 Q Now, the calibration, servicing and repair of
18 measuring and test equipment for a nuclear power plant
19 requires a high degree of skill and care, doesn't it?

20 (Panel of witnesses conferring.)

21 A (WITNESS MULLER) The maintenance of the
22 measuring and test equipment does require qualified
23 personnel, and it does require skill and care. As far
24 as the high level, the people are qualified to perform
25 their tasks.

1 Q And since each of the nine -- since each of
2 the organizations referred to in Section 12.3.1 must
3 write its own procedures covering M&TE, there is no
4 uniformity among those procedures and requirements, is
5 there?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) All of the organizations
8 that perform these activities are required to write the
9 procedures. Each one of these procedures is written to
10 the requirements stated in their respective manuals; and
11 these procedures are once again reviewed by either the
12 Quality Assurance department or the Operational Quality
13 Assurance section.

14 Q And it is highly unusual not to have one
15 single organization within a company that has the
16 responsibility for M&TE, isn't it?

17 A (WITNESS MULLER) No, it would not be highly
18 unusual.

19 Q Well, it is unusual then, isn't it?

20 A (WITNESS MULLER) It is not unusual either.

21 Q Are the procedures that are referred to in
22 subsection 12.3.2 oral procedures?

23 A (WITNESS MULLER) No, sir. They would be
24 written procedures.

25 Q Why are they referred to simply as procedures

1 in subsection 12.3.2, but the reference in the next
2 subsection, 12.3.3, is to written procedures?

3 (Panel of witnesses conferring.)

4 A (WITNESS KELLY) There's absolutely no
5 difference at all.

6 Q So this is just an example of poor drafting
7 and ambiguity, isn't it?

8 A (WITNESS KELLY) No, it is not.

9 Q Well, if there is no difference, then why are
10 two different terms used for the same thing in
11 paragraphs that appear next to each other?

12 A (WITNESS KELLY) Editorial license.

13 (Pause.)

14 Q There are no standards or procedures given or
15 referred to specifically in this section that would
16 provide for all of these various LILCO organizations to
17 coordinate their identification methods for their
18 equipment, are there?

19 (Panel of witnesses conferring.)

20 A (WITNESS MULLER) There is no one procedure
21 that requires unique identification numbers for all of
22 the equipment within LILCO. Each section is responsible
23 for tagging its own equipment with its own system.

24 Q So it is possible that you could have two
25 pieces of equipment in different organizations

1 identified by the same number or symbol, isn't it?

2 (Panel of witnesses conferring.)

3 A (WITNESS MULLER) No, Mr. Dynner. The tagging
4 systems would be different, and the serial numbers of
5 the equipment would also be different.

6 Q And the procedures describing the methods for
7 uniquely identifying each piece of equipment might also
8 be different, is that correct?

9 (Panel of witnesses conferring.)

10 A (WITNESS MULLER) Yes, they could be
11 different, but they would all require the equipment to
12 be uniquely tagged.

13 Q Now, if we refer to subsection 12.3.3, who is
14 responsible for preparing the procedures, the written
15 procedures, or instructions that are referred to in that
16 subsection?

17 A (WITNESS MULLER) Each section performing the
18 calibration and storage and handling would be
19 responsible for writing those procedures.

20 Q Don't the manufacturers of various pieces of
21 M&TE provide generally instructions or procedures
22 covering such things as calibration frequencies, storage
23 and handling requirements, and operating criteria?

24 A (WITNESS MULLER) Yes, they do, and these
25 factors would be considered within the written

1 procedures that each section is required to provide.

2 Q But there are no guidelines or requirements
3 that the standards and procedures of the manufacturer of
4 the equipment be used or taken into consideration, are
5 there?

6 (Panel of witnesses conferring.)

7 A (WITNESS MULLER) Mr. Dynner, paragraph 12.3.5
8 provides that input.

9 Q There is no requirement that the
10 manufacturer's standards, procedures or recommendations
11 must be used, is there, in this section?

12 (Panel of witnesses conferring.)

13 A (WITNESS MULLER) There may be a case where we
14 may want to be more stringent than the manufacturer.

15 Q Or a case where you want to be less stringent,
16 correct?

17 A (WITNESS MULLER) No.

18 Q Well, the procedure or this -- excuse me --
19 this section doesn't say anything about being less
20 stringent or more stringent, does it?

21 A (WITNESS MULLER) It doesn't say that in black
22 and white, but it is LILCO's intention to use the
23 manufacturer's recommendations as a minimum.

24 Q It is just that in this case your intention
25 hasn't been put into writing in the QA program, is that

1 correct?

2 (Panel of witnesses conferring.)

3 A (WITNESS YOUNGLING) Mr. Dynner, the pause is
4 going to require that I ask you to repeat the question
5 just so I make sure I answer it.

6 Q Well, it's been so long I frankly have
7 forgotten it. Could you reread it, please?

8 JUDGE BRENNER: The question is whether or not
9 anywhere in the QA procedures there is an implementation
10 of this intention that the manufacturer's standards will
11 be used as a minimum by LILCO.

12 WITNESS YOUNGLING: The QA procedure in this
13 section we've talked about before does require that the
14 manufacturer be considered in the application or the
15 development of the calibration frequency and the
16 development of the calibration standards.

17 The implementing procedures amongst the I&C
18 section and the other sections that I mentioned require
19 that we designate the frequency of calibration and that
20 calibration frequency shall be in accordance with the
21 manufacturer's standards. However, if we choose, we can
22 do it at a less frequent basis.

23 JUDGE BRENNER: It says all that in the
24 implementing procedures?

25 WITNESS YOUNGLING: That's in another

1 procedure, and we were looking for it, and it isn't here.

2 JUDGE BRENNER: In one of the QAP procedures
3 or QAPS procedures?

4 WITNESS YOUNGLING: No. It is in the I&C
5 procedure in the plant staff.

6 JUDGE BRENNER: Mr. Dynner, I was going to
7 break about this point. I don't know if that is
8 convenient.

9 MR. DYNNER: If possible, I would like to go
10 on, if I may, for about five more minutes and see how
11 far we are getting. It is going very, very slowly, I am
12 afraid.

13 JUDGE BRENNER: Yes, it is.

14 BY MR. DYNNER: (Resuming)

15 Q Gentlemen, you testified previously that there
16 were nine organizations in LILCO that requisition
17 products and services and therefore had responsibilities
18 pursuant to Section 12.2.1. Can you tell me how many
19 organizations within LILCO are responsible for providing
20 and implementing the procedures pursuant to subsection
21 12.3.1?

22 (Panel of witnesses conferring.)

23 A (WITNESS MULLER) Mr. Dynner, the nuclear
24 power station and the meter and test department would be
25 the only two organizations that have the procedures, I

1 think because they are the only two organizations that
2 are presently calibrating equipment. If the other
3 organizations required calibration, they would send the
4 equipment to either the nuclear station staff or the
5 meter and test department, or they could in fact send
6 them offsite.

7 Q Now, I'm a little confused, and in order to
8 clarify my confusion is it your testimony that the
9 organizations that are listed in subsection 12.2.5 at
10 the bottom of page 1 are not all required to have their
11 own procedures?

12 A (WITNESS MULLER) Mr. Dynner, radiochemistry,
13 health physics and chemistry are part of the nuclear
14 power station staff.

15 A (WITNESS YOUNGLING) The maintenance service
16 division that is listed there is a separate division
17 within the organization that provides short-term
18 maintenance support to the nuclear station; and they
19 utilize M&TE that is resident within the power station.

20 Q And each one of the organizations that
21 develops or has developed, the procedures required under
22 subsection 12.3 would be able to determine individually
23 at what intervals a particular piece of M&TE would be
24 calibrated and serviced, wouldn't it?

25 (Panel of witnesses conferring.)

1 A (WITNESS MULLER) Those responsible
2 organizations would determine the calibration frequency
3 based upon use and the manufacturer's recommendations.
4 It may happen that we find that we need to calibrate the
5 equipment more frequently than the manufacturer
6 recommends.

7 Q So that one organization for the same
8 identical piece of M&TE might require a calibration
9 every three months, and the other organization might
10 require it every year and a half, and one might require
11 servicing at a particular interval of five months, and
12 the other might require it every year and a half, is
13 that correct?

14 A (WITNESS YOUNGLING) It would depend upon how
15 much the M&TE was being used. If a manufacturer says to
16 calibrate it every two years and if we are using it in
17 the station on a weekly basis, we probably would
18 calibrate it more frequently. And the reason for that
19 is if it goes out of calibration six months into that
20 two-year period and if I continue to use it for the
21 remainder of that period, I would have things that were
22 calibrated with an improperly calibrated standard. So
23 we will apply judgments and calibrate them more
24 frequently depending upon use.

25 Q And since there are no standards in this

1 section for determining frequency of calibration and
2 service, there is no basis for any LILCO organization to
3 determine where an unreasonable frequency of calibration
4 or service has been determined by a LILCO organization,
5 is there?

6 (Panel of witnesses conferring.)

7 A (WITNESS KELLY) As is stated in paragraph
8 12.3.5, states that methods and frequencies for
9 calibration and servicing shall be based upon
10 considerations such as type of equipment, proposed use,
11 stability characteristics, accuracy requirements,
12 manufacturer's recommendations, recognized industry
13 standards and operating experience. You would have to
14 take that into account, we said, in their proposed use.
15 That could differ from organization to organization.

16 Q Yes. Perhaps you misunderstood my question,
17 Mr. Kelly, because what I was getting at was since the
18 application of those various things that you've read is
19 within the discretion of each LILCO organization, there
20 is no basis or procedure in this section for anyone
21 within LILCO to determine that a particular method and
22 frequency for calibration and servicing is unreasonable,
23 is there?

24 A (WITNESS KELLY) There is a method, as I
25 said. In that paragraph it tells you several things to

1 take into consideration when the procedure is written,
2 that those things are taken into consideration. When
3 that procedure is reviewed by the quality organization,
4 those same considerations are taken into account.

5 Q Are there any other things that are taken into
6 account in making the determinations pursuant to
7 subsection 12.3.5?

8 (Panel of witnesses conferring.)

9 A (WITNESS KELLY) 12.3.5 represents a vast
10 spectrum of items that would be considered, especially
11 the last one, operating experience. This would, I would
12 say, take into account the vast majority of the items
13 that would be considered in that determination.

14 MR. DYNNER: If you wish, we can break now,
15 Judge Brenner.

16 JUDGE BRENNER: Yes. Let me make sure I
17 understand where we are going in terms of different
18 subjects after this, both immediately and next week.
19 First, a question about next week. You may have
20 included this in your explanation, Mr. Ellis, of the
21 sequence, but I missed it.

22 Do you plan on doing your redirect before ISEG
23 or after?

24 MR. ELLIS: After, Judge Brenner.

25 JUDGE BRENNER: And so we would hold the staff

1 questions until after we finished ISEG also on operating
2 QA.

3 Mr. Bordenick.

4 MR. BORDENICK: That is agreeable to me.

5 JUDGE BRENNER: That takes care of next week.

6 What about after we come back from this next break?

7 Where does the other matter stand?

8 MR. LANPHER: Mr. Earley and I just met again,
9 and he has gone up to get Mr. Eifert.

10 JUDGE BRENNER: You don't know yet?

11 MR. LANPHER: No, I do know. Most of the
12 items we have been able to resolve. There are three
13 audit findings as to which I want to ask some questions
14 to lay a basis. There is one audit finding as to which
15 Mr. Eifert wants to provide a clarification. And as to
16 a number of audit findings where we have reached
17 agreement, LILCO wants to state through Mr. Earley --
18 and I don't object -- into what calculation category
19 LILCO would have put the item.

20 JUDGE BRENNER: How long do you think all of
21 that would take?

22 MR. LANPHER: I guess about 15 or 20 minutes
23 probably.

24 JUDGE BRENNER: Okay. I guess we had better
25 do that as soon as we come back from the break to make

1 sure we finish that panel. I don't know if there will
2 be any time left to come back to this or not. If there
3 is, we will do it. If not, we won't.

4 MR. DYNNER: Judge Brenner, you have my
5 detailed cross plan now, and it is my present
6 expectation to continue going through this cross plan in
7 the order designated.

8 JUDGE BRENNER: All right. I have only looked
9 at it quickly so this may be wrong, but until you get,
10 based upon my very quick look, until you get to page 7
11 it is a similar area of examination -- different
12 procedures, different manual chapters, but the purpose
13 is similar, which is consistent with one of the purposes
14 on your earlier draft cross plan.

15 When you get to page 7 you have these
16 references to general and then a description, and I'm
17 not sure if that is still a similar purpose; and I'm not
18 sure what you mean by the last two sentences on the
19 bottom of page 7 which comprise a total of four lines.

20 MR. DYNNER: Perhaps I can explain that to you
21 off the record.

22 JUDGE BRENNER: Okay. My thought would be
23 that if that is a different character than what you are
24 doing, you may not finish all of this at this rate; and
25 if that is a different character than all of this, you

1 may want to jump to that, particularly the last item,
2 because I'm not sure what you are getting at. But it
3 looks like it might be slightly different, and it was in
4 your offer of proof. You may want to make sure you work
5 it in instead of just going in sequence.

6 MR. DYNNER: I was going to say that I have,
7 of course, made time estimates which were based upon a
8 much more rapid movement than we have had so far this
9 morning; and it has been my intention in developing the
10 order in the cross plan as you requested to cover all
11 four of the areas that were denominated in the offer of
12 proof. And I will certainly endeavor to cover all of
13 those areas within the time allotted.

14 JUDGE BRENNER: You may have to make some
15 adjustments.

16 MR. DYNNER: It appears that way, yes.

17 JUDGE BRENNER: Let's see if we can do it on
18 the record without disclosing anything, and I will give
19 up if we can't do it this way.

20 The next to the last item, procedures, and
21 then the rest of that item on page 7, do you mean the
22 same as above as to those other denominated sections?
23 You see, I can't tell if that is a shorthand, very
24 inclusive reference or something different.

25 MR. DYNNER: The second to the last line on

1 page 7, the procedures listed are intended to follow the
2 colon, and I identify the procedures that are referred
3 to in that sentence that is followed by the colon, if
4 that is of any help.

5 JUDGE BRENNER: So it relates solely to the
6 previous paragraph.

7 MR. DYNNER: Yes, sir.

8 JUDGE BRENNER: It's not as bad as I thought
9 in terms of length.

10 All right. Let's break until 12:20.

11 Let me ask this. Does it make a difference to
12 your schedule, Mr. Dynner, and the schedule of these
13 witnesses if we say leave now as opposed to waiting and
14 seeing what develops, because there's not going to be
15 time for much.

16 MR. DYNNER: Well, for 15 or 20 minutes it
17 hardly seems useful to inconvenience anybody at this
18 point.

19 JUDGE BRENNER: Including you.

20 MR. DYNNER: Thank you.

21 JUDGE BRENNER: Okay. Why don't we just bite
22 the bullet and leave operating QA for today. And is the
23 County willing to give the sections of the manual that
24 you have outlined in the cross plan as well as the
25 procedures knowing that you may vary?

1 MR. DYNNER: I'm almost prepared to say that
2 if it will speed things up I will give them my cross
3 plan, but I won't go that far.

4 MR. ELLIS: I will add to that and say I've
5 requested for weeks that they tell us which procedures
6 bother them, and we will look at them, and we will tell
7 them whether we think they ought to be fixed or not.

8 MR. DYNNER: Well, in fairness to what is
9 going on here, I could identify --

10 JUDGE BRENNER: As to your last comment, I
11 have been at a hearing where that was done on some
12 issues, and it has worked; but you have to make that
13 decision.

14 MR. DYNNER: I said I don't think I'm going to
15 go that far. What I did tell Mr. Ellis yesterday was
16 that -- and I hadn't when I told him that my cross plan
17 in front of me -- but I did tell him that for the vast
18 majority of what I'm going to cover, it relates solely
19 to those documents which were disclosed to him in my
20 previous letters.

21 JUDGE BRENNER: But that is still a lot.

22 MR. DYNNER: To make things really simple --

23 JUDGE BRENNER: You don't have to tell him on
24 the record.

25 MR. DYNNER: Well, I don't think it's that

1 hard to figure out, but I will talk to Mr. Ellis and try
2 to give him a better feel.

3 JUDGE BRENNER: Give him the sections.

4 MR. DYNNER: All right. I will do that.

5 JUDGE BRENNER: And the procedures as a
6 minimum, unless you think that prejudices you in some
7 fashion that I'm not presently perceiving, and then
8 anything beyond that you want to give him in the plan
9 it's up to you. I recommend that you do give him
10 something beyond that because he is just seeking an
11 explanation. And I don't mean to minimize that
12 explanation. It is important to our record and to your
13 case. But I think they will be a lot more prepared to
14 go through it more quickly. The nature of the beast is
15 they are going to go to other references -- you know it
16 and I know it -- and this may speed it up.

17 MR. ELLIS: Judge Brenner, one thing I heard
18 Mr. Dynner say --

19 JUDGE BRENNER: I want to get out of here, Mr.
20 Ellis, and you're not going to have time to finish this
21 other matter. So if you're going to -- maybe I'm not
22 guessing where you're going, but I don't want to hear
23 the dispute again about what he told you and what you
24 asked for. We are going forward from this point on, so
25 you can negotiate off the record anything beyond the

1 minimum, but if you're going somewhere else and I
2 misunderstood, I will let you give it now.

3 MR. ELLIS: Let me state it in one sentence,
4 because I think you are right, but let me just state it
5 in one sentence. I was under the impression that the
6 OQA cross examination was limited to the documents
7 identified beforehand, but I understood now from
8 something Mr. Dynner said that it is going beyond his
9 previous letters on document identification.

10 JUDGE BRENNER: No. I didn't understand him
11 to say that. Maybe it is something I said that led you
12 to believe that. I think your witnesses are going to
13 want to -- they already have. Every time he thinks he
14 is asking about a section in the manual, they go to
15 another procedure; and that is what I meant when I said
16 other documents -- not every time but from time to time.

17 All right. Let's break until 12:20, and we
18 will stop very close to 1:00, so figure out how you're
19 going to finish up this other matter.

20 (Recess.)

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1 JUDGE BRENNER: Let's go back on the record.

2 Welcome back, Mr. Eifert. It seems strange
3 seeing you up here alone without people to the left and
4 right of you.

5 MR. EARLEY: Judge, we've had discussions over
6 the audit findings to be moved into evidence, and we
7 have reached agreement on all but four audit
8 observations. We object to going back to any of these
9 audit observations, particularly these four, because we
10 think they're all in the calculation area.

11 In the area of calculations we were going
12 through individual audit findings. We are not moving in
13 items by groups because the witnesses said they were
14 related to others that they had been asked about. These
15 were not asked about during the cross examination on
16 calculations. As a result, we did not include them in
17 the groupings that we gave in the redirect summaries
18 presented to the Board, and the witnesses don't have the
19 backup information; and as the Board realizes, that is
20 important to explain what the audit observations mean
21 and their significance, and that information is not
22 available for the audit observations that we have
23 discussed with the County. So we don't think we should
24 have to go back.

25 There are a number of audit observations that

1 we are willing to move in. The County has agreed to let
2 us specify which category they fall into in terms of the
3 calculation and redirect summary.

4 JUDGE BRENNER: I'm not sure I understood
5 everything, and you're way ahead of us as a result of
6 having gone through this. There are two categories that
7 relate to calculations that if we're going to deal with
8 them at all need to be dealt with further.

9 One category you have no problem with so long
10 as your witness can put them in. The category is the
11 other one you have a problem with even under that
12 procedure for the reasons you expressed.

13 Am I understanding correctly?

14 MR. EARLEY: Yes, Judge. And there are four
15 audit observations in the latter category, although in
16 talking to Mr. Eifert, one of those four he could talk
17 about if necessary.

18 JUDGE BRENNER: As to those four, when you say
19 they weren't asked about, do you mean they weren't asked
20 about at all, or they were asked about under something
21 other than calculations?

22 MR. EARLEY: They were not asked about at all.

23 JUDGE BRENNER: Is that right, Mr. Lanpher?

24 MR. LANPHER: I don't think I would agree with
25 that characterization.

1 JUDGE BRENNER: Why don't you tell me which
2 four?

3 MR. LANPHER: The four that we are talking
4 about Engineering Assurance Audit 21, Observation 014,
5 Finding No. 1 which relates to a violation -- well, what
6 the audit observation states -- I'm not quoting it --
7 but it indicates a violation of a project instruction
8 relating to the filing of unchecked calculations along
9 with the checked ones. Apparently they were supposed to
10 be kept segregated until checked.

11 JUDGE BRENNER: I'm working with your audit
12 summary sheet in terms of your motion.

13 MR. LANPHER: That would be on the first page
14 of it, three from the bottom, EA 21, Observation 014.

15 JUDGE BRENNER: Okay. But the reason -- I had
16 found that, but it had no finding. Does that mean there
17 is no dispute as to any other findings in that
18 Observation 014?

19 I don't have it in front of me. Is that the
20 only finding in it?

21 MR. LANPHER: No, that is not. We have
22 reached resolution as to everything else.

23 JUDGE BRENNER: I see.

24 MR. EARLEY: Judge, to clarify, I believe that
25 items 6 and 9 were asked about on the record

1 specifically. There are several other sections that the
2 County was also interested in moving into evidence. We
3 agreed to do that with the provision that we would be
4 allowed to designate the category, and it would be as if
5 the witness had put it in the category on redirect. And
6 we are still disputing item 1.

7 JUDGE BRENNER: Okay. Tell me now what you
8 think you asked about it, Mr. Lanpher, under either of
9 the rules, either directly or asked the witness if it
10 was included in the group.

11 MR. LANPHER: Let me go back a little bit,
12 Judge Brenner, to respond to certain of the other items
13 that Mr. Earley stated and also to respond directly to
14 your question.

15 We did not specifically focus on EA 21 014,
16 number 1. I am willing to rely on their search of the
17 record that we didn't ask a specific question on that.
18 I've not had an opportunity to go back this morning and
19 specifically. I am sure that they are probably right on
20 that.

21 I think this does relate both to problems
22 related to filing of documents, which we have covered,
23 and to problems related to checking of documents.

24 JUDGE BRENNER: That is not the question. If
25 you didn't ask about it or cover it and he doesn't have

1 the information here, I'm not going to let it be moved
2 into evidence. The purpose of this was to move things
3 into evidence as a housekeeping matter, to make sure
4 that you got into evidence everything that had been
5 covered in the examination, not to have a new
6 examination. And it is not just a matter of more time;
7 it is a matter of the prejudice that we have observed
8 over the weeks.

9 MR. LANPHER: Judge Brenner, you cut me off a
10 little bit on that.

11 JUDGE BRENNER: I'm sorry.

12 MR. LANPHER: I hadn't finished.

13 JUDGE BRENNER: Well, I did, and I do
14 apologize; but we don't have much time, and I was afraid
15 you were going to go off on the track that it is
16 important. I'm not interested in the importance at this
17 point.

18 MR. LANPHER: My understanding of the
19 procedures -- and I stated this; I don't have a
20 transcript reference -- but back in September when we
21 were first at this stuff I think I made it clear that we
22 weren't covering each and every item that we thought was
23 important, but that we want to move some in.

24 We didn't get to our global questions until
25 October after some subsequent rulings by the Board. I

1 didn't ask specific questions on these. I think these
2 are related to other areas but standing alone. I think,
3 for instance, EA 21, it relates directly to engineering
4 assurance procedure 5.3 and whether there has been
5 compliance or noncompliance with that procedure. Thus,
6 I think it would be appropriate to put it into evidence.

7 The idea that this came as a surprise today I
8 don't think is correct. One of the main reasons that I
9 prepared this audit summary prior to the time that
10 redirect took place was so that LILCO would know the
11 items that we wanted to move into evidence so that if
12 they felt there was a necessity to address any of these
13 items in their redirect, they would have an
14 opportunity. So I don't believe we were hiding this
15 from anybody.

16 JUDGE BRENNER: Are you finished?

17 MR. LANPHER: Yes.

18 JUDGE BRENNER: The summary was supposed to
19 be, as I repeat, a housekeeping matter to get a list of
20 all of those that had not been moved into evidence which
21 would have been moved into evidence had we been
22 following the procedure that we followed in later weeks,
23 where after you asked questions about findings you then
24 moved them into evidence. And what you had asked about
25 the findings varied depending upon their commonality

1 with the other ones you asked about and the witnesses
2 answer.

3 Where they said yes, these other four are the
4 same as the one you asked about, then we moved the other
5 four into evidence without having to have individual
6 questions; but where they said there was a difference,
7 you explored the difference in your questions where the
8 supplied the difference in the answers, and then we got
9 it into evidence.

10 We do not trust the reliability of this cold,
11 written word, not as to the matter of the reliability of
12 the people writing it, but they were not writing it for
13 this audience, and we cannot understand the meaning of
14 the cold words, and we have proven that time and time
15 again as we have the testimony to enlighten us. I am
16 not capable of going back to the record and knowing who
17 is correct.

18 But if you did not ask about this one by any
19 means -- that is, either directly about this one -- or
20 ask them about whether it was in the group, then I don't
21 want to deal with it now.

22 MR. LANPHER: Well, then, you had better rule
23 that I can't move three of these items, I guess, into
24 evidence, because I don't think I asked specifically
25 about them. But I think they clearly fall into the

1 category of failure to comply with EAP 5.3, and I think
2 that the County is entitled to designate the categories
3 that it thinks are relevant.

4 LILCO obviously has a different view of how
5 detailed the category must be, and to be frank, I think
6 they want to have as many subcategories as possible so
7 that you don't get a pattern. We think that broader
8 categories are very important, and it is appropriate to
9 look, for instance, at those alleged violations of 5.3.
10 This would fall exactly into that category.

11 JUDGE BRENNER: That is not at issue here,
12 whether or not they have the right categories or not.
13 We're going to be able to look at your findings on what
14 you think the commonality is. The question is whether
15 we've had enough testimony on this to understand what
16 the item is. We are not bound by their categories, and
17 we are not bound by your categories. We will look at
18 them, and you will argue that in your findings.

19 This is a very narrow question, and it is not
20 that complicated. It is were these -- you just said
21 three items; I thought we were talking about four -- but
22 were these items asked about during the cross
23 examination by any means, either directly or by
24 reference saying they are the same as these other items?

25 MR. LANPHER: No. I think the answer is no,

1 Judge Brenner, but I don't think that should preclude us
2 from moving them into evidence.

3 (Board conferring.)

4 JUDGE BRENNER: Well, we are unanimous. We
5 are not going to move those four into evidence if it is
6 accurate that they were not covered in the cross
7 examination by any means; and that is consistent with
8 the rulings that were applied after -- when we all
9 caught up with the procedure of moving things into
10 evidence as they were inquired into, either directly or
11 by reference.

12 So why don't you tell us which four they are
13 so you have your offer of proof, and we won't admit them.

14 MR. LANPHER: Well, Judge Brenner, I
15 understood from your statements last week -- and I don't
16 have that right in the transcript -- that one of the
17 purposes of this morning's hearing would be the
18 opportunity to ask some questions about specific
19 findings if for some reason I had omi' ed to ask
20 questions.

21 JUDGE BRENNER: No, sir. That opportunity was
22 if you had thought you had asked sufficient questions
23 about them, that issue actually had inquiry about them
24 in your cross, and you have a a dispute with LILCO as to
25 whether you asked enough to move them into evidence.

1 And what I had in mind was the possibility that you had
2 thought you got the right answer to including them in by
3 reference -- that is, you had actually inquired into it
4 -- and LILCO had disputed that on the basis that given
5 the witnesses' answers you couldn't group it with that
6 other one, and you should have asked particular
7 questions about it, in that case that would have been
8 enough that we would have felt you were misled at the
9 time in the heat of the moment, and we would have
10 allowed you an opportunity to inquire particularly into
11 those. But there would have been some inquiry in the
12 record as to the item, and that is an important
13 difference.

14 So which four are these?

15 MR. LANPHER: Engineering Assurance Audit 21,
16 Finding 014, item 1; Engineering Assurance Audit 21,
17 Observation 016, subpart number 1; Engineering Assurance
18 Audit 23, Observation 034, Finding 4.

19 JUDGE BRENNER: I missed the last one. I'm
20 sorry.

21 MR. LANPHER: EA Audit 23, Observation 034,
22 item 4.

23 JUDGE BRENNER: 034, item 4?

24 MR. LANPHER: Yes, sir.

25 MR. EARLEY: Did you give the fourth one?

1 JUDGE BRENNER: That is three.

2 MR. LANPHER: I think the fourth one falls
3 into a somewhat different category.

4 MR. EARLEY: The fourth one was not asked
5 about either. We were prepared to address it and have
6 the Board rule whether it was admissible.

7 MR. LANPHER: Well, the fourth one, while it
8 wasn't asked about directly, is from its words exactly
9 in the middle of the ready traceability category. If
10 you want to rule that you don't want to have that in
11 evidence, fine.

12 JUDGE BRENNER: Which is the fourth one?

13 MR. LANPHER: It's Engineering Assurance Audit
14 23, Finding 038, item 2. A shorthand description would
15 be the diversion and level of a computer program was not
16 specified.

17 JUDGE BRENNER: The question that comes to
18 mind is it is so like all the others why do you need it,
19 given all the other examples?

20 MR. LANPHER: I don't know if we need it or
21 not, given the other examples, Judge Brenner. That's
22 going to have to depend upon the Board, I think. I mean
23 I can't foresee whether we need it or not in the
24 ultimate burden of proof or whatever.

25 I think we are attempting to demonstrate a

1 pattern, so I am certainly not going to voluntarily
2 leave something out which I think falls right into an
3 area on which a fair amount of evidence has been
4 submitted.

5 JUDGE BRENNER: Well, you certainly had a lot
6 of examples of the ones that the County believes
7 demonstrate a pattern. That is what I'm saying.

8 (Board conferring.)

9 JUDGE BRENNER: We are going to apply the same
10 test logically and across the board. You didn't ask
11 about it. If we changed the test solely because LILCO
12 said they could answer it now, then we would be allowing
13 LILCO unilaterally to tell us what they were prepared or
14 not prepared to answer, and it would be on that basis
15 that we would allow questioning, and that is certainly
16 not our basis for allowing questioning in this
17 proceeding. If it is something that is properly before
18 us, it is too bad that the witnesses can't answer. We
19 don't use that as the test.

20 All right. So we would not move those four
21 items just identified into evidence. Let's hold off
22 moving --

23 MR. LANPHER: With respect to the last item, I
24 would like the record to reflect that I was informed
25 that Mr. Eifert has knowledge about that item and could

1 testify right now about it.

2 JUDGE BRENNER: Yes, I understand that, and we
3 accept that as true. My point is that is not a reason
4 for a distinction. If we thought that was the important
5 distinction, we would be allowing LILCO's telling us
6 without any inquiry on our part that they are not
7 prepared to answer the other three, and that is the
8 reason we are not hearing about it, when in fact that
9 has nothing to do with the reason we are not hearing
10 about it now, because that goes beyond the purpose of
11 what this moving into evidence was supposed to be.

12 It is pertinent to demonstrate some prejudice
13 them if we wanted to go that far to inquire into it, but
14 we don't even have to get that far for our ruling. But
15 we understand that he would have been prepared on this
16 one.

17 All right. Before we move these others into
18 evidence let's have whatever examination need take place
19 on the ones that require clarification.

20 MR. LANPHER: Your rulings obviate the need
21 for examination, Judge Brenner.

22 JUDGE BRENNER: Okay. I thought that there
23 was some need for categorization of some others.

24 MR. LANPHER: We are going to do that by
25 stipulation.

1 MR. EARLEY: What we have agreed to do is we
2 will tell Mr. Lanpher what category the findings he
3 wants to move in, what category they fit into; and the
4 questions on redirect apply to those particular findings
5 as well as the ones that we covered in the redirect
6 examination.

7 JUDGE BRENNER: How come these weren't covered
8 in the redirect the first time -- because you hadn't
9 realized they were asked about?

10 MR. EARLEY: There were a number of others
11 that were not asked about, but we agreed in our
12 discussions that we would put them into a category.

13 JUDGE BRENNER: Do you mean they weren't asked
14 about at all, either directly or by reference?

15 MR. EARLEY: That is correct.

16 JUDGE BRENNER: Okay.

17 (Board conferring.)

18 JUDGE BRENNER: Let me tell you what disturbs
19 us about that. If there were some that were not asked
20 about, either by reference or directly, then perhaps we
21 didn't read it, and we didn't follow along with it. And
22 as you know, we had questions about quite a few of
23 these. And we may find out after the fact that we don't
24 understand the item or we don't understand the category;
25 and I think we were pretty aggressive about questioning

1 the witnesses when we couldn't quite understand their
2 characterization of some of the items.

3 How many are there?

4 It's hard for the parties to believe, but
5 there were times when our preliminary look did not allow
6 us to agree readily with either side, and we had our own
7 preliminary view of what the item might have meant.

8 MR. EARLEY: Judge, there were nine items, and
9 I have four. I informed Mr. Lanpher that we would
10 object to their admission this morning when I gave him
11 an advance copy of the pleading that I was going to
12 file. In the interest of trying to avoid having to come
13 back to the Board, we have tried to reach the
14 accommodation. But those nine items we don't think were
15 asked about, in addition to the four that we just
16 discussed.

17 JUDGE BRENNER: So you are going to put them
18 in your categories, and then the County in their
19 findings may later disagree with the categorization; and
20 when we see something in the disagreement, we may have
21 wished we could have asked a question or two about it.
22 When questions were asked about it here, we were able to
23 do that.

24 MR. LANPHER: Judge Brenner, these items --

25 JUDGE BRENNER: Do you have a solution?

1 MR. LANPHER: These are items that on their
2 face make certain statements. LILCO has had an
3 opportunity to review those, and my understanding is
4 they don't believe that these need any clarification.

The normal rules of evidence allow us to move
6 in documents of an adverse party. I understand that
7 those rules have been amended in this instance because
8 you often can't understand the written word on these.

9 JUDGE BRENNER: All of us, I think, have had
10 that experience at one time or another going through
11 this. I certainly did, speaking for myself.

12 MR. LANPHER: I think that I must say the
13 ruling so far today that to get something in it has to
14 be either expressly or be inference specifically
15 inquired into is beyond what I understood the Board's
16 rulings to mean.

17 JUDGE BRENNER: Well, I've explained it
18 already, and the use of the word "specifically" depends
19 upon your interpretation. I said it could have been one
20 of the ones you inquired into by reference.

21 MR. LANPHER: Well, there are a whole list of
22 these items which go to the ready traceability category
23 which were skipped over in the examination in
24 September. I was under, quite frankly, a great deal of
25 pressure to move faster. I didn't come back to them. I

1 agree with that. But at that point we also weren't
2 going by global questions, and to now be precluded from
3 moving these into evidence I think is creating error and
4 eliminating the opportunity to have additional relevant
5 evidence before the Board.

6 JUDGE BRENNER: You're talking about the nine
7 items or some number like that?

8 MR. LANPHER: There are nine items, I think --
9 nine or ten.

10 (Board conferring.)

11 JUDGE BRENNER: Let me make sure I understand
12 this. If we allow the parties to follow the procedure
13 they want to follow, LILCO will put them in categories.
14 Which exhibit was it of yours that had those categories
15 again?

16 Are the parties going to agree that they are
17 in the right category?

18 MR. LANPHER: Judge Brenner, from the County's
19 personal point of view we don't think LILCO's categories
20 are all that important.

21 JUDGE BRENNER: I know.

22 MR. LANPHER: I'm not going to cross examine
23 Mr. Eifert, or Mr. Earley for that matter, as to why
24 they put something in a particular category. That is
25 not my purpose. If they want to say what category they

1 think it goes in, that's fine with me.

2 MR. EARLEY: Judge, to clarify, my
3 understanding is that as part of the agreement, what I
4 would expect is that the questions asked about each
5 category -- in other words, the corrective action was
6 taken -- and that they are not significant, and that
7 there is no violation of Appendix B, would apply to
8 these items that would be placed in the category as it
9 applies to the items that were on LILCO Exhibit 24.

10 JUDGE BRENNER: These are all calculations,
11 and they are all somewhere within ready traceability?

12 MR. EARLEY: No. Most fall in the ready
13 traceability area, although one involves an E&DCR
14 category. And then we have one or two that fall in
15 category 6(c), miscellaneous, and one that falls in
16 category 5, indexing/filing.

17 JUDGE BRENNER: Is Mr. Eifert prepared on
18 those nine or ten?

19 MR. EARLEY: I have not discussed those nine
20 or ten specifically with him. If he is prepared, it is
21 just because of his own knowledge. I don't think he has
22 the documentation available, because they were not asked
23 about in cross examination.

24 JUDGE BRENNER: All right. I cut you off, and
25 I should have --

1 MR. EARLEY: I can ask him whether he does
2 have the material available.

3 JUDGE BRENNER: Well, let me try something
4 else first. If you've got ready traceability, most of
5 them are in that category or a majority are in that
6 category?

7 MR. EARLEY: Well, let's see. We have two
8 that fall in category 1(a); one, two, three fall in
9 category 1(b); we have one in category 5, one in
10 category 6(c).

11 JUDGE BRENNER: Five is indexing and filing,
12 and 6(c) is other miscellaneous. That is the one that
13 scared me.

14 MR. EARLEY: And one falls in E&DCR category
15 number 5, which I believe was a timeliness category. It
16 has to do with timeliness of incorporation of E&DCRs.

17 JUDGE BRENNER: Is that all the categories, do
18 you think?

19 MR. EARLEY: I think my witness is disagreeing
20 with me. Wait just a second.

21 JUDGE BRENNER: Here's the problem. We know
22 enough about ready traceability that the odds of our
23 saying we don't understand this item after reading it is
24 rather low. I'm not precluding that possibility, and we
25 may exercise our prerogative to come back and say we

1 don't understand this item that was moved into evidence,
2 and we may have to ask some questions about it; so we're
3 going to reserve that right as to us. But we think the
4 probability of having to do that later is low in a
5 category like realy traceability.

6 On the others, just from the categories there
7 is a possibility we won't understand the item, the
8 miscellaneous other and the timeliness on E&DCRs,
9 because what was involved on the different timeliness
10 E&DCRs were sometimes different things.

11 Why don't you just give us the items?

12 MR. EARLEY: Judge, if there's any question
13 about whether the global questions that were asked about
14 the categories would not apply to any one of these, we
15 would prefer just to object to admitting all of the
16 items under the Board's ruling on the other four.

17 JUDGE BRENNER: I have little doubt that your
18 witnesses would give the same answer to the global
19 question. Whether or not we have questions given that
20 answer is something else in terms of wanting to probe
21 the item. That is the problem.

22 Why don't you give us the items? We will take
23 a few minute break and read them.

24 MR. LANPHER: The items are as follows --

25 JUDGE BRENNER: And Mr. Earley might have the

1 breakdown. And I know your witness may change it, but
2 it will give me an idea of which ones to read first or
3 focus on closest. I don't like surprises at the finding
4 stage when I no longer have a witness to help me. That
5 is the driving force behind my concern here this morning.

6 MR. EARLEY: The first one is Engineering
7 Assurance Audit 21, AO 14, item 2, which we believe is
8 in category 5; and item 4 of that audit which we believe
9 is in category 6(c). The next one is Engineering
10 Assurance Audit 22, AO 18, item 1, and we believe that
11 is in 6(c). The next one is Engineering Assurance Audit
12 23, AO 032, item 2, and that is category 1(b). The next
13 one is Engineering Assurance Audit 23, AO 038, item 1,
14 and that is category 1(a). The next one is Engineering
15 Assurance Audit 28, AO 79, item 3, and that is category
16 1(b). The next one is Engineering Assurance Audit 28
17 again, AO 80, item 2(c), and that falls into category
18 1(a). The next one is Engineering Assurance Audit 34,
19 AO 120, item 1, and that is category 1(b). And the
20 final item on the list is Field Audit 654, item 4.5, and
21 that falls into E&DCR category number 5.

22 JUDGE BRENNER: Okay. Why don't you give us
23 until ten after 1:00, and we will see if we can solve
24 the problem.

25 (Recess.)

1 JUDGE BRENNER: All right. We are back on the
2 record.

3 The problem that we have had all along with
4 these audit findings persists with these findings. Some
5 of them we think we understand, but we're not sure. And
6 we're not talking about a mere understanding of the
7 written word, although sometimes that can even be a
8 problem.

9 But even if that is not a problem, we do not
10 necessarily understand the context, and that is why we
11 needed the witnesses, and that is why we spent all of
12 this witness time here, and that is why we allowed the
13 County as much time as we did, although we recognize the
14 County disagrees that they had as much time as they
15 should have.

16 We've had all these examples and testimony on
17 different audit findings, and we're not about to change
18 the procedure and suddenly say it is okay to move in a
19 bunch of them without any assistance in the examination
20 of the witnesses, either by cross or redirect or Board
21 questions as to what they are all about.

22 So they do not in our mind fit in the category
23 that we told the County to go ahead and pull things
24 together to move into evidence, and that is the category
25 of observations that were asked about, either directly

1 or be reference to the other findings.

2 So we are not going to admit those into
3 evidence, even if the parties had agreed, because we
4 have that problem. We recognize that is unusual for a
5 Board to do, but we feel we have to know what we are
6 understanding.

7 In addition to that, you can repeat what you
8 informed us during the break, Mr. Earley, but our ruling
9 is independent of that, I just want to make that clear.

10 MR. EARLEY: Judge, in looking over them with
11 Mr. Eifert during the break there were some of them that
12 we thought would need clarification or linking to
13 specific audit findings to say that they are the same,
14 and in trying to get this ironed out this morning we
15 hain't focused on that. So I think we agree with the
16 Board that they do need some clarification.

17 One other thing I should mention as far as
18 moving these into evidence, there were a number of other
19 items in our discussions with the County that we didn't
20 think were asked about, and the County had agreed that
21 that was the case. I believe we had to revise the whole
22 list.

23 JUDGE BRENNER: Do you mean beyond these nine
24 plus four that we have talked about, or roughly nine
25 plus four?

1 MR. EARLEY: Yes, sir. There are others that
2 were not talked about, and the County agreed that they
3 were not talked about, and they would not seek their
4 admission. And we had discussed just submitting next
5 week the revised list based upon our discussions.

6 JUDGE BRENNER: The revised list on the ones
7 that were asked about, either directly or by inference,
8 will be next week, and we will admit those into evidence.

9 Now, I maintain this one caveat which is the
10 one we intended for this one also. If there is a
11 dispute on one that the County did ask something about
12 but LILCO believes that it was not enough in order to
13 move it into evidence, if there's a dispute as to what
14 asked about means -- this is just a possibility, and it
15 may not come up -- but we will hear an argument on that
16 if there is such an item.

17 MR. EARLEY: I don't think any fall into that
18 category based upon our review so far.

19 JUDGE BRENNER: So we will take the revised
20 list after the parties have had a chance to look at it
21 and admit those into evidence. The way this list was
22 prepared is very helpful in terms of the format, so we
23 appreciate doing it in that fashion.

24 In addition, we look forward to getting that
25 master list, which after this list is agreed on will

1 incorporate everything. Okay.

2 Mr. Lanpher, did you want to discuss the
3 timing of the emergency planning response?

4 MR. LANPHER: Yes.

5 JUDGE BRENNER: If Mr. Eifert has to go
6 somewhere, he can leave. Even if he doesn't have to go
7 somewhere. Thank you.

8 MR. LANPHER: Yes. I won't comment on your
9 rulings, just enough to say that I obviously take strong
10 exception with respect to the emergency planning
11 issues. As previously ordered, we will be filing our
12 responses to the motions to strike on, I guess the day
13 is Tuesday.

14 With respect to the summary disposition motion
15 I simply -- it was a matter of oversight not informing
16 the Board yesterday, and I apologize. We are not going
17 to be able to file on Tuesday. We have to obtain, we
18 believe, two affidavits, one of which is going to have
19 to come from California, one of which will be local,
20 which will make it easier. And we hope to be able to
21 file by Thursday, but may not be able to make it until
22 Friday, certainly by Friday.

23 JUDGE BRENNER: We pretty much need it by
24 Thursday in order to have time to deal with it on
25 Monday. And frankly, if we had known this the other day

1 before we got Mr. Shapiro involved in the schedule, we
2 might have adjusted that by a day.

3 Can we get it without the signed affidavit?

4 MR. LANPHER: Of course you can get it without
5 the signed affidavit. You may not have a signed
6 affidavit. I noted that LILCO, I think, is going to
7 come in, and that was not a problem. Mr. McMurray will
8 be here, I think, on Tuesday, and I will be talking with
9 him today later, and I will give you an update on
10 Tuesday, or he will, and we will do everything we can to
11 beat those dates and to get it in no later than Thursday.

12 JUDGE BRENNER: All right. Let's leave it at
13 this. If it is Friday, it is going to have to be by the
14 time we break on Friday, around noon or whatever time we
15 pick to break. That will be the required due date and
16 time, and the reason I'm picky about the time is I want
17 the afternoon to review it. So it does make a
18 difference. We would very much appreciate if the County
19 could make every effort to get it to us at the end of
20 the day Thursday.

21 MR. LANPHER: We will make every effort
22 possible.

23 Judge Brenner, I have one other item I would
24 like to raise briefly, and that is we received a
25 designation --

1 JUDGE BRENNER: Let me say that those times
2 would apply to the staff if it insists on waiting that
3 long, but we would sure like to receive the response
4 before that.

5 MR. BORDENICK: Judge Brenner, certainly the
6 response to the motions to strike will be in by Tuesday,
7 and I think the response to the motion for summary
8 disposition will also be in on Tuesday.

9 JUDGE BRENNER: That would be very good.

10 MR. LANPHER: The one other item, Judge
11 Brenner, that I wanted to raise is with Mr. Hubbard
12 going on the stand, I assume next week. And it is a
13 little flexible as to the precise time when we receive
14 their preliminary designation of documents to be used in
15 your order, and the detailed designation I believe is
16 due later today.

17 I was informed that the detailed designation
18 is not going to be much more detailed than what we
19 received so far. What we received so far under
20 precedent, I suppose, that has been established I don't
21 think it is adequate. For instance, a statement that
22 they're going to use the LILCO QA Manual without any
23 designation of specific portions; they are going to
24 utilize the Shoreham technical specifications without a
25 designation of portions.

1 Mr. Hubbard on page 13 of his testimony lists
2 about a dozen or so ANSI standards, then the year
3 adopted, to illustrate a point when the standards were
4 adopted. It is indicated that they are going to use all
5 regulatory guides and ANSI standards which are
6 referenced without designating what portions or for what
7 purpose -- nothing to focus Mr. Hubbard in his
8 preparation.

9 I would ask that we get a more detailed
10 listing, and my understanding is we are supposed to be
11 informed of specific portions of documents to be
12 utilized. And I would like to have that no later than
13 Monday.

14 JUDGE BRENNER: Mr. Earley.

15 MR. EARLEY: Judge as long as we are talking
16 about precedent, I believe that all but very few of the
17 items we listed, 22 documents on the list, all but just
18 a small number of those are items that are referred to
19 in Mr. Hubbard's testimony.

20 Now, if I recall correctly, the County's
21 designation of documents included all items referred to
22 and attached to LILCO's testimony. It was the County's
23 position at the time that the witnesses referred to them
24 and relied on them without indicating specific portions
25 that they should be ready to testify on all of those

1 sections. So I don't think that given the way the
2 designation has gone that it is appropriate to designate
3 documents that are relied on in the testimony.

4 As to the other documents that are not in the
5 testimony, those are the areas we will try to focus on,
6 and our detailed designation is due today. It would be
7 helpful if we could hold that off until Monday so we
8 could have more time to focus on Mr. Hubbard's cross
9 examination, because we have all been tied up in the
10 redirect effort. But if necessary we will supply the
11 final list today.

12 JUDGE BRENNER: All right. It is correct that
13 previously we were talking about documents in addition
14 to those referenced or relied on in the testimony, and
15 we did not require the designations. And I don't have
16 the designation in front of me that you're disputing,
17 but it is somewhat a matter of judgment. If, for
18 example, the QA Manual, if you don't designate any
19 sections of that merely because Mr. Hubbard references
20 the whole QA Manual and portions as distinguished from
21 subsections, that is a rather relatively large document
22 where sections should be designated, notwithstanding the
23 fact that he referenced the whole thing.

24 Now, I don't think we addressed this
25 previously like that, but I would have if it had come

1 up. And the same would apply to technical
2 specifications. Was that one of the ones you listed?

3 MR. LANPHER: Technical specifications. There
4 are ANSI standards.

5 JUDGE BRENNER: Now, the ANSI standards he
6 referenced, you said particular ones.

7 MR. LANPHER: He referenced a series of ANSI
8 standards for the purpose of saying when they were
9 adopted or issued in draft form. Now, if they want to
10 ask him specific questions, that's fine; he is going to
11 be prepared. But I think it is relevant to keep in mind
12 they are predicting a total of two days of examination
13 of Mr. Hubbard to go through all of the ANSI standards
14 and all of their portions, all of the QA Manual, all of
15 the technical specifications. Clearly, they must be
16 thinking of some specific portions. And to have Mr.
17 Hubbard try to review all portions of all of these
18 documents for two days of examination doesn't seem very
19 fruitful.

20 JUDGE BRENNER: I don't know what they're
21 going to ask obviously on cross. It is possible they
22 could be directing questions about the entire document
23 similar to the way he may have used it in his testimony.

24 Let's do this. We will extend the date until
25 Monday. Originally we thought that he might take the

1 stand as soon as Tuesday. We didn't think it was
2 likely, but there was that possibility when we first set
3 these dates; and that is why we set the advance
4 designation earlier this week, to get him started and
5 hopefully to achieve that purpose.

6 Let's get the final designation by the close
7 of business on Monday. And where we are talking about
8 documents where particular subsections are going to be
9 inquired into, such as ANSI standards or the QA Manual
10 or tech specs, have them better designated as to which
11 ones. The designation of such portions does not, of
12 course, preclude overall questions as to the overall
13 documents as they may be appropriate. So hopefully that
14 will assist LILCO's time problem in being able to focus
15 on it.

16 Does it make a difference to Mr. Hubbard in
17 between the end of Monday and Tuesday morning when we
18 start the hearing?

19 MR. LANPHER: Mr. Hubbard is going to be here
20 working on preparing his testimony on Monday morning. I
21 would ask if it is possible to get it before the end of
22 the day on Monday. They said they were going to work on
23 it over the weekend. If it is available Monday earlier,
24 the earlier we get it, the more prepared he can be.
25 Otherwise, he's going to take as much time as he needs

1 on the stand, and I don't want to do that.

2 MR. EARLEY: We will get it as soon as
3 possible on Monday.

4 MR. LANPHER: He will be here. We will be
5 over in our room.

6 JUDGE BRENNER: Okay. Anything else? You
7 know the rest of my Board members will never allow me to
8 implement this procedure on Fridays which I like because
9 we don't get to eat lunch.

10 MR. LANPHER: And neither did we.

11 JUDGE BRENNER: Yes, but they're going to
12 blame me. I don't care if you blame me.

13 (Laughter.)

14 JUDGE BRENNER: Anything else?

15 (No response.)

16 JUDGE BRENNER: Okay. We did, I guess a
17 little over an hour ago, get the staff's views on the
18 proposed use of the examinations in advance of the
19 hearing by deposition. The service list did not
20 indicate any special service to SOC or NSC. I hope that
21 is an inaccurate service list.

22 MR. BORDENICK: I think it is inaccurate,
23 Judge Brenner. Arrangements have been made.

24 JUDGE BRENNER: Okay. That answers the
25 question.

1 On Tuesday morning we have miscellaneous
2 matters to discuss, including settlement negotiations.
3 I'm going to ask about the status of those other items
4 that the staff still has to review, and in the context
5 of that, when the staff is going to come out with its
6 supplement to the SER and those types of things. And
7 then we will pick up with the OQA cross examination.

8 MR. LANPHER: Is that at 9:00?

9 JUDGE BRENNER: Yes.

10 All right. Have a nice weekend, and we will
11 be back Tuesday at 9:00.

12 (Whereupon, at 1:25 p.m., the hearing was
13 recessed, to be reconvened at 9:00 a.m., Tuesday,
14 November 16, 1982.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

in the matter of: Long Island Lighting Company (Shoreham Nuclear Power
Station)

Date of Proceeding: November 12, 1982

Docket Number: 50-322 OL

Place of Proceeding: Bethesda, Maryland

were held as herein appears, and that this is the original transcript
thereof for the file of the Commission.

Ray Heer

Official Reporter (Typed)

Ray Heer

Official Reporter (Signature)